

May 22, 2024

Representative Kelly Breen, Chair
Michigan House Judiciary Committee
521 HOB
Lansing, MI

Dear Chair Breen:

On behalf of the Animal Health Institute (AHI), a national trade association representing companies that make medicine for animals, including those taken by services animals, I am writing to ask you to *oppose* HB 5525 in its current form. Parts of this bill significantly expand noneconomic, economic and punitive damages that have no foundation in the law—in Michigan or any other state—and, more importantly, could harm, not help, the welfare of service animals.

AHI deeply cherishes animals and appreciates the hardship of losing the assistance of a service animal regardless of the circumstances. The problem with introducing emotion-based liability, lowering the threshold for punitive damages, and expanding certain types of economic harm is that the service animals do not reap the benefits of these awards. But, these animals will suffer the consequences when their owners can no longer afford important care, products and services—including kenneling, veterinary care, walkers, and medicine—for their service animals because of the increased liability costs these damages will impose on animal care providers and manufacturers.

With respect to noneconomic damages in particular, there has been a concerted effort over the past 30 years, often by animal rights groups, to include noneconomic damages in various types of animal litigation, with cases filed in some thirty-five states, and legislation introduced in more than a dozen legislatures. These courts and legislatures have wisely rejected these attempts at emotion-based damages, regardless of the tort, circumstance or amount of the damages sought. To be clear, no state in the country allows the types of broad noneconomic damages sought in this legislation for the loss of any animal, including a service animal. If this legislation is enacted, our concern is that some animal care providers may refuse to care for service animals because of this increased liability risk.

The same is true with the punitive damages provision. In many states, punitive damages are available for malicious, intentional harm to animals. That makes sense to punish scofflaws. For example, in Oregon, punitive damages were awarded when someone intentionally ran over his neighbors' dog in front of them. However, this legislation lowers the punitive damages standards to any "intentional" or "reckless" act. Many claims against veterinarians and local police officers have been improperly characterized as intentional or reckless in the complaints, and the new liability threat from adding punitive damages to these claims could cause significant hardships this Legislature likely does not intend for these cases.

When it comes to legislation involving animals, we share the Legislature's interest in advancing animal welfare and urge you to focus on laws that advance, not hinder, animal care. To this end, Michigan has given animals greater protections than traditional property through animal cruelty statutes and allowing

owners to set up trusts to provide for an animal's care after the owner dies. In those situations, there are generally no unintended negative consequences for the care of animals, including service animals.

For these reasons, AHI does not oppose reimbursing owners for the *reasonable and necessary* veterinary expenses for wrongful harms to service animals. Courts and legislatures have allowed for such recoveries, finding that these specific types of damages could advance animal welfare by giving owners a reasonable expectation of recovery so that they can get an animal treated after an incident. Other types of expanded economic damages should be more closely scrutinized to assure they are additive to animal welfare.

Finally, AHI recognizes the special function and relationship that service animals provide. As a general matter, though, introducing new emotion-based and punitive liability is not needed to appreciate the human-animal bond. These types of damages are not available for comparable human relationships. Michigan, as with almost all states, has long denied emotion-based recovery for injuries and deaths of many types of close relatives and friends, including human best friends and caregivers.

People certainly experience emotion-based harm in all these situations, but the hardship associated with them is not compensable in litigation.

The current legal environment in Michigan and other states encourages responsible animal ownership, has protected animals from abuse, and promotes affordable and quality care. In the interests of animal welfare, we urge you to oppose HB 5525 because it introduces new, unwise damages into litigation over service animals and will isolate Michigan in American jurisprudence.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mandy Hagan', with a stylized flourish at the end.

Mandy Hagan
Director, State Government Affairs