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Torts

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Torts

Torts; treble damages for deceptive advertising

Business & Professions Code § 17537.2 (new).
AB 801 (Frazee); 1989 STAT. Ch. 520

Existing law strictly regulates advertising which represents that the recipient of the advertisement has won or may win a prize.¹ Under Chapter 520, a party injured by a violation of those regulations may bring a civil action for treble damages, and the prevailing party may be awarded attorney's fees.²

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1. CAL. BUS. & PROF. CODE §§ 17537-17537.1 (West 1987). Deceptive advertising regarding prizes may subject the defendant to criminal liability. *Id.* § 17537(e) (West 1987). Additionally, courts may issue injunctions against the deceptive advertising. See *Clemons v. Western Photo Camera Hut*, 117 Cal. App. 3d 392, 172 Cal. Rptr. 782 (1981); *People v. Columbia Research Corp.*, 71 Cal. App. 3d 607, 139 Cal. Rptr. 517 (1977) (cases enjoining deceptive advertising).
 2. 1989 Cal. Stat. ch. 520, sec. 1, at ____ (enacting CAL. BUS. & PROF. CODE § 17537.2).

Torts; vicious and potentially dangerous dogs

Food and Agricultural Code §§ 31601, 31602, 31603, 31604, 31605, 31606, 31607, 31608, 31609, 31621, 31622, 31623, 31624, 31625, 31626, 31641, 31642, 31643, 31644, 31645, 31646, 31662, 31663, 31681, 31682, 31683 (new).

SB 428 (Torres); 1989 STAT. Ch. 761

Support: Responsible Dog Owners of the Golden State; American Kennel Club

Opposition: Santa Clara County; County Supervisors Association of California

Under existing law, any dog found running at large which does not have an identification tag or dog license tag¹ may be seized and

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1. See CAL. FOOD AND AGRIC. CODE § 30951 (West 1986) (requiring dogs over four months old which run at large to have a collar on which is fastened by either a metallic tag showing the address of the dog's owner, or a metal license tag issued by the city, county, or other municipal corporation).

impounded.² Furthermore, existing law provides for the destruction of dogs under certain circumstances.³ Chapter 761 defines and provides for the regulation of vicious⁴ and potentially dangerous dogs.⁵

Under Chapter 761, after an animal control or law enforcement officer finds probable cause that a dog is potentially dangerous or vicious, a municipal court or any other administrative forum established by the city or county may hold a hearing in order to determine if the dog should be declared potentially dangerous or vicious.⁶ The owner of the dog must be notified of the hearing and may present relevant evidence.⁷ If the judge or judicial body determines that a dog is potentially dangerous, the designation must be recorded on the registration records of the dog.⁸ In addition, the dog must be kept indoors or in a securely fenced yard at all times.⁹ The judge or judicial body may impose conditions upon the ownership of a dog found to be vicious, or may order the animal control department to destroy the dog if releasing it would create a significant threat to the public.¹⁰

AWF

2. *Id.* § 31101 (West 1986).

3. *Id.* §§ 31105 (West 1986) (allowing county board of supervisors to provide for the humane killing of impounded dogs), 31152 (allowing any person to kill a dog found killing, wounding, or persistently pursuing livestock or poultry), 31508 (allowing a judge who has determined that livestock damage has been caused by a dog to order the owner or person in charge of the dog to kill the dog).

4. See 1989 Cal. Stat. ch. 761, sec. 1, at ____ (enacting CAL. FOOD AND AGRIC. CODE § 31603) (defining a vicious dog as: (1) Any dog used for fighting and whose owner is convicted of possessing a dog with the intent that the dog engage in fighting exhibitions with other dogs; (2) one which, without provocation, either kills or severely injures a human being; or (3) one that has been previously determined to be potentially dangerous and continues to act in a dangerous or threatening manner).

5. *Id.* See *id.* (enacting CAL. FOOD AND AGRIC. CODE § 31602) (defining a potentially dangerous dog as: (1) One which, without provocation, has twice within the prior 36 month period acted so as to require defensive action by a person; (2) one which bites a person, causing less than severe injury; or (3) one which has, twice within the prior 36 month period, attacked or injured a domestic animal).

6. *Id.* (enacting CAL. FOOD AND AGRIC. CODE § 31621).

7. *Id.*

8. *Id.* (enacting CAL. FOOD AND AGRIC. CODE § 31641).

9. *Id.* (enacting CAL. FOOD AND AGRIC. CODE § 31642). An owner may take a potentially dangerous dog off the owner's premises only if the dog is restrained by a substantial leash under the control of a responsible adult. *Id.*

10. *Id.* (enacting CAL. FOOD AND AGRIC. CODE §§ 31645(a), (b)).