

2018 Regular Session

SENATE BILL NO. 156

BY SENATOR CARTER

LIABILITY. Provides immunity from liability for person providing gratuitous emergency care to a minor or domestic animal. (8/1/18)

1 AN ACT

2 To enact R.S. 37:1738 and 1738.1, relative to liability of persons providing certain  
3 gratuitous care; to provide with respect to immunity from liability for a person  
4 providing gratuitous emergency care to a minor or a domestic animal; to provide  
5 with respect to immunity from liability for the vehicle owner; to provide certain  
6 definitions, terms, procedures, conditions, and effects; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:1738 and 1738.1 are hereby enacted to read as follows:

10 **§1738. Immunity from liability; gratuitous emergency care to minor**

11 **A. There shall be no liability on the part of a person for property damage**  
12 **or trespass to a motor vehicle, if the damage was caused while the person was**  
13 **rescuing a minor in distress from a locked motor vehicle as provided in this**  
14 **Section. The immunity from liability for property damage to a motor vehicle as**  
15 **provided herein does not affect a person's liability for bodily injury suffered by**  
16 **the minor while the person was rescuing the minor. There shall be no liability**  
17 **on the part of the owner of the vehicle for any conduct that might otherwise be**

1       actionable in defending his vehicle.

2               B. The immunity provided by Subsection A of this Section shall apply  
3       only if the person:

4               (1) Makes a good-faith attempt, based on the circumstances known to the  
5       person at the time, to locate the owner of the motor vehicle before entering,  
6       forcibly or otherwise, the vehicle.

7               (2) Contacts the local law enforcement agency, the fire department, or  
8       the 911 emergency operator before entering the motor vehicle forcibly or  
9       otherwise.

10              (3) Determines the motor vehicle is locked and has a good-faith belief  
11      that there are no other reasonable means for the minor to be removed from the  
12      vehicle.

13              (4) Believes that removal of the minor from the motor vehicle is  
14      necessary because the minor is in imminent danger of suffering harm.

15              (5) Uses force that was reasonably necessary under the circumstances to  
16      enter the motor vehicle to rescue the minor.

17              (6) Places a notice on the windshield of the motor vehicle providing  
18      details of the person's contact information, the reason the entry was made, the  
19      location of the minor, and notice that the proper authorities have been notified.

20              (7) Remains with the minor in a safe location, out of the elements of  
21      nature but reasonably close to the motor vehicle, until emergency responders  
22      from law enforcement, or fire, arrive, unless the person cannot remain with the  
23      minor, in which case the person shall notify the local law enforcement agency,  
24      the fire department, or the 911 emergency operator, as applicable, before  
25      leaving the motor vehicle, and shall then take the minor to the closest police  
26      station, or hospital, as applicable.

27              C. As used in this Section:

28              (1) "Minor" means a person who has not reached the age of eighteen.

29              (2) "Unattended" means a minor who has been left in a motor vehicle

1 when the driver or operator of the vehicle is more than ten feet from the vehicle  
2 and unable to continuously observe the minor.

3 (3) "In distress" means any condition that endangers the health or well-  
4 being of a minor due to heat, cold, lack of adequate ventilation, or any other  
5 circumstances that could reasonably be expected to cause suffering, disability,  
6 or death.

7 §1738.1. Immunity from liability; gratuitous emergency care to domestic  
8 animal

9 A. There shall be no liability on the part of a person for property damage  
10 or trespass to a motor vehicle, if the damage was caused while the person was  
11 rescuing an animal in distress as provided in this Section. The immunity from  
12 liability for property damage to a motor vehicle as provided herein does not  
13 affect a person's liability for bodily injury suffered by the animal while the  
14 person was rescuing the animal.

15 B. The immunity provided by Subsection A of this Section shall apply  
16 only if the person:

17 (1) Makes a good-faith attempt, based on the circumstances known to the  
18 person at the time, to locate the owner of the motor vehicle before entering,  
19 forcibly or otherwise, the vehicle.

20 (2) Contacts the local law enforcement agency, the fire department,  
21 animal control, or the 911 emergency operator before entering the motor  
22 vehicle forcibly or otherwise.

23 (3) Determines the motor vehicle is locked and has a good-faith belief  
24 that there are no other reasonable means for the animal to be removed from the  
25 vehicle.

26 (4) Believes that removal of the animal from the motor vehicle is  
27 necessary because the animal is in imminent danger of death.

28 (5) Uses force that was reasonably necessary under the circumstances to  
29 enter the motor vehicle to rescue the animal.

1           **(6) Places a notice on the windshield of the motor vehicle providing**  
 2           **details of the person's contact information, the reason the entry was made, the**  
 3           **location of the animal, and notice that the proper authorities have been notified.**

4           **(7) Remains with the animal in a safe location, out of the elements of**  
 5           **nature but reasonably close to the motor vehicle, until emergency responders**  
 6           **from law enforcement, fire, or animal control arrive, unless the person cannot**  
 7           **remain with the animal, in which case the person shall notify the local law**  
 8           **enforcement agency, the fire department, animal control, or the 911 emergency**  
 9           **operator, as applicable, before leaving the motor vehicle, and shall then take the**  
 10          **animal to the closest shelter, as applicable.**

11           **C. As used in this Section:**

12           **(1) "Animal" means any cat or dog kept for pleasure, companionship,**  
 13           **or other purposes that are not purely commercial.**

14           **(2) "Unattended" means an animal who has been left in a motor vehicle**  
 15           **when the driver or operator of the vehicle is no more than thirty feet from the**  
 16           **vehicle or cannot be contacted by verbally calling out for the owner of the**  
 17           **vehicle.**

18           **(3) "In distress" means any condition that endangers the health or well-**  
 19           **being of an animal due to heat, cold, or lack of adequate ventilation or any other**  
 20           **circumstances that could reasonably be expected to cause suffering, disability,**  
 21           **or death.**

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The original instrument was prepared by Angela Lockett De Jean. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

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SB 156 Reengrossed

DIGEST  
2018 Regular Session

Carter

Proposed law provides that there shall be no liability on the part of a person for property damage or trespass to a motor vehicle, if the damage was caused while the person was rescuing a minor or an animal in distress as provided in proposed law.

Proposed law provides that there shall be no liability on the part of the owner of the vehicle for any conduct that might otherwise be actionable in defending his vehicle.

Proposed law provides that the immunity from liability for property damage to a motor

vehicle as provided herein does not affect a person's liability for bodily injury suffered by the minor or animal while the person was rescuing the minor or animal.

Proposed law provides that the immunity provided by proposed law shall apply only if the person:

- (1) Makes a good-faith attempt, based on the circumstances known to the person at the time, to locate the owner of the motor vehicle before entering, forcibly or otherwise, the vehicle.
- (2) Contacts the local law enforcement agency, the fire department, animal control, or the 911 emergency operator before entering the motor vehicle forcibly or otherwise.
- (3) Determines the motor vehicle is locked and has a good-faith belief that there are no other reasonable means for the minor or animal to be removed from the vehicle.
- (4) Believes that removal of the minor or animal from the motor vehicle is necessary because the minor or animal is in imminent danger of suffering harm.
- (5) Uses force that was reasonably necessary under the circumstances to enter the motor vehicle to rescue the minor or animal.
- (6) Places a notice on the windshield of the motor vehicle providing details of the person's contact information, the reason the entry was made, the location of the minor or animal, and notice that the proper authorities have been notified; and
- (7) Remains with the minor or animal in a safe location, out of the elements of nature but reasonably close to the motor vehicle, until emergency responders from law enforcement, fire, or animal control arrive, unless the person cannot remain with the minor or animal, in which case the person shall notify the local law enforcement agency, the fire department, animal control, or the 911 emergency operator, as applicable, before leaving the motor vehicle, and shall then take the minor or animal to the closest police station, hospital, or shelter, as applicable.

Proposed law provides that as used in proposed law these words shall have the following meaning:

- (1) "Minor" means a person who has not reached the age of eighteen.
- (2) "Animal" means any cat or dog who is a companion animal or animal kept for pleasure, companionship, or other purposes that are not purely commercial.
- (3) "Unattended" means a minor who has been left in a motor vehicle when the driver or operator of the vehicle is more than ten feet from the vehicle and unable to continuously observe the minor.
- (4) "Unattended" means an animal who has been left in a motor vehicle when the driver or operator of the vehicle is no more than 30 feet from the vehicle and unable to continuously observe the animal.
- (5) "In distress" means any condition that endangers the health or well-being of a minor or animal due to heat, cold, lack of adequate ventilation, lack of water or food, or any other circumstances that could reasonably be expected to cause suffering, disability, or death.

Effective August 1, 2018.

(Adds R.S. 37:1738 and 1738.1)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Creates separate sections of law; one section pertains only to minors and one section pertains only to animals.
2. Provides that there shall be no liability on the part of the owner of the vehicle for any conduct that might otherwise be actionable in defending his vehicle.
3. Changes definition of "unattended" as it pertains to animals.
4. Makes technical corrections.