



Tod Ohnstad

STATE REPRESENTATIVE

To: Assembly Committee on Judiciary
From: Rep. Tod Ohnstad
Date: September 17, 2015
Subject: Testimony in Support of Assembly Bill 308, relating to providing an exemption from civil liability for forcibly entering a vehicle under certain circumstances

Chairman Ott and members of the Assembly Judiciary Committee:

Thank you for taking the time to hear testimony on Assembly Bill 308, which would provide an exemption from civil liability for forcibly entering a vehicle under certain circumstances.

As summer has come to a close, now is a good time to reflect on a particular danger faced by vulnerable adults, children, and pets during hot summer days. We have been fortunate this summer not to have experienced many 90+ degree days thus far. However, the danger of being stuck in a hot car is still very real on more mild summer days. According to Ready Wisconsin, the temperature inside a car even with the windows cracked a little can reach 100 degrees in less than ten minutes on an 80 degree day.

Such hot temperatures present a real, but often forgotten, danger for many individuals throughout our communities. Indeed, the statistics bear out just how dangerous it can be for an individual to be left in a hot car, particularly if a child is strapped into a carseat or unable to open a car on their own. In 2013, 44 children died of heatstroke in cars. In 2014, 32 children died for the same reason. Nineteen children nationwide have died already this year due to being stuck inside a hot car.

Thankfully, none of these deaths have occurred in Wisconsin. But I'm sure you would agree this is still nineteen deaths too many. And the scary thing is, forgetting to get everyone out of the car can happen to anyone. All it takes is one time being forgetful.

At the urging of the Kenosha City Council, I have authored Assembly Bill 308, which aims to address the danger of hot cars. Joined by Representative Kerkman and Senator Wirch, along with several other colleagues from both houses and both sides of the political aisle, I believe AB 308 would be a solid step forward in ensuring hot car deaths do not happen here in Wisconsin. AB 308 would make clear a Good Samaritan who steps in to rescue a vulnerable individual or pet from a dangerously hot car need not risk civil liability for acting courageously. It is common sense, yet necessary legislation.

65th ASSEMBLY DISTRICT



To better prevent these deaths from happening here in Wisconsin, this bill would provide protection to Good Samaritans who break into a parked car to save a trapped child, vulnerable adult, or pet. In order to qualify for Good Samaritan protection under this law, the person rescuing the individual or animal must do several things:

1. Reasonably believe the person or domestic animal in the car will suffer imminent bodily harm;
2. Determine there is no way to enter the vehicle without force;
3. Use only the force necessary to remove the person or animal from the vehicle;
4. Dial "911" or otherwise summon emergency or law enforcement assistance before the forcible entry;
5. Remain with the person or animal until a law enforcement officer or other first responder arrives; and
6. Leave his or her name and contact information at the scene.

We believe these requirements balance the importance of the lives of those inside of a parked car as well as the car owner by protecting the life and safety of those stuck inside dangerously hot cars specifically while ensuring the law is only used when absolutely necessary.

Thank you again for your time and attention to AB 308. I would be happy to answer any questions the Committee might have.



STATE REPRESENTATIVE

SAMANTHA KERKMAN

Assembly Bill 308
Hot Car/Good Samaritan Bill

Committee on Judiciary
Thursday, September 17, 2015

Chairman Ott and committee members: good afternoon and thank you for holding a hearing on Assembly Bill 308, the Hot Car/Good Samaritan bill.

This bill would allow for individuals to assist in a sticky situation without the worry of being sued for helping out. Under this bill, a person who damages a vehicle in order to rescue a person or animal would be exempt from being sued for damaged by the owner of the vehicle. This also helps deter people from just damaging other individuals' cars by showing that a person must dial 911 and determine the only way to rescue the being is by forcibly entering the car. The individual also must remain at the scene until law enforcement have arrived.

The idea for this piece of legislation came about from a resolution from the City of Kenosha Alderperson Rocco LaMacchia and approval from the entire city council last September. Last year, 2014, there were at least 20 cases of children dying as a result of heatstroke from being locked in a car. While, I am not aware of any cases of an individual suing someone from breaking into their car to save a child or animal, the intent of the bill is to give individuals the go-ahead to act as a hero by removing any roadblocks that may cause people to hesitate to act.

Heat can kill. Summer heat waves have contributed to more weather related deaths than tornados and sever storms. Heat is the number one weather-related killer in the United States. Even on a sunny 80 degree day, temperatures in a car can quickly climb 100 degrees or more in a matter of minutes. That is why it is important to pave the way for people to act in their good nature have some protections from the State in potentially savings lives.



John W. Morrissey
Chief of Police

September 16, 2015

Good morning Chairman Ott and members of the committee. On behalf of the Kenosha Police Department, I thank you for this opportunity to testify regarding our support of Assembly Bill 308. My name is John W. Morrissey and I am the Chief of Police for the City of Kenosha. I believe this bill achieves the common goal of protecting children and vulnerable adults, but also defenseless animals from serious harm or even death if immediate action is not taken. I believe this bill is written in the approach that it covers both rural and urban areas for the State of Wisconsin. The response time in rural areas may be significantly longer, however, the same can be said for urban areas based on call volume and call priorities. AB 308 creates an exemption from civil liability for property damage and/or personal injury resulting from an individual forcibly entering a vehicle to save a human life or an animal.

I support the bill as amended in that it requires the person responsible to place the 911 call prior to taking action in which they are going to use force to enter the vehicle. This requirement, I believe further shields the person, in that they will be advised by the dispatcher of the anticipated time it would take for a member of the police department, fire department, animal control or other first responder to arrive on the scene. This call allows for information to be given to the dispatcher on the condition of the child, vulnerable adult, or animal, which will allow the appropriate services to be dispatched to the scene. It may also save the vehicle from being damaged and the cost of repairs to the owner, if the information being relayed would indicate that forcible entry was not needed or if the responding personnel were within a reasonable response time. I believe the amendment to require 911 notification prior to entry into the vehicle also allows for discussion on protection to the person entering the vehicle, specifically in animal cases, as we all know animals react differently when frightened.

I believe that AB308 allows the appropriate amount of leeway (liability exemption) for the individual trying to assist the person or animal, but it also provides sufficient standards in that the person must act in good faith with the belief that the animal or the person is in imminent danger of suffering bodily harm, unless removed from the vehicle. It also provides that the person use no more force than reasonably believed necessary to enter the vehicle.

In the City of Kenosha, we receive very few calls for children in distress in vehicles, nevertheless, one child that could have been saved and was not for fear of being charged, if the person damaged the vehicle, is one child death to many. However, we do receive frequent calls for animals left in vehicles. In the majority of these cases if the caller provides information on the vehicle the dispatchers and responding officers are able to locate the owners, prior to forced entry, but this bill allows for action to save the animal if needed. This bill may have the added benefit once adopted in that individuals who tend to leave animals in their vehicles, may think twice, knowing that the person assisting will not be held liable for damage or injury.

I appreciate the ability to address the committee today and I acknowledge Representative Ohnstad in seeking my professional opinion on this bill. I believe this bill is in the best interest of the Citizens of the State of Wisconsin and ask this committee to support this important legislation.

Thank You!



TO: Assembly Committee on Judiciary

FROM: Dr. Marc Gorelick, Executive Vice President, Children's Hospital of Wisconsin, and Dr. Michael Gutzeit, Chief Medical Officer, Children's Hospital of Wisconsin

DATE: Thursday, September 17, 2015

RE: Supporting AB 308 – providing an exemption from civil liability for forcibly entering a vehicle under certain circumstances

Good afternoon Chairman Ott and members of the committee. We are sorry we are unable to attend in person, but pleased with the opportunity to provide written testimony in support of AB 308 along with Safe Kids WI. We are Dr. Marc Gorelick, Executive Vice President of Children's Hospital of Wisconsin, and Dr. Michael Gutzeit, Chief Medical Officer for Children's Hospital of Wisconsin.

Children's Hospital of Wisconsin serves children from every county in the state. We have inpatient hospitals in Milwaukee and the Fox Valley. We care for every part of a child's health, from critical care at one of our hospitals to routine checkups in our primary care clinics. Children's also provides specialty care, urgent care, emergency care, school health nurses, Foster care and adoption services, family resource centers, child health advocacy, health education, pediatric medical research and the statewide poison hotline.

AB 308 creates an exemption from civil liability for property damage or personal injury resulting from an individual forcibly entering a vehicle in order to save a child or pet if the person reasonably believed that the animal or child was suffering or would suffer imminent bodily harm. I would like to thank Senator Wirch and Representative Ohnstad for bringing forward this bill and Children's Hospital and Safe Kids WI strongly supports this legislation.

636 children have died from heatstroke when left unattended in a vehicle since 1998. On average, 38 children die each year from being left unattended in a vehicle. Just this year 14 children have died. A child's body heats up three to five times faster than an adult's body. Often heatstroke deaths occur when a distracted caregiver forgets a child in their vehicle. Over half of the heatstroke deaths have occurred this way. Children have not yet fully developed the ability to regulate their body temperature, and therefore extreme temperatures affect them more quickly. Symptoms can quickly progress from flushed, dry skin and vomiting to seizures, organ failure and death.

These deaths do not just occur in warm states or during the hot months of the summer. Because children are less able to regulate their body temperature than adults, children can quickly develop a dangerously low body temperature in colder weather. Newborn infants are prone to hypothermia because of their large body surface area, small amount of subcutaneous fat, and decreased ability to shiver. Severe temperatures can quickly result in dangerous symptoms and death.

We hope you will support AB 308 as it presents a critical preventative measure aimed at saving the lives of children.

Chairman Ott and committee members, we thank you again for the opportunity to submit written testimony behalf of Children's Hospital of Wisconsin along with Safe Kids WI in support of AB 308. Please feel free to contact us with any follow up questions at MGutzeit@chw.org or MGorelick@chw.org.





TO: Assembly Committee on Judiciary
FROM: Nicole Vesely, Safe Kids WI Madison Area Coordinator, American Family Children's Hospital & Libbe Slavin, Safe Kids WI Coordinator, Children's Hospital of Wisconsin
DATE: Thursday, September 17, 2015
RE: Support for AB 308 – providing an exemption from civil liability for forcibly entering a vehicle under certain circumstances

Good afternoon Chairman Ott and members of the committee. Thank you for allowing me this opportunity to submit testimony today on behalf of our support for AB 308. My name is Nicole Vesely and I am the Safe Kids WI Madison Area Coordinator and I'm presenting today on behalf of myself and Libbe Slavin, of Safe Kids Wisconsin and Children's Hospital of Wisconsin.

Safe Kids Wisconsin is led by Children's Hospital of Wisconsin to achieve our common goal of keeping Wisconsin kids safe by preventing unintentional injuries. As the lead agency for Safe Kids, Children's Hospital joins me today in submitting testimony in support of AB 308. Around the world, a child dies from an unintentional injury every 30 seconds.

AB 308 creates an exemption from civil liability for property damage or personal injury resulting from an individual forcibly entering a vehicle in order to save a child or pet if the person reasonably believed that the animal or child was suffering or would suffer imminent bodily harm. Safe Kids WI and Children's Hospital applaud Senator Wirch and Representative Ohnstad for bringing forward this bill. Children's Hospital and Safe Kids WI strongly supports this legislation.

Heatstroke deaths have been recorded in 11 months of the year in nearly all 50 states. In Michigan, on September 3rd, 2013, with an outside temperature of just 73 degrees, a child was found strapped to his child seat. He was dead for several hours before he was discovered.

53% of children who die of heatstroke when left unattended in a vehicle were forgotten by their caregiver. 29% died while playing unattended in a vehicle and 17% died when intentionally left in the vehicle by an adult.

In 2013, 44 children died. In 2014 30 children died. So far this year 15 children have died. Temperatures inside a car can rise more than 20 degrees in only 10 minutes. Studies have shown that cracking a window does not lower the temperature inside the car to any significant degree.

Safe Kids campaigns to encourage everyone to ACT:

- A: Avoid heatstroke-related injury and death by never leaving your child alone in a car**
- C: Create reminders; place something you'll need at the next stop next to the child**
- T: Take action – if you see a child alone in a car, take action to prevent injury to a child**

These types of tragedies can happen to anyone, and most of the cases are to loving, caring parents. It's easy to become distracted when you are a new parent and are sleep-deprived or when your routine is disrupted. Data has shown that heatstroke tragedies happen more often when the daily routine is changed.

We hope you will support this important legislation aimed at preventing more needless deaths. This bill presents a critical preventative measure that would save children.

Chairman Ott and committee members, we thank you again for the opportunity to share testimony behalf of Children's Hospital of Wisconsin along with Safe Kids WI in support of AB 308. Please feel free to contact us with any follow up questions at NVesely@uwhealth.org or LSlavin@chw.org.

