



OPPOSE SB1550 & SB1689 – An Act relative to the wrongful injury or death of animal companions

PROBLEM:

These two bills equate the loss of animals with loss of people by calling for damages for emotional distress or loss of companionship in cases of injury or death of an animal. Animals are often kept as cherished pets but they are property and should not be given legal status equal to humans.

HISTORY:

Animal *welfare* proponents are in favor of judicious breeding, proper veterinary care, appropriate grooming and training of animals owned as personal property. Animal *rights* proponents feel that animals should have the same legal rights as humans.

WHAT THIS BILL DOES:

1. It raises the legal status of dogs, cats, birds, horses, rabbits, guinea pigs or other animals to the same status humans have in case of loss or injury.
2. It requires a minimum of \$2500 in punitive damages when an animal is killed or injured and charges are pursued.
3. It allows an action of tort by a “guardian ad litem or next friend” of an animal.
4. It opens the door for lawsuits against veterinarians.
5. It opens the door for lawsuits in cases where an animal is accidentally run over by a car or when an animal is injured or killed in an accident.

WHY YOU SHOULD OPPOSE:

1. Animals should not be placed on the same legal plane as humans.
2. Animals should not be afforded a guardian ad litem
3. Animals are the property of their owners.

FOR MORE INFORMATION:

Massachusetts Federation of Dog Clubs and Responsible Dog Owners
Judith Erlanger, Recording Secretary; judithper@aol.com, 978-263-7301
Virginia Rowland, President; blackslate@aol.com; 978-424-1044

The Commonwealth of Massachusetts

PRESENTED BY:
Steven A. Baddour (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the wrongful injury or death of animal-companions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Debra Campinale	42 Montrose Avenue Haverhill, Massachusetts 01830

The Commonwealth of Massachusetts

PRESENTED BY:
James B. Eldridge (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the wrongful injury or death of animal-companions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mary Trombetta	78 Harvard Road Littleton, Ma 01460

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00789 OF 2007-2008.]
The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE WRONGFUL INJURY OR DEATH OF ANIMAL-COMPANIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. . Section 85A of chapter 272 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the first sentence.

SECTION 2. Said chapter 272, as so appearing, is hereby amended by inserting after section 85A the following section:-

Section 85B. (a) As used in this section, the term "animal-companion" shall mean a dog, cat or any warm-blooded, domesticated non-human animal dependent on one or more human persons for food, shelter, veterinary care, or companionship. It does not include animals that are the subjects of legal, humane farming practices; legal, humane biomedical research practices; or activities regulated by the federal Animal Welfare Act.

(b) A person who by willful, wanton, reckless or negligent act or omission kills or causes or procures the death of an animal-companion shall be liable in damages for

the fair monetary value of the deceased animal to his or her human companions, including damages for the loss of the reasonably expected society, companionship, comfort, protection and services of the deceased animal to his or her human companions; reasonable burial expenses of the deceased animal; court costs and attorney's fees; and other reasonable damages resulting from the willful, wanton, reckless or negligent act or omission.

(c) A person who by willful, wanton, reckless or negligent act or omission injures, or causes or procures to be injured, an animal-companion shall be liable in damages for the expenses of veterinary and other special medical care required; the loss of reasonably expected society, companionship, comfort, protection and services of the injured animal to his or her human companions; pain, suffering, emotional distress and consequential damages sustained by the animal's human companion; pain, suffering and loss of faculties sustained by the animal; court costs and attorney's fees; and other reasonable damages resulting from the willful, wanton, reckless or negligent act or omission.

(d) A person who by willful, wanton, or reckless act or omission injures, kills, causes or procures the injury or death of an animal-companion shall be liable in punitive damages of not less than \$2,500.

(e) Damages under this section for injuries sustained by an animal's human companion shall be recovered in an action of tort, commenced within three years from the date of injury or death or from the date when the human companion knew, or in the exercise of reasonable diligence should have known, of the factual basis for a cause of action, or within such time thereafter under section 4, 4B, 9 or 10 of chapter 260.

(f) Damages under this section for injuries sustained by an animal shall be recovered in an action of tort by a guardian ad litem or next friend, commenced within three years from the date of injury or from the date when the guardian ad litem or next friend knew, or in the exercise of reasonable diligence should have known, of the factual basis for a cause of action, or within such time thereafter under section 4, 4B, or 9 of chapter 260. Damages so recovered shall be payable into a trust for the care of the animal, which trust shall be enforceable for the life of the animal by a person appointed by the court. Any remainder of trust funds existing at the death of the animal shall be distributed to a non-profit organization dedicated to the protection of animals.

(g) Restraining orders and other injunctive relief from wrongful injury or killing of animals may be issued by a court of competent jurisdiction as appropriate.

CURRENT LAW

CHAPTER 272. CRIMES AGAINST CHASTITY, MORALITY, DECENCY AND GOOD ORDER

Chapter 272: Section 85A. Injuring, taking away or harboring domesticated animals or birds; removal of dog license tag, collar or harness; imitation tag

Section 85A. Whoever with wrongful intent kills, maims, entices or carries away a dog or other domesticated animal or bird shall be liable in tort to its owner for three times its value. Any person who removes from the dog of another its license tag, collar or harness, or who, without the authorization of the owner or keeper, holds or harbors a dog or other domesticated animal of another, or who holds or harbors a lost or strayed dog or other domesticated animal for more than forty-eight hours after such animal comes into his possession without reporting or taking it to the police station or dog officer nearest to the place where it was found and informing the police officer or dog officer in charge where such dog or other animal was found, the name, color, age, size and pedigree, as fully as possible, of such animal and the person's own name and address, or who shall cause a dog to wear an imitation or counterfeit of the official tag prescribed by section one hundred and thirty-seven, one hundred and thirty-seven A or one hundred and thirty-seven B of chapter one hundred and forty, shall be punished by a fine of not more than one hundred dollars.