

3/13/ 67

Memorandum 67-25

Subject: Study 62 - Vehicle Code Section 17150 and related statutes
(Senate Bill No. 244)

We have discussed Senate Bills 244, 245, and 246 with a number of representatives of the insurance industry. The insurance industry is concerned with the bills, but would, I believe, not object to the bills if Senate Bill No. 244 were amended to make it clear that punitive damages cannot be recovered against a person subject only to ownership liability. One or more representatives of the insurance industry probably will be present at our meeting on Sunday evening when this matter is discussed.

To take care of the problem that concerns the insurance industry, the staff suggests that Senate Bill No. 244 be amended to add a new subdivision to Section 17151 and to Section 17709. The substance of the amendments is shown on Exhibit I (attached). The substance of the revised comments is set out on Exhibit II (attached).

Respectfully submitted,

John H. DeMouilly
Executive Secretary

SUBSTANCE OF PROPOSED AMENDMENTS

(1) Add following new subdivision to Section 17151 as proposed to be amended in Senate Bill No. 244:

17151. (a) The liability of an owner, bailee of an owner, or personal representative of a decedent imposed by this chapter and not arising through the relationship of principal and agent or master and servant is limited to the amount of ten thousand dollars (\$10,000) for the death of or injury to one person in any one accident and, subject to the limit as to one person, is limited to the amount of twenty thousand dollars (\$20,000) for the death of or injury to more than one person in any one accident and is limited to the amount of five thousand dollars (\$5,000) for damage to property of others in any one accident.

(b) An owner, bailee of an owner, or personal representative of a decedent is not liable under this chapter for damages imposed for the sake of example and by way of punishing the operator of the vehicle. Nothing in this section makes an owner, bailee, or personal representative immune from liability for damages imposed for the sake of example and by way of punishing him for his own wrongful conduct.

(2) Amend Section 17709, as proposed to be amended in Senate Bill No. 244,

to read:

17709. (a) No person, or group of persons collectively, shall incur liability for a minor's negligent or wrongful act or omission under Sections 17707 and 17708 in any amount exceeding ten thousand dollars (\$10,000) for injury to or death of one person as a result of any one accident or, subject to the limit as to one person, exceeding twenty thousand dollars (\$20,000) for injury to or death of all persons as a result of any one accident or exceeding five thousand dollars (\$5,000) for damage to property of others as a result of any one accident.

(b) No person is liable under Section 17707 or 17708 for damages imposed for the sake of example and by way of punishing the minor. Nothing in this section makes any person immune from liability for damages imposed for the sake of example and by way of punishing him for his own wrongful conduct.

SUBSTANCE OF COMMENTS

Section 17151 (amended)

Comment. The amendment of subdivision (a) merely conforms this subdivision to Section 17150 as amended.

Subdivision (b) has been added to make it clear that the extension of ownership liability to include damages caused by a "wrongful" act or omission does not make the owner, bailee of an owner, or personal representative of a decedent liable for punitive damages. Since punitive damages are awarded primarily for the purpose of punishing the wrongdoer, they cannot be awarded against a person not implicated in the wrongful conduct. Of course, the owner, bailee, or personal representative can be held liable for punitive damages if he is himself guilty of conduct that justifies their imposition.

Subdivision (b) adopts the same rule that governs the recovery of punitive damages from persons who are vicariously liable. For example, in an action against an employer for his employee's tort, punitive damages may be recovered from the employer only if it is shown that the employer participated in, previously authorized, or subsequently ratified the employee's wrongful act. Deevy v. Tassi, 21 Cal.2d 109, 130 P.2d 389 (1942); Farvour v. Geltis, 91 Cal. App.2d 603, 205 P.2d 424 (1949); 2 Witkin, Summary of California Law, Torts § 398 (1960).

Section 17709 (amended)

Comment. Section 17709 is revised to conform to amended Sections 17151, 17707, and 17708. See the Comments to those sections.