

THE ANIMAL COUNCIL

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June 8, 2016

Via Facsimile (916) 403-7394

The Honorable Hannah-Beth Jackson, Chair
The Honorable John M. W. Moorlach, Vice Chair
Senate Committee on Judiciary
State Capitol, Room 2187
Sacramento CA 95814

Attention: Bill Consultant

Re: AB 797, Motor vehicles: rescue of animal, as amended June 6, 2016, OPPOSE AS WRITTEN

Dear Chairman Jackson and Members:

Please register our opposition to the above-captioned bill and include our organization on your Committee's Bill Analysis opposition list.

This bill creates a personal right for individuals to break into vehicles and remove animals that appear to be in danger. We appreciate drafters' efforts to require a reasonable belief that immediate action is needed before arrival of an official responder and compliance with six specified requirements, but we have both general and specific concerns.

This type of provision is currently "popular," but there is little practical experience with its use. Not all proposed state bills have been enacted. Common concerns are facilitating pet theft; risk of animals escaping, being injured or killed or even injuring or causing death to other animals or people, including the rescuer; and lack of recourse for unreasonable use of this "right." None of these are trivial, and consequences can be severe even when there was little or no risk to any animal. Not only unknowing dog owners sometimes leave dogs or other animals in vehicles but also professional and rescue transporters, individual long distance travelers, those who live in vehicles and law enforcement personnel among others. All groups have war stories of confrontations with *unreasonable*, sometimes hysterical or threatening individuals who believe any animal in a vehicle at any time and with any number of safety measures is endangered and in need of immediate removal. This is the reality anyone who drives with animals faces regardless of conditions, care, precautions or actual danger.

In this regard, we call your attention to wording in AB 797 that originated in the August 17, 2015 version that first

introduced this subject and included both animals and children. Although AB 797 has been through three subsequent amendments and minor children have been removed as the bill was further developed and limited to animals covered by Penal Code Section 597.7, language from this statute was in the original version and remains:

“it was reasonable to believe that the health or well-being of the child or animal was endangered due to heat, cold, lack of adequate ventilation, **or other circumstances that could reasonably be expected to cause suffering**, disability, or death to the child or animal.”

This language in P.C. Section 597.7(a) originated in the 2006 SB 1806 that applied only to official responders. It did not contemplate a right of persons making their own assessments of situations without knowing what reasonably would be these “other circumstances.” For example, some people and organizations believe no animals should ever be in crates, yet crates of many designs, materials and constructions are considered essential to safe transport of animals. Even if a person with this belief knew about the provisions of AB 797 and even read them contemporaneously – say on a smartphone – he might believe an otherwise safe situation required his immediate action and that he is acting in good faith based on reasonable belief. This mistaken belief or action could result in injuries and financial costs, inconvenience and other losses to the owner or others.

Our concern is that extending this independent right, such as would be created in new Civil Code Section 41.100, to a person entails risks of losses to another person and the public far outweighs the benefit and expectation that a person, in an emotionally charged situation, will know and comply with six legal requirements for exercising the right. If he fails to comply, he has been misled and everyone unnecessarily endangered.

Accordingly, we must oppose this bill and respectfully ask that you not support it without further restriction on its use.

THE ANIMAL COUNCIL (TAC) is a California nonprofit, public benefit corporation founded in 1991 to seek positive, humane solutions to the challenges of detrimental animal public policies, legislation and regulation through study, analysis and application of animal husbandry, statistics and law, and at the same time preserve human benefit from all species, breeds and registries.

Very truly yours,



SHARON A. COLEMAN
President, The Animal Council

Cc: Authors
Committee Members