

SENATE NO. 789



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 section
4 85A the following section:-
- 5 Section 85B. (a) As used in this section, the term "animal-companion" shall mean a dog, cat or
6 any warm-blooded, domesticated non-human animal dependent on one or more human persons
7 for food, shelter, veterinary care, or companionship. It does not include animals that are the
8 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 or
11 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, including
13 damages for the loss of the reasonably expected society, companionship, comfort, protection
14 and services of the deceased animal to his or her human companions; reasonable burial
15 expenses of the deceased animal; court costs and attorney's fees; and other reasonable damages
16 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 causes or
18 procures to be injured, an animal-companion shall be liable in damages for the expenses of
19 veterinary and other special medical care required; the loss of reasonably expected society,
20 companionship, comfort, protection and services of the injured animal to his or her human
21 companions; pain, suffering, emotional distress and consequential damages sustained by the
22 animal's human companion; pain, suffering and loss of faculties sustained by the animal; court
23 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 shall be
29 recovered in an action of tort, commenced within three years from the date of injury or death or
30 from the date when the human companion knew, or in the exercise of reasonable diligence
31 should have known, of the factual basis for a cause of action, or within such time thereafter
32 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 an
34 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 knew,
36 or in the exercise of reasonable diligence should have known, of the factual basis for a cause of
37 action, or within such time thereafter under section 4, 4B, or 9 of chapter 260. Damages so
38 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 animals may
43 be issued by a court of competent jurisdiction as appropriate.