

Pets Have Value Act



Model Legislation to
Compensate Families
for Harm to Their Animals
& Incentivize Reform





WE CONSIDER PETS FAMILY

It's time our laws did, too.

SEVERAL years ago, Avery ended up at the local animal shelter after escaping from his yard. His family went to reclaim him but did not have enough money to pay the required fees and fines. If this were a community run by people who love animals and are committed to their well-being, shelter staff would have put the family on a payment plan and given them their dog back. As the director of a shelter in another community that does care explains:

Accidents happen, so we treat the dogs and their owners the way we would want our pets and ourselves to be treated. If the person is truly irresponsible, we're going to issue citations, but we aren't going to threaten to kill their dogs or make it more likely that their dogs will be killed.

Holding the dog ties up kennel space, the director further explained. And in "shelters" which kill "for space," that simply does not make sense. But this was not such a community. And the staff who held Avery hostage would not release him. Instead, they told his family to come back with the money. When the family returned for Avery, however, he was already dead. The family sued.

Adding insult to injury, the trial court ruled that Avery didn't have any monetary value in the eyes of the law and dismissed



Avery Before He Was Killed by Uncaring Animal Control Staff

the case. Avery's family appealed to the state's Supreme Court, but industry groups like the Veterinary Medical Association, the American Kennel Club, and the Cat Fanciers' Association joined the case as "friends of the court." Siding with the shelter, they urged the High Court to likewise find that Avery was worthless. Dogs are like toasters, they essentially argued. If someone breaks them, you just throw them away. Tragically, that is how the court ruled. Even more tragically, Avery is far from the only dog to be viewed this way.

A few states away, another family had a dog named Avery also found this out the hard way. As was their routine, they let Avery and their other dogs outside before going to bed. When the dogs returned, she could barely walk to the door or stand, and they noticed that her eyes were jaundiced. She had been fine earlier that day, but Avery was a voracious eater, and it turned out that her food was tainted. The family attended to Avery by checking on her several times overnight, planning to take her to the veterinarian first thing in the morning. By morning, however, Avery was dead. Instead, the family buried her.

After eating the same food brand, a different family rushed their dog Olive to the emergency veterinarian on Christmas Day. The examining physician told them, "Olive had been poisoned, her organs were shutting down, her chances of survival were low, she was suffering, and letting her pass naturally would prolong the pain she was in." The family euthanized her to prevent further suffering. When they returned home, they found Scotty, their other dog, "vomiting, he was very weak, and a puddle of dark blood was on the floor next to him." After rushing him to the emergency room, the veterinarian determined that "Scotty was bleeding internally and needed to be euthanized."

The number of dogs nationwide *known* to be killed by this particular pet food brand numbered in the hundreds. However, the *actual* number was almost certainly many times higher. The Food & Drug Administration (FDA) admitted that, "Re-

ports submitted only to the pet food manufacturer are not shared with FDA and are not a part of this count." The number of deaths also did not include dogs from overseas. The company may have shipped the tainted food to as many as 35 countries.

Before the dog food killed hundreds of dogs and sickened hundreds more, the pet food company advertised that it used only the highest quality ingredients and tested and retested its food to ensure health and safety. It was a lie. According to the FDA, the company "did not evaluate each known or reasonably foreseeable hazard for each type of animal food," "does not identify or evaluate all reasonably foreseeable hazards," and did not have a prevention program to assure that contamination

The pet products and services industry is not shy about exploiting what they call "the deep bond humans develop with their pets" when people write checks to them. But when compensating people for harm to animals due to their negligence, they pretend these bonds don't exist.

is "significantly minimized or prevented and that the pet food manufactured at [their...] facility is not adulterated." Many of the dogs injured and killed were also considered worthless by the courts in their respective states. Less than a year later, the company was again subject to another, potentially deadly, recall.

A DOUBLE STANDARD

The pet products and services industry is not shy about exploiting what they call “the deep bond humans develop with their pets” when people write checks to *them*. As one of their industry organizations recently acknowledged:

A majority of pet owners share their beds with furry friends. People take their dogs to work, create Instagram accounts for them and help them complete bucket lists. People, it’s clear, increasingly think of pets as family — or fellow people.

Americans spent \$100 billion on their companion animals last year, the seventh largest sector of the retail economy, growing at a pace 50% greater than the economy overall. A Morgan Stanley re-

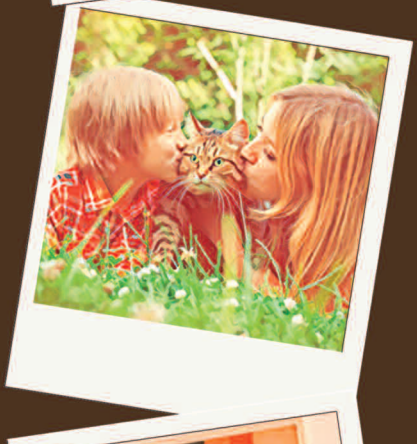
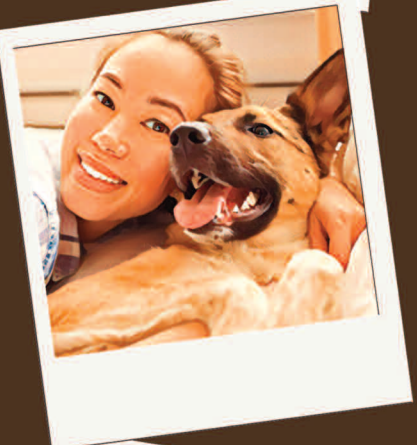


port expects it to grow consistently higher. It calls such spending “inflation-proof” and projects that by 2030, Americans will “spend more than \$275 billion to feed, harness, groom and play” with their animal companions. “Consumers may trade down for themselves in tighter economic times, but not when it comes to their pets.”

And yet when they harm or kill animals, the industries that benefit most from the public’s love and concern for their four-legged family members turn around and fight efforts to fairly compensate victims and their families when it is their turn to put their money where their mouths are. Instead, they encourage courts to rely on 19th-century case law that held animals were worthless property, “analogous, in law, to a... table or lamp.” These industries disingenuously argue that any other standard would lead to skyrocketing costs that would preclude anyone but the rich from being able to pay for boarding, veterinary care, and other services. But this is nothing more than fear-mongering and is designed to obscure their true motivation: *profit*.

Given the deep and profound relationships between people and their companion animals, our legal system should recognize their importance. When others entrusted to care for our animal com-

Given the deep and profound relationships between people and their companion animals, it is time for our legal system to move beyond 19th-century case law that held animals were worthless property.



panions fail to do so, courts should compensate people in a manner that adequately reflects the depth of their suffering or loss. Thankfully, some courts have.

Despite awards for sentimental value, mental anguish, and loss of companionship, industry projections of gloom and doom have not materialized in the states where this has occurred. Indeed, at the time Avery was killed by his local shelter, the industry determined that if emotional damages for companion-animal loss were allowed up to \$25,000, insurance premiums would rise by only \$212 per year, which amounted to — on average — a mere 13 cents per customer. Even if rates “skyrocketed” by 100 times their current level,” they found that the average increased cost per pet-owning household would be \$11.50. The sky was — and is — in no danger of falling.

Shelter staff, veterinarians, pet food manufacturers, and indeed all producers of goods and services for animal companions owe their livelihoods to the public’s love of their animal companions. The public’s sentimental attachment to their animal companions compels them to spend over \$100 billion annually on those animals.

As long as courts shield these companies from liability, they have little incentive to provide better care or safer products. If anything, the availability of non-economic damages (e.g., emotional suffering) would encourage them to reduce the number of injuries and deaths of companion animals and thus limit their liability responsibly. We owe it to the animals and the people who love them to do so. And we can, by passing laws that give dogs and cats a \$10,000 value in law.

WHY \$10,000?

Of course, most people consider their animal companions priceless. In many ways, they are. And so while a higher amount or more open-ended damage analysis might seem more just and appropriate, the authors of a study in the *Journal of Cost-Benefit Analysis* argue that, “As true as this answer may be, it provides little guidance on how to value the effect of private and public decisions on our four-legged companions.” In other words, it gives little guidance to courts or legislatures when creating public policy or compensating the families of animal victims.

Although many in the legal profession believe such guidance already exists in the form of compensatory, sentimental/intrinsic, and punitive damages (and even declaratory and injunctive relief), courts and legislatures, bowing to industry fear-mongering, remain largely mired in 19th-century precedent. To many courts, dogs *are* like toasters, so they shut the door to fair compensation and prevent incentives to prevent future harm. And given that a higher or open-ended amount is not likely to be enacted into law or adopted by most courts, a monetary value of \$10,000 would be an essential first step. And when society takes it, the doors of the courthouse will swing open, and the wheels of justice will once again turn.

The Pets Have VALUE ACT



(a) The Legislature finds and declares as follows:

(1) Like all living beings, dogs and cats have intrinsic value and should be treated with care, respect, and compassion regardless of economic value.

(2) Producers of goods and services for animal companions owe their livelihoods to the public's love of their animal companions. The public's sentimental attachment to their animal companions compels them to collectively spend over \$100 billion annually on those animals, enriching those producers in the process.

(3) When those entrusted to care for our animal companions responsibly fail to do so, they should compensate the loved ones negatively impacted due to that failure in a manner that adequately reflects the depth of their suffering or loss.

(4) States which allow non-economic damages have not seen burdensome cost increases, liability insurance increases, or reductions in available goods and services.

(b) (1) In any successful tort claim for injury or death to a dog or cat by the dog or cat's owner:

(A) Plaintiffs shall recover any actual damages, including but not limited to veterinary expenses, or ten thousand dollars (\$10,000), whichever sum is greater;

(B) Plaintiffs who have not incurred any actual damages shall still recover \$10,000 in statutory damages;

(C) Plaintiffs shall also recover the costs of the action together with reasonable attorney's fees as determined by the court.

(c) If the court determines that the violation was grossly negligent or willful, the court may also assess, and the plaintiffs may recover, non-economic damages, such as pain and suffering, emotional distress, and punitive damages designed to deter future wrongful conduct.



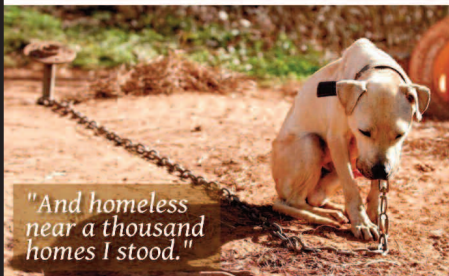
YouTube



Click on image below to learn about the No Kill Equation.

Learn more at nokilladvocacycenter.org

BREAK THE CHAINS



"And homeless near a thousand homes I stood."

Model Anti-Tethering Legislation to Protect Dogs

A PUBLICATION OF THE NO KILL ADVOCACY CENTER

BAN THE GAS CHAMBER



Model Legislation from the No Kill Advocacy Center

Stand by me.




Model legislation to protect victims, ensure justice and prevent recidivism in animal cruelty cases through court-appointed advocates

— A PUBLICATION OF THE NO KILL ADVOCACY CENTER —

The Animal RESCUE Act

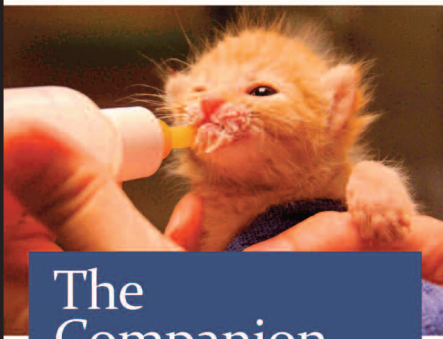
Model Legislation to Improve the Performance and Life-Saving of Animal Shelters



Protecting Lives
Saving Taxpayer Money
Mandating Collaboration

A PUBLICATION OF THE NO KILL ADVOCACY CENTER

Model Legislation to Improve the Performance & Life-Saving of Animal Shelters



The Companion Animal Protection Act

A PUBLICATION OF THE NO KILL ADVOCACY CENTER

 **Pets Are FAMILY**

FAIR HOUSING ACT

Model Legislation to End Housing Discrimination Against People with Animal Companions



A PUBLICATION OF THE NO KILL ADVOCACY CENTER