

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1152 Session of 2017

INTRODUCED BY BOBACK, WHEELAND, MILLARD, WATSON, KAUFFMAN, O'NEILL, McNEILL, V. BROWN, BARRAR, O'BRIEN, D. COSTA, BULLOCK, NEILSON, ROZZI, MURT, READSHAW, IRVIN, GOODMAN, WARD, CONKLIN, COX, GABLER, FREEMAN, GILLEN AND FARRY, APRIL 12, 2017

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 28, 2017

AN ACT

1 ~~Amending Title 42 (Judiciary and Judicial Procedure) of the~~ <--
2 ~~Pennsylvania Consolidated Statutes, in particular rights and~~
3 ~~immunities, providing for civil immunity for use of force in~~
4 ~~motor vehicle rescue.~~

5 AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE <--
6 PENNSYLVANIA CONSOLIDATED STATUTES, IN PARTICULAR RIGHTS AND
7 IMMUNITIES, PROVIDING FOR RESCUE FROM MOTOR VEHICLE.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Title 42 of the Pennsylvania Consolidated
11 Statutes is amended by adding a section to read:

12 ~~§ 8340.3. Civil immunity for use of force in motor vehicle~~ <--
13 ~~rescue.~~

14 ~~(a) General rule. A person shall be immune from civil~~
15 ~~liability for any damage resulting from the forcible entry of a~~
16 ~~motor vehicle for the purpose of removing an individual from the~~
17 ~~vehicle if the person:~~

18 ~~(1) Determines that the vehicle is locked or there is~~

~~otherwise no reasonable method for the individual inside to exit the vehicle.~~

~~(2) Has a good faith belief that forcible entry into the vehicle is necessary because the individual is in imminent danger of suffering harm if not immediately removed from the vehicle and, based upon the circumstances known to the person at the time, the belief is a reasonable one.~~

~~(3) Makes a good faith effort to contact law enforcement, the fire department or a 911 operator prior to forcibly entering the vehicle. If contact is not possible prior to forcibly entering the vehicle, the person shall make contact as soon as reasonably possible after forcibly entering the vehicle.~~

~~(4) Uses no more force than necessary under the circumstances to enter the vehicle and remove the individual from the vehicle.~~

~~(5) Makes a good faith effort to place a notice on the vehicle's windshield with the person's contact information, the reason the entry was made, the location of the individual who was removed from the vehicle and the fact that the authorities have been notified.~~

~~(6) Remains with the individual in a safe location until law enforcement or emergency responders arrive.~~

~~(b) Exceptions. A person shall not be immune from civil liability for any damage resulting from the forcible entry if the person's actions constitute gross negligence, recklessness or willful or wanton misconduct with regard to the forcible entry of the motor vehicle.~~

~~§ 8340.3. RESCUE FROM MOTOR VEHICLE.~~

~~(A) RESCUE OF INDIVIDUAL.--NO PERSON SHALL BE LIABLE FOR~~

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1 DAMAGE TO A MOTOR VEHICLE OR THE CONTENTS THEREOF CAUSED BY
2 ENTRY INTO THE MOTOR VEHICLE FOR THE PURPOSE OF REMOVING AN
3 INDIVIDUAL FROM THE MOTOR VEHICLE, IF THE PERSON:

4 (1) HAS A GOOD-FAITH, REASONABLE BELIEF THAT THE
5 INDIVIDUAL IS IN IMMINENT DANGER OF SUFFERING HARM IF NOT
6 IMMEDIATELY REMOVED FROM THE MOTOR VEHICLE.

7 (2) DETERMINES THAT THE INDIVIDUAL IS UNABLE TO EXIT THE
8 MOTOR VEHICLE WITHOUT ASSISTANCE.

9 (3) MAKES A REASONABLE EFFORT TO LOCATE THE DRIVER OF
10 THE MOTOR VEHICLE AND TO CONTACT LAW ENFORCEMENT, A FIRE
11 DEPARTMENT OR OTHER EMERGENCY RESPONDER PRIOR TO ENTRY. IF
12 THE DRIVER IS NOT LOCATED AND SUCH CONTACT IS NOT POSSIBLE
13 PRIOR TO ENTERING THE MOTOR VEHICLE, THE PERSON SHALL CONTACT
14 LAW ENFORCEMENT, A FIRE DEPARTMENT OR OTHER EMERGENCY
15 RESPONDER AS SOON AS REASONABLY POSSIBLE AFTER ENTERING THE
16 MOTOR VEHICLE.

17 (4) USES NO MORE FORCE THAN NECESSARY UNDER THE
18 CIRCUMSTANCES TO ENTER THE MOTOR VEHICLE.

19 (5) MAKES A GOOD-FAITH EFFORT TO LEAVE NOTICE ON OR IN
20 THE MOTOR VEHICLE STATING THE REASON THE ENTRY WAS MADE, THE
21 LOCATION OF THE INDIVIDUAL WHO WAS REMOVED FROM THE MOTOR
22 VEHICLE AND, IF POSSIBLE, IDENTIFYING THE POLICE OR FIRE
23 DEPARTMENT OR OTHER EMERGENCY RESPONDER THAT IS EXPECTED TO
24 RESPOND.

25 (6) REMAINS WITH THE INDIVIDUAL IN A SAFE LOCATION UNTIL
26 LAW ENFORCEMENT OR EMERGENCY RESPONDERS ARRIVE.

27 (B) (RESERVED).

28 (C) LIMITATION.--A PERSON SHALL NOT BE IMMUNE FROM CIVIL
29 LIABILITY FOR DAMAGE RESULTING FROM THE ENTRY IF THE PERSON'S
30 ACTIONS CONSTITUTE GROSS NEGLIGENCE, RECKLESSNESS OR WILLFUL OR

1 WANTON MISCONDUCT.

2 Section 2. This act shall take effect in 60 days.