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AB-2717 Motor vehicles: unattended children: liability. (2019-2020)

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Date Published: 10/02/2020 02:00 PM

Assembly Bill No. 2717

CHAPTER 352

An act to add Section 43.102 to the Civil Code, and to add Section 1799.101 to the Health and Safety Code, relating to unattended children.

[Approved by Governor September 30, 2020. Filed with Secretary of State September 30, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2717, Chau. Motor vehicles: unattended children: liability.

Existing law makes it an infraction to leave a child who is 6 years of age or younger inside a motor vehicle without being subject to supervision of a person who is 12 years of age or older if there are conditions that present a significant risk to the child's health or safety or if the vehicle's engine is running or the vehicle's keys are in the ignition, or both, and makes it a crime to willfully cause or permit a child to suffer, or inflict unjustifiable physical pain or mental suffering, or willfully place a child in a situation where their health is endangered. Existing law also makes it a crime to leave or confine an animal in an unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. Existing law exempts a person from civil liability for property damage or trespass to a motor vehicle if the property damage or trespass occurs while the person is rescuing an animal pursuant to these provisions. Existing law similarly exempts a person from criminal liability for removing an animal from a motor vehicle under circumstances that reasonably could cause suffering, disability, or death to the animal, if certain steps are taken during the removal.

Existing law provides that a person who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency is not liable for civil damages resulting from any act or omission other than an act or omission constituting gross negligence or willful or wanton misconduct.

This bill would exempt a person from civil liability and criminal liability for property damage or trespass to a motor vehicle if the property damage or trespass occurs while the person is rescuing a child who is 6 years of age or younger from a motor vehicle under circumstances that reasonably could cause suffering, disability, or death to the child, if certain steps are taken during the removal. The bill would establish procedures that apply to a peace officer, firefighter, or emergency responder under those circumstances, including, but not limited to, arranging for the treatment and transport of the child according to existing policies of the local EMS agency.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 43.102 is added to the Civil Code, to read:

43.102. There shall not be any civil liability on the part of, and no cause of action shall accrue against, a person for property damage or trespass to a motor vehicle, if the damage was caused while the person was rescuing a child in accordance with subdivision (a) or (b) of Section 1799.101 of the Health and Safety Code. For purposes of this section, "child" means a child who is six years of age or younger.

SEC. 2. Section 1799.101 is added to the Health and Safety Code, to read:

1799.101. (a) (1) A person may take any reasonable steps that are necessary to remove a child from a motor vehicle if the person holds a reasonable belief that the child's safety is in immediate danger from heat, cold, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the child.

(2) A person who removes a child from a vehicle in accordance with paragraph (1) is not criminally liable for actions taken reasonably and in good faith if the person does all of the following:

(A) Determines the vehicle is locked or there is otherwise no reasonable manner for the child to be removed from the vehicle.

(B) Has a good faith belief that forcible entry into the vehicle is necessary because the child is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one.

(C) Has contacted a local law enforcement agency, the fire department, or the "911" emergency service prior to forcibly entering the vehicle.

(D) Remains with the child in a safe location, out of the elements but reasonably close to the vehicle, until a peace officer or another emergency responder arrives.

(E) Used no more force to enter the vehicle and remove the child from the vehicle than was necessary under the circumstances.

(F) Immediately turns the child over to a representative from law enforcement or another emergency responder who responds to the scene.

(b) (1) This section does not prevent a peace officer, firefighter, or other emergency responder from removing a child from a motor vehicle if the child's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the child.

(2) A peace officer, firefighter, or other emergency responder who removes a child from a motor vehicle, or who takes possession of a child who has been removed from a motor vehicle, shall arrange for the treatment and transport of the child according to the medical control policies of the local EMS agency. The parent of a child removed from a vehicle may be required to pay for charges that may accrue for the care or medical treatment of the child.

(3) A peace officer, firefighter, or other emergency responder may take all steps that are reasonably necessary for the removal of a child from a motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort is made to locate the owner or other person responsible.

(4) A peace officer, firefighter, or other emergency responder who removes a child from a motor vehicle or who receives a child rescued from a vehicle from another person shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing their name and office and the address of the location where the child will be treated.

(c) For purposes of this section, "child" means a child who is six years of age or younger.