

# STATE OF NEW YORK

3414

2019-2020 Regular Sessions

## IN SENATE

February 6, 2019

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Domestic Animal Welfare

AN ACT to amend the general obligations law, in relation to establishing a cause of action in tort for the wrongful injury to or death of a companion animal

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general obligations law is amended by adding a new  
2 section 11-108 to read as follows:

3 § 11-108. Wrongful injury or death of companion animal. 1. As used in  
4 this section:

5 (a) the term "companion animal" shall have the same meaning as such  
6 term is defined in subdivision five of section three hundred fifty of  
7 the agriculture and markets law; and

8 (b) the terms "physical injury" and "serious physical injury" shall  
9 have the same meaning as such terms are defined in subdivisions nine and  
10 ten, respectively, of section 10.00 of the penal law.

11 2. A person who with no justifiable purpose intentionally, recklessly  
12 or negligently, by act or omission causes the death of a companion  
13 animal shall be liable in damages for the fair monetary value of the  
14 deceased companion animal to his or her owner, including damages for the  
15 loss of the reasonably expected society, companionship, comfort,  
16 protection and services of the deceased companion animal to his or her  
17 owner; court costs and reasonable attorney's fees; and other reasonable  
18 damages resulting from the intentional, reckless or negligent act or  
19 omission.

20 3. A person who with no justifiable purpose intentionally, recklessly  
21 or negligently, by act or omission causes physical injury or serious  
22 physical injury to a companion animal shall be liable in damages for the  
23 expenses of veterinary and other special medical care required; the loss  
24 of reasonably expected society, companionship, comfort, protection and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 services of the injured companion animal to his or her owner; court  
2 costs and reasonable attorney's fees; and other reasonable damages  
3 resulting from the intentional, reckless or negligent act or omission.

4 4. A person who with no justifiable purpose intentionally or reckless-  
5 ly, by act or omission causes the serious physical injury or death of a  
6 companion animal may be liable in punitive damages.

7 5. Damages under this section for injuries sustained by a companion  
8 animal's owner shall be recovered in an action in tort, commenced within  
9 three years from the date of injury or death or from the date when the  
10 owner knew, or in the exercise of reasonable diligence should have  
11 known, of the factual basis for a cause of action, subject to further  
12 extension on account of any suspension of the statute of limitations due  
13 to infancy, death or other cause as provided by law.

14 6. Damages under this section for injuries sustained by a companion  
15 animal shall be recovered in an action in tort brought by a guardian ad  
16 litem or next friend appointed by the court and, commenced within three  
17 years from the date of injury or from the date when the guardian ad  
18 litem or next friend knew, or in the exercise of reasonable diligence  
19 should have known, of the factual basis for a cause of action, subject  
20 to further extension on account of any suspension of the statute of  
21 limitations due to infancy, death or other cause as provided by law.  
22 Damages so recovered shall be payable into a trust for the care of the  
23 companion animal, which trust shall be enforceable for the life of the  
24 companion animal by a person appointed by the court. Any remainder of  
25 trust funds existing at the death of the companion animal shall be  
26 distributed to a non-profit organization dedicated to the protection of  
27 companion animals.

28 7. Restraining orders and other injunctive relief for the wrongful  
29 injury or killing of a companion animal may be issued by a court of  
30 competent jurisdiction as appropriate.

31 § 2. This act shall take effect immediately and shall apply to causes  
32 of action under section 11-108 of the general obligations law as added  
33 by section one of this act which arise on or after such date.