

**SENATE . . . . . No. 1689**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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:*

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

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

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

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

12           the fair monetary value of the deceased animal to his or her human companions,  
13 including damages for the loss of the reasonably expected society, companionship, comfort,

14 protection and services of the deceased animal to his or her human companions; reasonable  
15 burial expenses of the deceased animal; court costs and attorney's fees; and other reasonable  
16 damages resulting from the willful, wanton, reckless or negligent act or omission.

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

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

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

33 (f) Damages under this section for injuries sustained by an animal shall be recovered in  
34 an action of tort by a guardian ad litem or next friend, commenced within three

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

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