

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 188
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the owner of the vehicle may attempt to charge the Good Samaritan who rescues a vulnerable individual or an animal from a motor vehicle. Although a Good Samaritan who rescues a vulnerable individual has a defense to criminal charges, they may still face civil liability. There is no limitation for either liability for domestic animals. S.B. 188 extends protection to individuals who act in good faith to rescue a vulnerable individual or a domestic animal that is trapped in a vehicle and in imminent danger. To act in good faith the individual must call law enforcement or animal control, check that there is no way for the individual or animal to leave without assistance, that no vehicle doors are unlocked, use no more force than necessary, and stay with the individual or animal until a first responder or animal control arrives.

Texas' extreme conditions put the lives of vulnerable individuals as well as animals in danger and precautions should be taken to make sure no injury or loss of life results.

In 2014, San Francisco State University found that Texas was the nationwide leader of hot-car deaths, as extreme temperatures put animal lives in danger. Currently, 23 states have laws protecting certain individuals who rescue domestic animals from vehicles to prevent imminent harm to the animal.

C.S.S.B. 188 amends current law relating to civil liability for removing certain individuals or animals from a motor vehicle and criminal liability for removing certain animals from a motor vehicle.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 92A, as follows:

CHAPTER 92A. LIMITATION OF LIABILITY FOR REMOVING CERTAIN INDIVIDUALS OR ANIMALS FROM MOTOR VEHICLE

Sec. 92A.001. DEFINITIONS. Defines "animal control officer," "domestic animal," "motor vehicle," and "vulnerable individual."

Sec. 92A.002. LIMITATION OF LIABILITY. Provides that a person who, by force or otherwise, enters a motor vehicle for the purpose of removing a vulnerable individual or a domestic animal from the vehicle is immune from civil liability for damages resulting from that entry or removal if the person:

- (1) makes certain determinations;

(2) has a good faith and reasonable belief, based on known circumstances, that entry into the motor vehicle is necessary to avoid imminent harm to the individual or animal;

(3) before or immediately after entering the motor vehicle, ensures that law enforcement or animal control, as appropriate, is notified or 9-1-1 is called;

(4) uses no more force to enter the motor vehicle than is necessary;

(5) remains with the individual or animal in a safe location that is in reasonable proximity to the motor vehicle until a first responder or animal control officer arrives or, if based on known circumstances the person has a good faith and reasonable belief that it is necessary to remove the individual or animal from the vicinity of the vehicle, leaves in a secure and conspicuous location on or within the vehicle written notice that provides the person's name and information and is otherwise sufficient to allow the individual or animal to be easily located; and

(6) in the case of an animal, transfers control of the animal to the first responder or officer on the first responder's or officer's arrival.

Sec. 92A.003. EFFECT ON OTHER LAWS. Provides that this chapter does not affect limitation under Sections 74.151 (Liability for Emergency Care) or 74.152 (Unlicensed Medical Personnel) of a person's liability for good faith administration of emergency care.

SECTION 2. Amends Chapter 9, Penal Code, by adding Subchapter G, as follows:

SUBCHAPTER G. PROTECTION OF CERTAIN ANIMALS IN MOTOR VEHICLES

Sec. 9.71. DEFINITIONS. Defines "animal," "animal control officer," and "motor vehicle."

Sec. 9.72. JUSTIFIED REMOVAL OF ANIMAL FROM MOTOR VEHICLE. Provides that a person's conduct is justified when the actor, by force or otherwise, enters a motor vehicle for the purpose of removing an animal from the vehicle if the actor:

(1) makes certain determinations;

(2) has a good faith and reasonable belief, based on known circumstances, that entry into the motor vehicle is necessary to avoid imminent harm to the animal;

(3) before or immediately after entering the motor vehicle, ensures that law enforcement or animal control, as appropriate, is notified or 9-1-1 is called;

(4) uses no more force than necessary to enter the motor vehicle;

(5) remains with the animal in a safe location in reasonable proximity to the motor vehicle until a first responder or animal control officer arrives or, if based on known circumstances the actor has a good faith and reasonable belief that it is necessary to remove the animal from the vicinity of the vehicle, leaves in a secure and conspicuous location on or within the vehicle written notice that provides the actor's name and information and is otherwise sufficient to allow the animal to be easily located; and

(6) transfers control of the animal to the first responder or officer on the first responder's or officer's arrival.

SECTION 3. (a) Makes application of Chapter 92A, Civil Practice and Remedies Code, as added by this Act, prospective.

(b) Makes application of Subchapter G, Chapter 9, Penal Code, as added by this Act, prospective. Provides that an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. Effective date: September 1, 2017.