

Legislation – What’s Hot

By Kelly Crouch, CFA Legislative Information Liaison

Sharon Coleman, CFA Legislative Legal Analyst

May 2022

Delaware Considers Emotion-based Damages for Pets this Session

Delaware is the second state this year to consider non-economic, or emotion-based, damages for pets. Maryland had considered expanding non-economic damages also. However, the author withdrew the Maryland bill, HB 1375, discussed in the March 2022 edition of What’s Hot. Also, the cross-filed Maryland SB 815 did not move out of committee, nor did the related HB 965 that would have increased the existing cap of \$10,000 on compensatory damages to \$25,000. As with the Maryland bill, Delaware’s [SB 258](#) would have authorized emotion-based damages in cases for tortious injuries, including death, to a pet as well as compensatory and punitive damages. Senator Ernesto Lopez (R - SD 6) explains in the original bills synopsis that current law limits pet owners to the fair market value of the pet. Veterinary bills and other expenses related to treating the injuries arising from a tortious act are not recoverable. Senate Bill 258 would have authorized up to \$15,000 for compensatory damages, and the same for emotion-based damages, for a combined maximum of \$30,000. The bill does not limit punitive damages. After further consideration of policy issues, on May 11, 2022, the Senate Judiciary Committee approved a substitute bill removing non-economic damages and the \$15,000 cap on compensatory damages.

Of the three types of damages, compensatory damages are awarded to make the plaintiff whole for reasonable financial expenditures. The pet’s fair market value, veterinary expenses, equipment, and other special needs the pet may have short-term or long-term arising from the tortious act are examples of economic damages. In today’s economy, compensatory damages may sometimes rise above the original \$15,000 cap. Punitive damages are designed to punish the tortfeasor and discourage them from committing future bad acts. Although paid to the plaintiff, these damages do not make the pet owner whole financially, nor are they designed to compensate them for any emotional distress. A court may award punitive damages when it deems an act egregious – as when a sanitation worker killed a miniature dachshund by throwing a just emptied garbage can at it, then laughs about the act ([LaPorte v. Associated Independents, Inc.](#), 163 So. 2d 267, 1 A.L.R.3d 992 (Fla. 1964)).

Non-economic damages, generally for emotional distress but sometimes related emotion-based claims such as pain and suffering may be awarded, if at all, to human plaintiffs who usually are physically injured. In some jurisdictions, these have been awarded to third parties, usually limited to either spouses or children and who may also be required to have been in the “zone of danger” themselves. These limited cases have inspired legislation to codify some acknowledgment of emotion-based damages based on the “pet member of the family” relationship along with economic or punitive damages for pet injuries and deaths. These two latter provisions are reasonable, especially with specific and modest caps. If emotion-based damages were allowed for tortious acts, breeders, and all pet owners, should expect costs of veterinary care, pet food, pet boarding, and other pet care items to increase in price as these costs are passed on to the consumer. Homeowners and automobile insurance premiums and other indirect expenses may also increase as claims would extend beyond service and care providers to anyone who kills or injures pets. Yet most pet owners will receive no value for the non-economic damages paid to just a few. In fact, in committee testimony on Delaware SB 258, the owner of the bill’s namesake “Izzy” the cat asked only for economic damages, in effect supporting the amendments that removed the cap from economic damages and

deleted non-economic damages altogether to the advantage of pets and owners. To read further on this topic, go to "[Harming Pets Through the Expansion of Emotion-Based Damages](#)," on the CFA Legislative Group Blog.

In Other News....

Governor Larry Hogan signed [HB 22](#) into law making Maryland the second state to prohibit declawing a cat except when necessary for therapeutic purposes. New York was the first state to pass such a law.

New Hampshire [Senate Bill 368 FN](#) would increase fines for pet vendors to \$1,000 for the first offense and up to \$5,000 for subsequent offenses. The bill has passed both houses.

The Montgomery, Alabama City Council has adopted changes to the animal ordinances in Chapter 4 of its municipal code. The substitute [ordinance](#) that was adopted still includes special permits for breeders.

Recent CFA Legislative Group Blog Posts:

What's Hot..... Montgomery, AL Considers Breeder Licensing and Other Animal Code Changes
Week Bill

Please report legislation happening in your area to the Legislative Group – legislation@cfa.org
Visit the [CFALegislativeNews](#) Facebook page and the [CFA Legislative Group Blog](#) to see the current legislative news.