

Testimony of American Property Casualty Insurance Association (APCIA)

House Judiciary Committee

Senate Bill 815 Civil Actions - Tortious Injury to or Death of Pet - Damages

March 2, 2022

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) represents more than 1200 insurers and reinsurers that provide critically important insurance protection throughout the U.S. and world. In combination, our members write 60% of the U.S. property casualty market. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe. Senate Bill 815 would mark a major departure for Maryland law by allowing non-economic damages for the pain and suffering of the pet owner related to the injury or loss of a pet due to the negligence of a tortfeasor. In addition, The bill would remove the \$10,000 cap on cap of \$10,000 for damages when APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 815.

When a pet is injured or killed and someone is liable for that event, it understandable for the pet owner to be upset or angry. While many of us treat our pets like members of the family and have animals in our homes that we find beloved, the law for very good reasons treats them as personal property and compensation is appropriately limited to economic loss. Maryland law is in accord with other states in limiting recoveries to compensatory damages for the injury or death of a pet and that law should not change now. This bill would take Maryland out of the mainstream of the law, as most states now bar such non-economic losses for sentimental value or lost companionship.

Most states do not allow claims for emotional distress related to the injury or death of a pet because it is considered “evanescent, intangible ... and entirely idiosyncratic.”¹ It has also been barred because of concern about the related question of how to separate legitimate emotional distress from fraudulent or frivolous claims.² And once the courts start to award pain and suffering awards to the owner, we can very easily start down the path of increasing the amount of damages and expanding the universe of those who suffered from the loss of the pet.

The universe of types of pets owned by people is enormous and the human ability to form bonds with non-human animals is virtually limitless. While we automatically think of an injury to, or the loss of a pet dog or cat, there is nothing in this law to limit the range of animals which humans view as companions. Is the legislature prepared to award unlimited damages for emotional distress related to the death of a bird resulting from an accidental release? An injury to a snake because it was accidentally improperly fed? The passing of a fish because the water temperature wasn't maintained correctly? The list goes on and on.

¹ “Overview of Damages for Injury to Animals – Pet Losses,” Michigan State University Animal Legal and Historical Center, <https://www.animallaw.info/article/overview-damages-injury-animals-pet-losses> (2003)

² Id.

Will pet owners need to be compensated for emotional anguish when their pet is injured by a car, even if they didn't see the accident? Will injuries sustained by a pet from improper grooming result in a claim by its owner for pain and suffering by the owner? Under this proposal, just about any negligence claim involving pets will also result in automatic mental or emotional anguish claims and the accidental death of any pet will almost automatically result in a \$10,000 claim for emotional distress or loss of companionship or comfort. And the proposed law goes even farther by opening a defendant to unlimited pain and suffering damages if a pet owner were to assert gross negligence. And we can expect they will.

While surely the intent of the sponsors of Buddy's Law is noble, there is a reason that the vast majority of states have not recognized non-economic damages related to pet injuries. For these reasons, the APCIA urges the Committee to provide an unfavorable report on Senate Bill 815.

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