

AMENDED IN SENATE APRIL 2, 2013

**SENATE BILL**

**No. 713**

---

---

**Introduced by Senator Correa**  
*(Coauthor: Assembly Member Gray)*

February 22, 2013

---

---

~~An act to amend Section 3291 of the Civil Code, relating to damages.~~  
*An act to add Section 1713.5 to the Civil Code, relating to liability.*

LEGISLATIVE COUNSEL'S DIGEST

SB 713, as amended, Correa. ~~Personal injury actions: damages: interest.~~ *Liability: good faith reliance on administrative ruling.*

*Existing law provides that every person is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself.*

*Existing law governs the tort liability and immunity of, and claims and actions against, public entities and their officers and employees. Existing law provides that a public employee who acts in good faith, without malice, and under the apparent authority of an enactment that is unconstitutional, invalid, or inapplicable, is not liable for an injury caused thereby, except to the extent that he or she would have been liable had the enactment been constitutional, valid, and applicable.*

*This bill would provide that any person who relies upon a written order, ruling, approval, interpretation, or enforcement policy of a state agency or department, except the Division of Labor Standards Enforcement, shall not be liable or subject to punishment for a violation of a statute or regulation in a judicial or administrative proceeding if the person takes specified actions. This bill would provide that a person*

*who relies on a written order, ruling, approval, interpretation, or enforcement policy of the Division of Labor Standards Enforcement and takes these specified actions shall not be liable or subject to punishment, except for restitution of unpaid wages. The bill would provide that these provisions apply to all actions and proceedings that commence on or after January 1, 2014. Additionally, the bill would state that it would not require a state agency to issue an order, ruling, approval, interpretation, or enforcement policy.*

~~Under existing law, a plaintiff in an action brought to recover damages for personal injury may claim interest on the damages alleged, as specified.~~

~~This bill would make technical, nonsubsantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1713.5 is added to the Civil Code, to read:
- 2     1713.5. (a) A person who relies upon a written order, ruling,
- 3     approval, interpretation, or enforcement policy of a state agency
- 4     or department, except the Division of Labor Standards
- 5     Enforcement, shall not be liable or subject to punishment for a
- 6     violation of a statute or regulation in a judicial or administrative
- 7     proceeding if the person pleads and proves to the trier of fact that,
- 8     at the time the alleged act or omission occurred, the person, acting
- 9     in good faith, did all of the following:
- 10    (1) Sought an applicable written order, ruling, approval,
- 11    interpretation, or enforcement policy from the state agency or
- 12    department charged with interpreting that particular area of law.
- 13    (2) Relied upon and conformed to the applicable written order,
- 14    ruling, approval, interpretation, or enforcement policy.
- 15    (3) Provided true and correct information to the state agency
- 16    in seeking the written order, ruling, approval, interpretation, or
- 17    enforcement policy.
- 18    (b) (1) The affirmative defense provided in subdivision (a) shall
- 19    apply even if, after the alleged act or omission occurred, the order,
- 20    ruling, approval, interpretation, or enforcement policy upon which
- 21    the person relied is modified, rescinded, or determined by judicial
- 22    authority to be invalid or of no legal effect.

1 (2) *The affirmative defense provided in subdivision (a) shall*  
2 *not apply if the alleged act or omission occurred after the order,*  
3 *ruling, approval, interpretation, or enforcement policy upon which*  
4 *the person relied is modified, rescinded, or determined by judicial*  
5 *authority to be invalid or of no legal effect.*

6 (c) *This section applies to all actions and proceedings that*  
7 *commence on or after January 1, 2014.*

8 (d) *Nothing in this section shall be construed to give any greater*  
9 *legal weight to an order, ruling, approval, interpretation, or*  
10 *enforcement policy than it would otherwise have in the absence*  
11 *of this section.*

12 (e) *Nothing in this section shall be construed to require a state*  
13 *agency or department to issue an order, ruling, approval,*  
14 *interpretation, or enforcement policy.*

15 (f) *Nothing in this section shall be construed to authorize a state*  
16 *agency or department to issue an order, ruling, approval,*  
17 *interpretation, or enforcement policy that is contrary to an existing*  
18 *state statute or regulation.*

19 (g) *A person who relies upon a written order, ruling, approval,*  
20 *interpretation, or enforcement policy of the Division of Labor*  
21 *Standards Enforcement shall not be liable or subject to punishment,*  
22 *except for restitution of unpaid wages, for a violation of a statute*  
23 *or regulation in a judicial or administrative proceeding if the*  
24 *person pleads and proves to the trier of fact that, at the time the*  
25 *alleged act or omission occurred, the person, acting in good faith,*  
26 *did the acts described in paragraphs (1) to (3), inclusive, of*  
27 *subdivision (a).*

28 ~~SECTION 1. Section 3291 of the Civil Code is amended to~~  
29 ~~read:~~

30 ~~3291. (a) In an action brought to recover damages for personal~~  
31 ~~injury sustained by any person resulting from or occasioned by~~  
32 ~~the tort of any other person, corporation, association, or partnership,~~  
33 ~~whether by negligence or by willful intent of the other person,~~  
34 ~~corporation, association, or partnership, and whether the injury~~  
35 ~~was fatal or otherwise, it is lawful for the plaintiff in the complaint~~  
36 ~~to claim interest on the damages alleged as provided in this section.~~

37 ~~(b) If the plaintiff makes an offer, pursuant to Section 998 of~~  
38 ~~the Code of Civil Procedure, which the defendant does not accept~~  
39 ~~prior to trial or within 30 days, whichever occurs first, and the~~  
40 ~~plaintiff obtains a more favorable judgment, the judgment shall~~

1 bear interest at the legal rate of 10 percent per annum, calculated  
2 from the date of the plaintiff's first offer pursuant to Section 998  
3 of the Code of Civil Procedure that is exceeded by the judgment,  
4 and interest shall accrue until the satisfaction of judgment.

5 (e) ~~This section shall not apply to a public entity, or to a public~~  
6 ~~employee for an act or omission within the scope of his or her~~  
7 ~~employment, and neither the public entity nor the public employee~~  
8 ~~shall be liable, directly or indirectly, to any person for any interest~~  
9 ~~imposed by this section.~~