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CIVIL CODE - CIV

DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (*Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.*)

PART 1. RELIEF [3274 - 3428] (*Part 1 enacted 1872.*)

TITLE 2. COMPENSATORY RELIEF [3281 - 3361] (*Title 2 enacted 1872.*)

CHAPTER 2. Measure of Damages [[3300.] - 3361] (*Chapter 2 enacted 1872.*)

ARTICLE 2. Damages for Wrongs [3333 - 3343.7] (*Article 2 enacted 1872.*)

3333. For the breach of an obligation not arising from contract, the measure of damages, except where otherwise expressly provided by this Code, is the amount which will compensate for all the detriment proximately caused thereby, whether it could have been anticipated or not.

(Enacted 1872.)

3333.1. (a) In the event the defendant so elects, in an action for personal injury against a health care provider based upon professional negligence, he may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the personal injury pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services. Where the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount which the plaintiff has paid or contributed to secure his right to any insurance benefits concerning which the defendant has introduced evidence.

(b) No source of collateral benefits introduced pursuant to subdivision (a) shall recover any amount against the plaintiff nor shall it be subrogated to the rights of the plaintiff against a defendant.

(c) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

(Amended by Stats. 1976, Ch. 1079.)

3333.2. (a) In any action for injury against a health care provider or health care institution based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement and other nonpecuniary damage, subject to the limitations in this section.

(b) In any action for injury that does not involve wrongful death against one or more health care providers or health care institutions based on professional negligence, the following limitations shall apply:

(1) Civil liability for damages for noneconomic losses against one or more health care providers, collectively, shall not exceed three hundred fifty thousand dollars (\$350,000), regardless of the number of health care providers, which does not include any unaffiliated health care providers that are responsible for noneconomic losses pursuant to paragraph (3).

(2) Civil liability for damages for noneconomic losses against one or more health care institutions, collectively, shall not exceed three hundred fifty thousand dollars (\$350,000), regardless of the number of health care institutions, which does not include any unaffiliated health care institutions that are responsible for noneconomic losses pursuant to paragraph (3).

(3) Civil liability for damages for noneconomic losses against one or more health care providers or health care institutions that are unaffiliated with a defendant described in paragraph (1) or (2) based on acts of professional negligence separate and independent from the acts of professional negligence of a defendant described in paragraph (1) or (2) and that occurred at, or in relation to medical transport to, a health care institution unaffiliated with a health care institution described in paragraph (2), collectively, shall not exceed three hundred fifty thousand dollars (\$350,000), regardless of the number of defendants described in this paragraph, which does not include any unaffiliated health care providers or unaffiliated health care institutions that are responsible for noneconomic losses pursuant to paragraph (1) or (2).

(c) In any action for wrongful death against one or more health care providers or health care institutions based on professional negligence, the following limitations shall apply:

(1) Civil liability for damages for noneconomic losses against one or more health care providers, collectively, shall not exceed five hundred thousand dollars (\$500,000), regardless of the number of health care providers, which does not include any unaffiliated health care providers that are responsible for noneconomic losses pursuant to paragraph (3).

(2) Civil liability for damages for noneconomic losses against one or more health care institutions, collectively, shall not exceed five hundred thousand dollars (\$500,000), regardless of the number of health care institutions, which does not include any unaffiliated health care institutions that are responsible for noneconomic losses pursuant to paragraph (3).

(3) Civil liability for damages for noneconomic losses against one or more health care providers or health care institutions that are unaffiliated with a defendant described in paragraph (1) or (2) based on acts of professional negligence separate and independent from the acts of professional negligence of a defendant described in paragraph (1) or (2) that occurred at, or in relation to medical transport to, a health care institution unaffiliated with a health care institution described in paragraph (2), collectively, shall not exceed five hundred thousand dollars (\$500,000), regardless of the number of defendants described in this paragraph, which does not include any unaffiliated health care providers or unaffiliated health care institutions that are responsible for noneconomic losses pursuant to paragraph (1) or (2).

(d) No health care provider defendant shall be liable for damages for noneconomic losses in more than one of the categories set forth in this section, regardless of the application or combined application thereof.

(e) No health care institution defendant shall be liable for damages for noneconomic losses in more than one of the categories set forth in this section, regardless of the application or combined application thereof.

(f) The applicable dollar amounts set forth in this section apply regardless of the number of defendant health care providers or health care institutions against whom the claim is asserted or the number of separate causes of actions on which the claim is based. For a claim subject to subdivision (b), the applicable dollar amounts set forth in subdivisions (b), (g), and (h) provide three separate limits of liability that may apply. For a claim subject to subdivision (c), the applicable dollar amounts set forth in subdivisions (c), (g), and (h) provide three separate limits of liability that may apply.

(g) This section shall be deemed effective as of, and shall apply to all cases filed or arbitrations demanded on or after, January 1, 2023. Thereafter, the dollar amounts set forth in subdivision (b) shall increase by forty thousand dollars (\$40,000) each January 1st for 10 years up to seven hundred fifty thousand dollars (\$750,000), and the dollar amounts set forth in subdivision (c) shall increase each January 1st by fifty thousand dollars (\$50,000) for 10 years up to one million dollars (\$1,000,000). The dollar amount in effect at the time of judgment, arbitration award, or settlement shall apply to an action, subject to subdivision (h).

(h) The applicable amounts for noneconomic damages for personal injury of \$750,000, and for wrongful death of \$1,000,000, as set forth in subdivision (g), shall be adjusted for inflation on January 1 of each year by 2 percent beginning on January 1, 2034.

(i) In no action shall the amount of damages for noneconomic losses exceed the applicable dollar amounts set forth in subdivisions (b), (c), (g), or (h).

(j) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 1.3 (commencing with Section 1248) of Division 2 of the Health and Safety Code, and does not include health care institutions that are defined in paragraph (2). "Health care provider" includes the legal representatives of a health care provider and the health care provider's employer, professional corporation, partnership, or other form of legally recognized professional practice organization.

(2) "Health care institution" means one or more health care facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code owned or operated by the same entity or its affiliates and includes all persons and entities for which vicarious liability theories, including, but not limited to, the doctrines of respondeat superior, actual agency, and ostensible agency, may apply.

(3) "Unaffiliated" means a specified health care provider, health care institution, or other entity not covered by the definition of affiliated, or affiliated with, as defined in Section 150 of the Corporations Code, or that is not employed by, performing under a contract with, an owner of, or in a joint venture with another specified entity, health care institution, health care provider, organized medical group, professional corporation, or partnership, or that is otherwise not in the same health system with that health care provider, health care institution, or other entity. Whether a health care provider, health care institution, or other entity is unaffiliated is determined at the time of the professional negligence.

(4) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

(Amended by Stats. 2022, Ch. 17, Sec. 3. (AB 35) Effective January 1, 2023.)

3333.3. In any action for damages based on negligence, a person may not recover any damages if the plaintiff's injuries were in any way proximately caused by the plaintiff's commission of any felony, or immediate flight therefrom, and the plaintiff has been duly convicted of that felony.

(Added November 5, 1996, by initiative Proposition 213, Sec. 3. Applicable, by Sec. 4 of Prop. 213, to actions in which the initial trial has not commenced prior to January 1, 1997. Note: Prop. 213 (The Personal Responsibility Act of 1996) also includes Section 3333.4.)

3333.4. (a) Except as provided in subdivision (c), in any action to recover damages arising out of the operation or use of a motor vehicle, a person shall not recover non-economic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages if any of the following applies:

(1) The injured person was at the time of the accident operating the vehicle in violation of Section 23152 or 23153 of the Vehicle Code, and was convicted of that offense.

(2) The injured person was the owner of a vehicle involved in the accident and the vehicle was not insured as required by the financial responsibility laws of this state.

(3) The injured person was the operator of a vehicle involved in the accident and the operator can not establish his or her financial responsibility as required by the financial responsibility laws of this state.

(b) Except as provided in subdivision (c), an insurer shall not be liable, directly or indirectly, under a policy of liability or uninsured motorist insurance to indemnify for non-economic losses of a person injured as described in subdivision (a).

(c) In the event a person described in paragraph (2) of subdivision (a) was injured by a motorist who at the time of the accident was operating his or her vehicle in violation of Section 23152 or 23153 of the Vehicle Code, and was convicted of that offense, the injured person shall not be barred from recovering non-economic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damages.

(Added November 5, 1996, by initiative Proposition 213, Sec. 3. Applicable, by Sec. 4 of Prop. 213, to actions in which the initial trial has not commenced prior to January 1, 1997. Note: Prop. 213 (The Personal Responsibility Act of 1996) also includes Section 3333.3.)

3333.5. (a) Each pipeline corporation that qualifies as a public utility within Section 216 of the Public Utilities Code that transports any crude oil or fraction thereof in a public utility oil pipeline system that meets the requirements of subdivision (h) shall be absolutely liable without regard to fault for any damages incurred by any injured party that arise out of, or are caused by, the discharge or leaking of crude oil or fraction thereof from the public utility pipeline.

(b) A pipeline corporation is not liable to an injured party under this section for any of the following:

(1) Damages, other than costs of removal incurred by the state or a local government caused solely by an act of war, hostilities, civil war, or insurrection or by an unanticipated grave natural disaster or other act of God of an exceptional, inevitable, and irresistible character, other than an earthquake, which damages could not have been prevented or avoided by the exercise of due care or foresight.

(2) Damages in the proportion caused by the negligence, intentional malfeasance, or criminal act of the landowner, or an agent, employee, or contractor of the landowner, upon whose property the pipeline system is located.

(3) Except as provided by paragraph (2), damages caused solely by the negligence or intentional malfeasance of the injured person.

(4) Except as provided by paragraph (2), damages caused solely by the criminal act of a third party other than the pipeline corporation or an agent or employee of the pipeline corporation.

(5) Natural seepage from sources other than the public utility oil pipeline.

(6) Damages that arise out of, or are caused by, a discharge that is authorized by a state or federal permit.

(c) Damages for which a pipeline corporation is liable under this section are the following:

(1) All costs of response, containment, cleanup, removal, and treatment, including, but not limited to, monitoring and administration costs.

(2) Injury to, or economic losses resulting from destruction of or injury to, real or personal property.

(3) Injury to, destruction of, or loss of, natural resources, including, but not limited to, the reasonable cost of rehabilitating wildlife, habitat, and other resources and the reasonable cost of assessing that injury, destruction, or loss, in any action brought by the state, a county, city, or district.

(4) Loss of taxes, royalties, rents, use, or profit shares caused by the injury, destruction, loss, or impairment of use of real property, personal property, or natural resources.

(5) Loss of use and enjoyment of natural resources and other public resources or facilities in any action brought by the state, county, city, or district.

(d) The court may award reasonable costs of the suit, attorneys' fees, and the cost of any necessary expert witnesses to any prevailing plaintiff. The court may award reasonable costs of the suit, attorneys' fees, and the cost of any necessary expert witnesses to any prevailing defendant if the court finds that the plaintiff commenced or prosecuted the suit under this section in bad faith or solely for purposes of harassing the defendant.

(e) (1) A pipeline corporation shall immediately clean up all crude oil, or any fraction thereof, that leaks or is discharged from a pipeline subject to this section. Additionally, the pipeline corporation shall abate immediately, or as soon as practical, the effects of the leak or discharge and take all other necessary remedial action.

(2) A pipeline corporation may recover the costs of the activities specified in this section for which it is not at fault by means of any otherwise available cause of action, including, but not limited to, indemnification or subrogation.

(f) This section shall not apply to claims, or causes of action, for damages for personal injury or wrongful death.

(g) This section shall not prohibit any party from bringing any action for damages under any other provision or principle of law, including but not limited to, common law. However, damages shall not be awarded pursuant to this section to an injured party to the extent the same party is or has been awarded damages for the same injury under any other provision or principle of law.

(h) This section shall only apply to all of the following:

(1) The pipeline system proposed to be constructed by Pacific Pipeline System, Inc., identified in Public Utilities Commission Application No. 91-10-013, for which the maximum requirement of one hundred million dollars (\$100,000,000) set forth in paragraph (1) of subdivision (j) shall apply.

(2) Any other public utility pipeline system for which construction is completed on or after January 1, 1996, other than a pipeline system the entire length of which is subject to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, (Division 7.8 (commencing with Section 8750) of the Public Resources Code). If part, but not all, of a pipeline system is subject to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, any evidence of financial responsibility that satisfies that act, and that meets the conditions of this section, shall be credited toward the requirements of this section.

(3) Any major relocation of three miles or greater of a portion of a pipeline system along substantially new alignments accomplished through the exercise of eminent domain. This section shall not apply to the portions of the pipeline not relocated.

(i) This section shall not apply to the following:

(1) A pipeline system in existence prior to January 1, 1996, that is converted to a public utility prior or subsequent to January 1, 1996.

(2) A public utility pipeline system not otherwise subject to this section, that is the object of repair, replacement or maintenance, unless that activity constitutes relocation as described in paragraph (3) of subdivision (h).

(j) (1) No pipeline system subject to this section shall be permitted to operate unless the State Fire Marshal certifies that the pipeline corporation demonstrates sufficient financial responsibility to respond to the liability imposed by this section. The minimum financial responsibility required by the State Fire Marshal shall be seven hundred fifty dollars (\$750) times the maximum capacity of the pipeline in the number of barrels per day up to a maximum of one hundred million dollars (\$100,000,000) per pipeline system, or a maximum of two hundred million dollars (\$200,000,000) per multiple pipeline systems.

(2) For the purposes of this section, financial responsibility shall be demonstrated by evidence that is substantially equivalent to that required by regulations issued under Section 8670.37.54 of the Government Code, including insurance, surety bond, letter of credit, guaranty, qualification as a self-insurer, or combination thereof or any other evidence of financial responsibility. The State Fire Marshal shall require the documentation evidencing financial responsibility to be placed on file with that office, and shall administer the documentation in a manner substantially equivalent to that provided by regulations issued under Section 8670.37.54 of the Government Code. Financial responsibility shall be available for payment of claims for damages described in subdivision (c) of any party, including, but not limited to, the State of California, local governments, special districts, and private parties, that obtains a final judgment therefor against the pipeline corporation.

(k) The State Fire Marshal shall require evidence of financial responsibility to fund postclosure cleanup costs. The evidence of financial responsibility shall be 15 percent of the amount of financial responsibility required under subdivision (j) and shall be maintained by the pipeline corporation for four years from the date the pipeline is fully idled pursuant to a closure plan approved by the State Fire Marshal.

(l) "Fraction" of crude oil means a group of compounds collected by fractional distillation that condenses within the same temperature band, or a material that consists primarily of that group of compounds or of a mixture of those groups of compounds.

(m) (1) Notwithstanding Section 228 of the Public Utilities Code, for purposes of this section, "pipeline corporation" means every corporation or person directly operating, managing or owning any pipeline system that qualifies as a public utility within Section 216 of the Public Utilities Code and for compensation within this state.

(2) For purposes of this section, "owning" refers to the legal entity owning the pipeline system itself and does not include legal entities having an ownership interest, in whole or in part, in the entity owning the pipeline system or multiple pipeline systems.

(3) "Pipeline system" means a collective assemblage of intrastate line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery station, and fabricated assemblies constructed for the same purpose at substantially the same time that form a facility through which crude oil or a fraction thereof moves in transportation.

(Added by renumbering Section 3333.4 (as added by Stats. 1995, Ch. 979) by Stats. 1998, Ch. 485, Sec. 40. Effective January 1, 1999.)

3333.7. (a) Notwithstanding any other provision of law, any person who suffers injury that is proximately caused by the driver of a commercial motor vehicle shall be entitled to recover treble damages from the driver's employer where it is shown both that the driver of a commercial motor vehicle was under the influence of alcohol or a controlled substance at the time that the injury was caused and that the driver's employer willfully failed at the time of the injury to comply with any of the requirements of federal law described in subdivision (a) of Section 34520 of the Vehicle Code in regard to the involved driver.

(b) For the purposes of subdivision (a), "willfully failed" has the same meaning as "willful failure" as defined in paragraph (3) of subdivision (c) of Section 34623 of the Vehicle Code.

(c) For purposes of subdivision (a), an "employer" is a person or entity who employs the driver or who contracts with an owner-operator, who meets the requirements set forth in subdivision (b) of Section 34624 of the Vehicle Code, to provide transportation services, and who is required to engage in mandatory substance abuse testing pursuant to subdivision (a) of Section 34520 of the Vehicle Code. This subdivision shall not be construed to change the definition of "employer," "employee," or "independent contractor" for any purpose.

(d) Nothing in this section is intended to preclude or affect existing rights.

(Added by Stats. 2001, Ch. 298, Sec. 1. Effective January 1, 2002.)

3333.8. (a) The Legislature finds and declares that in order to meet fuel management goals, the state must rely on private entities to engage in prescribed burning for public benefit.

(b) Notwithstanding Sections 13009 and 13009.1 of the Health and Safety Code, no person shall be liable for any fire suppression or other costs otherwise recoverable pursuant to Section 13009 or 13009.1 of the Health and Safety Code resulting from a prescribed fire or cultural burn if all of the following conditions are met:

(1) The purpose of the burn is for wildland fire hazard reduction, ecological maintenance and restoration, cultural burning, silviculture, or agriculture.

(2) A burn boss, as defined in paragraph (1) of subdivision (a) of Section 4500 of the Public Resources Code, has reviewed and approved a written prescription for the burn that includes adequate risk mitigation measures.

(3) The burn is conducted in compliance with the written prescription.

(4) The burn is authorized pursuant to Chapter 6 (commencing with Section 4411) or Chapter 7 (commencing with Section 4461) of Part 2 of Division 4 of the Public Resources Code.

(5) The burner has a landowner's written permission or the approval of the governing body of a California Native American tribe to burn.

(6) The burn is conducted in compliance with any air quality permit required pursuant to Article 3 (commencing with Section 41850) of Chapter 3 of Part 4 of Division 26 of the Health and Safety Code.

(c) Cultural burns conducted by a cultural fire practitioner are exempt from paragraphs (2) and (3) of subdivision (b).

(d) This section shall not be construed to grant immunity from fire suppression or other costs otherwise recoverable pursuant to Section 13009 or 13009.1 of the Health and Safety Code to any person whose conduct constitutes gross negligence.

(e) Nothing in this section affects the ability of a private or public entity plaintiff to bring a civil action against any defendant.

(f) "Cultural burn" or "cultural burning" means the intentional application of fire to land by a California Native American tribe, a tribal organization, or a cultural fire practitioner to achieve cultural goals or objectives, including for sustenance, ceremonial activities, biodiversity, or other benefits.

(g) "Cultural fire practitioner" means a person recognized by a California Native American tribe or tribal organization with substantial experience in burning to meet cultural goals or objectives, including for sustenance, ceremonial activities, biodiversity, or other benefits.

(Amended by Stats. 2024, Ch. 666, Sec. 1. (SB 310) Effective January 1, 2025.)

3334. (a) The detriment caused by the wrongful occupation of real property, in cases not embraced in Section 3335 of this code, the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), or Section 1174 of the Code of Civil Procedure, is deemed to include the value of the use of the property for the time of that wrongful occupation, not exceeding five years next preceding the commencement of the action or proceeding to enforce the right to damages, the reasonable cost of repair or restoration of the property to its original condition, and the costs, if any, of recovering the possession.

(b) (1) Except as provided in paragraph (2), for purposes of subdivision (a), the value of the use of the property shall be the greater of the reasonable rental value of that property or the benefits obtained by the person wrongfully occupying the property by reason of that wrongful occupation.

(2) If a wrongful occupation of real property subject to this section is the result of a mistake of fact of the wrongful occupier, the value of the use of the property, for purposes of subdivision (a), shall be the reasonable rental value of the property.

(Amended by Stats. 1992, Ch. 469, Sec. 1. Effective January 1, 1993.)

3335. For willfully holding over real property, by a person who entered upon the same, as guardian or trustee for an infant, or by right of an estate terminable with any life or lives, after the termination of the trust or particular estate, without the consent of the party immediately entitled after such termination, the measure of damages is the value of the profits received during such holding over.

(Enacted 1872.)

3336. The detriment caused by the wrongful conversion of personal property is presumed to be:

First—The value of the property at the time of the conversion, with the interest from that time, or, an amount sufficient to indemnify the party injured for the loss which is the natural, reasonable and proximate result of the wrongful act complained of and which a proper degree of prudence on his part would not have averted; and

Second—A fair compensation for the time and money properly expended in pursuit of the property.

(Amended by Stats. 1931, Ch. 633.)

3336.5. (a) (1) Any junk dealer or recycler who possesses a fire hydrant, fire department connection, including, but not limited to, brass fittings and parts, manhole cover or lid or part of that cover or lid, or backflow device or connection to that device or part of that device without a written certification from the agency or utility owning or previously owning the material shall be liable to the agency or utility for the wrongful possession of that material as provided in subdivision (b).

(2) A written certification under this subdivision shall be on the agency's or utility's letterhead and shall certify both that the agency or utility has sold the material described or is offering the material for sale, salvage, or recycling, and that the person possessing the certification or identified in the certification is authorized to negotiate the sale of that material.

(b) Except as provided in subdivision (c), a junk dealer or recycler in violation of this section shall be liable to the agency or utility owning or previously owning the prohibited material as described in subdivision (a) for the actual damages incurred by the agency or utility, including the value of the material, the cost of replacing the material, labor costs, and the costs of repairing any damage caused by the removal of the material. The court shall also award exemplary damages of three times the actual damages incurred by the agency or utility, unless the court decides that extenuating circumstances do not justify awarding these exemplary damages.

(c) (1) A junk dealer or recycler who unknowingly takes possession of one or more of the materials described in subdivision (a) as part of a load of otherwise nonprohibited materials without the written certification described in subdivision (a) shall notify the appropriate law enforcement agency by the end of the next business day upon discovery of the prohibited materials. Written confirmation of that notice shall relieve the junk dealer or recycler of liability to the agency or utility for the possession of those materials.

(2) The following definitions shall apply for purposes of this subdivision:

(A) "Appropriate law enforcement agency" means, in the case of any material described in subdivision (a) that is located within the territorial limits of an incorporated city, the police chief of the city or his or her designee, or, in the case of any material described in subdivision (a) that is located outside the territorial limits of an incorporated city, the sheriff of the county or his or her designee.

(B) "Written confirmation" means any confirmation received from the law enforcement agency as electronic mail, facsimile, or other written correspondence, including, but not limited to, a letter delivered in person or by certified mail.

(d) Nothing in this section is intended to create a basis for liability on the part of the junk dealers and recyclers to third parties for damages or injuries related to or arising from the theft of the materials described in this section.

(Added by Stats. 2012, Ch. 393, Sec. 2. (SB 1045) Effective January 1, 2013.)

3337. The presumption declared by the last section cannot be repelled, in favor of one whose possession was wrongful from the beginning, by his subsequent application of the property to the benefit of the owner, without his consent.

(Enacted 1872.)

3338. One having a mere lien on personal property, cannot recover greater damages for its conversion, from one having a right thereto superior to his, after his lien is discharged, than the amount secured by the lien, and the compensation allowed by Section 3336 for loss of time and expenses.

(Enacted 1872.)

3339. The Legislature finds and declares the following:

(a) All protections, rights, and remedies available under state law, except any reinstatement remedy prohibited by federal law, are available to all individuals regardless of immigration status who have applied for employment, or who are or who have been employed, in this state.

(b) For purposes of enforcing state labor, employment, civil rights, consumer protection, and housing laws, a person's immigration status is irrelevant to the issue of liability, and in proceedings or discovery undertaken to enforce those state laws no inquiry shall be permitted into a person's immigration status unless the person seeking to make this inquiry has shown by clear and convincing evidence that this inquiry is necessary in order to comply with federal immigration law.

(c) The provisions of this section are declaratory of existing law.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(e) Any waiver of a provision of this section is contrary to public policy and is void and unenforceable.

(Amended by Stats. 2024, Ch. 853, Sec. 17. (AB 3281) Effective January 1, 2025.)

3339.5. (a) The immigration status of a minor child seeking recovery under any applicable law is irrelevant to the issues of liability or remedy, except for employment-related prospective injunctive relief that would directly violate federal law.

(b) Discovery or other inquiry in a civil action or proceeding relating to a minor child's immigration status shall not be permitted except where the minor child's claims place the minor child's immigration status directly in contention or the person seeking to make this inquiry has shown by clear and convincing evidence that the inquiry is necessary in order to comply with federal immigration law.

(c) The provisions of this section are declaratory of existing law.

(d) The express application of this act to minors is not intended to imply that adults are not likewise protected by existing law in the same circumstances.

(Added by Stats. 2015, Ch. 151, Sec. 1. (AB 560) Effective January 1, 2016.)

3339.10. (a) The immigration or citizenship status of any person is irrelevant to any issue of liability or remedy under Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3, Chapter 2 (commencing with Section 789) of Title 2 of Part 2 of Division 2 of this code, or under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, or in any civil action involving a tenant's housing rights.

(b) (1) In proceedings or discovery undertaken in a civil action to enforce Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3, Chapter 2 (commencing with Section 789) of Title 2 of Part 2 of Division 2 of this code, or under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, or in any civil action involving a tenant's housing rights, no inquiry shall be permitted into a person's immigration or citizenship status, except as follows:

(A) The tenant's claims or defenses raised place the person's immigration or citizenship status directly in contention.

(B) The person seeking to make this inquiry demonstrates by clear and convincing evidence that this inquiry is necessary in order to comply with federal immigration law.

(2) The assertion of an affirmative defense to an unlawful detainer action under Section 1161.4 of the Code of Civil Procedure does not constitute cause under this subdivision for discovery or other inquiry into that person's immigration or citizenship status.

(Added by Stats. 2017, Ch. 489, Sec. 7. (AB 291) Effective January 1, 2018.)

3340. For wrongful injuries to animals being subjects of property, committed willfully or by gross negligence, in disregard of humanity, exemplary damages may be given.

(Enacted 1872.)

3341. The owner, possessor, or harbinger of any dog or other animal, that shall, on the premises of any person other than the owner, possessor, or harbinger of such dog or other animal, kill, worry, or wound any bovine animal, swine, horse, mule, burro, sheep, angora goat, or cashmere goat, or poultry, shall be liable to the owner of the same for the damages and costs of suit, to be recovered in any court of competent jurisdiction:

1. In the prosecution of actions under the provisions of this chapter, it shall not be necessary for the plaintiff to show that the owner, possessor, or harbinger of such dog or other animal, had knowledge of the fact that such dog or other animal would kill, wound or worry bovine animals, swine, horses, mules, burros, sheep, goats, or poultry.

2. Any person on finding any dog or dogs, or other animal, not on the premises of the owner or possessor of such dog or dogs, or other animal, worrying, wounding, or killing any bovine animals, swine, horses, mules, burros, sheep, angora or cashmere goats, may, at the time of finding such dog or dogs, or other animal, kill the same, and the owner or owners thereof shall sustain no action for damages against any person so killing such dog or dogs, or other animal.

Nothing in this section shall render an owner, possessor, or harbinger of a dog liable for the accidental or unavoidable killing or injury of any bovine animal, swine, horse, mule, burro, sheep, angora goat, cashmere goat, or poultry which occurs in connection with or as a incident to the driving or herding the same from the premises of the owner, possessor, or harbinger of the dog, whether such killing or injury occurs upon such premises or off of such premises.

(Amended by Stats. 1945, Ch. 1327.)

3342. (a) The owner of any dog is liable for the damages suffered by any person who is bitten by the dog while in a public place or lawfully in a private place, including the property of the owner of the dog, regardless of the former viciousness of the dog or the owner's knowledge of such viciousness. A person is lawfully upon the private property of such owner within the meaning of this section when he is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws or postal regulations of the United States, or when he is on such property upon the invitation, express or implied, of the owner.

(b) Nothing in this section shall authorize the bringing of an action pursuant to subdivision (a) against any governmental agency using a dog in military or police work if the bite or bites occurred while the dog was defending itself from an annoying, harassing, or provoking act, or assisting an employee of the agency in any of the following:

(1) In the apprehension or holding of a suspect where the employee has a reasonable suspicion of the suspect's involvement in criminal activity.

(2) In the investigation of a crime or possible crime.

(3) In the execution of a warrant.

(4) In the defense of a peace officer or another person.

(c) Subdivision (b) shall not apply in any case where the victim of the bite or bites was not a party to, nor a participant in, nor suspected to be a party to or a participant in, the act or acts that prompted the use of the dog in the military or police work.

(d) Subdivision (b) shall apply only where a governmental agency using a dog in military or police work has adopted a written policy on the necessary and appropriate use of a dog for the police or military work enumerated in subdivision (b).

(Amended by Stats. 1988, Ch. 298, Sec. 1.)

3342.5. (a) The owner of any dog that has bitten a human being shall have the duty to take such reasonable steps as are necessary to remove any danger presented to other persons from bites by the animal.

(b) Whenever a dog has bitten a human being on at least two separate occasions, any person, the district attorney, or city attorney may bring an action against the owner of the animal to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by the animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

(c) Whenever a dog trained to fight, attack, or kill has bitten a human being, causing substantial physical injury, any person, including the district attorney, or city attorney may bring an action against the owner of the animal to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by the animal. This action shall be brought in the county where a bite occurred. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction if necessary.

(d) Nothing in this section shall authorize the bringing of an action pursuant to subdivision (b) based on a bite or bites inflicted upon a trespasser, or by a dog used in military or police work if the bite or bites occurred while the dog was actually performing in that capacity.

(e) Nothing in this section shall be construed to prevent legislation in the field of dog control by any city, county, or city and county.

(f) Nothing in this section shall be construed to affect the liability of the owner of a dog under Section 3342 or any other provision of the law.

(g) A proceeding under this section is a limited civil case.

(Amended by Stats. 1998, Ch. 931, Sec. 18. Effective September 28, 1998.)

3343. (a) One defrauded in the purchase, sale or exchange of property is entitled to recover the difference between the actual value of that with which the defrauded person parted and the actual value of that which he received, together with any additional damage arising from the particular transaction, including any of the following:

(1) Amounts actually and reasonably expended in reliance upon the fraud.

(2) An amount which would compensate the defrauded party for loss of use and enjoyment of the property to the extent that any such loss was proximately caused by the fraud.

(3) Where the defrauded party has been induced by reason of the fraud to sell or otherwise part with the property in question, an amount which will compensate him for profits or other gains which might reasonably have been earned by use of the property had he retained it.

(4) Where the defrauded party has been induced by reason of the fraud to purchase or otherwise acquire the property in question, an amount which will compensate him for any loss of profits or other gains which were reasonably anticipated and would have been earned by him from the use or sale of the property had it possessed the characteristics fraudulently attributed to it by the party committing the fraud, provided that lost profits from the use or sale of the property shall be recoverable only if and only to the extent that all of the following apply:

(i) The defrauded party acquired the property for the purpose of using or reselling it for a profit.

(ii) The defrauded party reasonably relied on the fraud in entering into the transaction and in anticipating profits from the subsequent use or sale of the property.

(iii) Any loss of profits for which damages are sought under this paragraph have been proximately caused by the fraud and the defrauded party's reliance on it.

(b) Nothing in this section shall do either of the following:

(1) Permit the defrauded person to recover any amount measured by the difference between the value of property as represented and the actual value thereof.

(2) Deny to any person having a cause of action for fraud or deceit any legal or equitable remedies to which such person may be entitled.

(Amended by Stats. 1971, Ch. 943.)

3343.5. (a) Any one or more of the following who suffers any damage proximately resulting from one or more acts of unlawful motor vehicle subleasing, as described in Chapter 12.7 (commencing with Section 570) of Title 13 of Part 1 of the Penal Code, may bring an action against the person who has engaged in those acts:

(1) A seller or other secured party under a conditional sale contract or a security agreement.

(2) A lender under a direct loan agreement.

(3) A lessor under a lease contract.

(4) A buyer under a conditional sale contract.

(5) A purchaser under a direct loan agreement, an agreement which provides for a security interest, or an agreement which is equivalent to these types of agreements.

(6) A lessee under a lease contract.

(7) An actual or purported transferee or assignee of any right or interest of a buyer, a purchaser, or a lessee.

(b) The court in an action under subdivision (a) may award actual damages; equitable relief, including, but not limited to, an injunction and restitution of money and property; punitive damages; reasonable attorney's fees and costs; and any other relief which the court deems proper.

(c) As used in this section, the following terms have the following meanings:

(1) "Buyer" has the meaning set forth in subdivision (c) of Section 2981.

(2) "Conditional sale contract" has the meaning set forth in subdivision (a) of Section 2981. Notwithstanding subdivision (k) of Section 2981, "conditional sale contract" includes any contract for the sale or bailment of a motor vehicle between a buyer and a seller primarily for business or commercial purposes.

(3) "Direct loan agreement" means an agreement between a lender and a purchaser whereby the lender has advanced funds pursuant to a loan secured by the motor vehicle which the purchaser has purchased.

(4) "Lease contract" means a lease contract between a lessor and lessee as this term and these parties are defined in Section 2985.7. Notwithstanding subdivision (d) of Section 2985.7, "lease contract" includes a lease for business or commercial purposes.

(5) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(6) "Person" means an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other legal entity.

(7) "Purchaser" has the meaning set forth in paragraph (30) of subdivision (b) of Section 1201 of the Commercial Code.

(8) "Security agreement" and "secured party" have the meanings set forth, respectively, in paragraphs (74) and (73) of subdivision (a) of Section 9102 of the Commercial Code. "Security interest" has the meaning set forth in paragraph (35) of subdivision (b) of Section 1201 of the Commercial Code.

(9) "Seller" has the meaning set forth in subdivision (b) of Section 2981, and includes the present holder of the conditional sale contract.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

(Amended by Stats. 2013, Ch. 531, Sec. 1. (AB 502) Effective January 1, 2014. Operative July 1, 2014, by Sec. 28 of Ch. 531.)

3343.7. An action may be brought against any nonprofit organization operated on a cooperative basis by and for independent retailers which wholesales goods and services primarily to its member retailers as described in paragraph (3) of subdivision (d) of Section 20001 of the Business and Professions Code or subdivision (c) of Section 31005 of the Corporations Code, for rescission of a membership contract entered into, or for any damages sustained, as a consequence of being fraudulently induced to join the organization. For purposes of this section, "fraudulently induced" means the misrepresentation of a material fact, or the omission of a material fact, including the failure of the organization to disclose all information required under subparagraph (H) of paragraph (3) of subdivision (d) of Section 20001 of the Business and Professions Code or paragraph (8) of subdivision (c) of Section 31005 of the Corporations Code, unless the defendant proves that the plaintiff knew the facts concerning the untruth or omission or that the defendant exercised reasonable care and did not know (or if the defendant had exercised reasonable care would not have known) of the untruth or omission.

(Added by Stats. 1989, Ch. 1380, Sec. 2.)