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Will That Be First Class, Business Class, or Pet Class? Changing Legal Trends for the Traveling Pet

JUDITH R. KARP*

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I. INTRODUCTION

The United States is a nation of animal lovers. There are more than 73 million cats in more than 34 million American households, 68 million dogs in 40 million households, and 12 million other small animals in five million households.¹ A recent survey revealed that seventy-seven percent of pet

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1. *U.S. Pet Ownership Statistics*, The Humane Society of the United States, at <http://www.hsus.org/ace> (last visited Feb. 11, 2003); Gregory Potts, *Pampered Pets Prove Profitable*, THE JOURNAL RECORD, July 6, 1999, available at 1999 WL 9846956.

owners consider themselves parents or guardians of their pets.² Pet owners would rather be trapped on a desert island with their pets than anyone else, and they want to travel with their pets.³ Fourteen percent of pet owners in the United States currently travel with their pets⁴ and more than sixty-five percent of pet owners are interested in taking their pets along when they travel.⁵ Considering these attachments to the family pet, seventeen states spawned legislation that permits pets to be named as beneficiaries in their owner's wills.⁶

The travel and hospitality industry is responding to the demand for pet-friendly travel arrangements. Websites boast that it is a "pet friendly universe out there" and that pets can accompany their owners anywhere the owners travel.⁷ Transporting pets has provided a lucrative revenue boost for airlines.⁸ Major airline carriers no longer confine travelers' pets to the cargo area of the airplane. On some airlines, pets are permitted to accompany their owners into the cabin area of the plane.⁹ Pets can fly as pampered "first class passengers" on Companion Air, an airline that caters to transporting animals within the cabin area.¹⁰ Pets are eligible for frequent-flier miles on El Al Israel Airlines, the first air carrier to launch a frequent-flyer program for dogs, cats, and birds that earn points that accumulate for future round-trip air travel.¹¹ Pets can even cruise with their owners aboard the luxurious Cunard Line's QE2, which features a kennel for its seafaring pet passengers.¹²

2. Potts, *supra* note 1, at 2.

3. *Id.*

4. Precious Williams, *A Dog's Life Just Keeps on Getting Better*, FINANCIAL TIMES (London), Feb. 2, 2002, at 4.

5. *PetBook Prepares Pooch for Summer Travel, Says AAA*, BUSINESS WIRE, May 3, 2002 (quoting Bill Wood, Director AAA Publishing Product Development).

6. Anabelle de Gale, *Florida Law Saves 'Orphaned' Pets from Leading a Dog's Life*, MIAMI HERALD, Jan. 15, 2003, at 1A.

7. *It's a Pet Friendly Universe Out There*, petswelcome.com, Inc., at <http://www.petswelcome.com> (last visited Feb. 10, 2003).

8. Jane Costello, *Pet Fees Can Surpass Economy Class*, WALL ST. J., Apr. 11, 2002, available at 2002 WL-WSJ 3391447.

9. For example, Continental Airlines allows small domesticated pets, including dogs, cats, and birds, to accompany their owners in an approved in-cabin kennel on certain international flights. Pets can be transported in-cabin to many countries including Belize, Bolivia, Brazil, Chile, Columbia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Peru, Panama, and Venezuela. However, only one pet is allowed in the First or BusinessFirst cabin and two pets are allowed in the Economy Class cabin. The airline charges service fees for the travel and the kennel. See <http://www.continental.com/service> (last visited Feb. 10, 2003). American Airlines and U.S. Airways do not allow carry-on pets, except for service animals, on transatlantic flights. See http://www.aa.com/content/utility/FAQs/travelInformation_FAQ.jhtml (last visited Feb. 4, 2003); http://usairways.com/customers/travel_policies/pets (last visited Feb. 4, 2003).

10. Richard Bedard, *Airline's Going to the Dogs and Cats*, SUN SENTINEL (Ft. Lauderdale), June 10, 2002, at BR3.

11. Laszlo Buhasz, *Frequent Flyer Plan for Fido and Fluffy*, GLOBE AND MAIL, Mar. 21, 2001, available at 2001 WL GLOBEMAIL 75.

12. Arline Bleecker, *Brits Wits Will Perform Their Bits*, SUN SENTINEL (Ft. Lauderdale), Apr. 7, 2002, at J10.

Pet friendly hotels, inns, and restaurants in the United States and abroad welcome pet owners and their pets with pet amenities¹³ and “welcome kits” with place mats, water bowls, pet videos, and toys.¹⁴ The Soho Grande in New York City provides free treats and gifts at the “doggie bar,” while Regency hotels serve gourmet suppers on the extensive “doggie room-service” menu.¹⁵ Some of London’s top eateries allow patrons to bring their pets when they dine.¹⁶ Pets and pet owners sharing tables are a common sight at Le Chien Café in Toyonaka City, and at Dog Cafe Kobe in Kyoto, Japan where pets are served gourmet goodies along with their owners.¹⁷

Pet-friendly travel is a lucrative business for the transportation, travel, and hospitality industries. Despite creative travel arrangements catering to pet owners and their animals, archaic regulations and laws, newly enacted security measures, and the lack of transportation options hampered pet owners’ ability to travel abroad with their companions. Until recently, out-of-date quarantines prevented United States’ citizens from bringing their pets along to the United Kingdom and other countries to which they frequently traveled.¹⁸ Some countries, however, still limit the breed that can be imported.¹⁹ Furthermore, pets have suffered injuries during quarantine and some have died from these injuries and thousands of animals have died from other travel related injuries. This Article discusses the recently enacted British and European Union legislation that eases the restrictions on pet travel from the United States and Canada to European countries and its effect on the ailing airline and travel industries.

13. Alice Giordano, *Inns, Resorts Becoming Less Dogmatic It's Getting Easier to Bring Pets Along*, BOSTON GLOBE, Mar. 1, 2001, at E10, available at 2001 WL 3921543.

14. Williams, *supra* note 4, at 4.

15. *Id.*

16. Katy Weitz, *Pets and Their People: Is This a Dog's Diner*, THE PEOPLE, Nov. 25, 2001, at 40, available at LEXIS, News Library.

17. *Dog Cafes Becoming Popular with Pet Owners*, JAPAN WEEKLY MONITOR, Feb. 25, 2002, available at LEXIS, News Library.

18. The United Kingdom recently eased quarantine and travel restrictions on cats and dogs arriving from the United States if these animals meet specific guidelines. See discussion *infra* Part II.

19. For example, the United Kingdom prohibits four types of dogs: Pit Bull Terrier, Japanese Tosa, Dogo Argentino, and Fila Brasileiro. Dangerous Dogs Act of 1991, ch. 65, § 1 (Eng.). The Cayman Islands prohibits the following breeds: Mallanois, Rottweiler, Japanese Tosa, Dogo Argentino, Fila Brasileiro, Chinese Shar-pei, Pit Bull Terrier, Akita, Staffordshire, and Mastiff.

II. ANTIQUATED QUARANTINE LAWS AS AN IMPEDIMENT TO WORLDWIDE TRAVEL

Prior to the September 11, 2001 terrorist attacks, U.S. citizens set new records for travel abroad.²⁰ More than 35 million U.S. citizens traveled abroad in 2000 and more than 33 million citizens traveled abroad in 2001.²¹ Additionally, approximately 500,000 pets have been transported by air carrier to domestic and oversea destinations.²² Despite these high numbers, restrictive quarantine laws have prevented Americans from traveling with their pets to some overseas countries.²³ Many countries, including Belgium, Brazil, Denmark, France, Germany, Spain, Switzerland, Mexico, and Turkey have eliminated quarantines for dogs and cats.²⁴ Some countries, however, still followed the lead of the United Kingdom, which, until recently, had enacted one of the strictest quarantine regulations for pets arriving from the United States. These regulations are intended to prevent the spread of the infectious rabies disease.²⁵

Rabies is a viral disease that primarily infects wild and domestic animals.²⁶ The disease is transmitted to humans by contact with saliva and is fatal to animals and humans.²⁷ The disease is present in all continents except Antarctica and Australia, although some countries report that they are rabies-free.²⁸ Great Britain has been rabies-free since 1922 except for

20. Before the September 11, 2001 attacks, overseas and outbound air travel increased two percent from the year 2000. Overseas travel, especially travel to European countries, was greatly impacted by the aftermath of September 11, 2001. By December 2001, however, the overseas travel market improved. At the end of 2001 there was only a six percent decline from the 2000 total for overseas and outbound air travel. *Analysis of the U.S. Citizen Outbound Market*, Office of Travel & Tourism Industries, available at http://tinet.ita.doc.gov/view/m-2001-O-001/2000analysis_outbound.html (last visited Feb. 11, 2003).

21. *Id.*

22. Costello, *supra* note 8.

23. See discussion *infra* Part II.

24. See *Going to Belgium*, Embassy of Belgium, at <http://www.diplobel.us/GoingToBelgium/PetCatDog.htm> (last visited Feb. 11, 2003); Embassy of Denmark, at http://www.denmarkemb.org/vet_regulations.html (last visited Feb. 10, 2003); Embassy of France, at <http://www.ambafrance-us.org/intheus/customs> (last visited Feb. 10, 2003); Embassy of Germany, at <http://www.germanyinfo.org/relaunch/info/consular> (last visited Feb. 10, 2003); Embassy of Italy, at <http://www.italyemb.org/ANIMALI.html> (last visited Feb. 4, 2003); Embassy of Mexico, at http://www.embassyofmexico.org/English/consulados/Servext/importing_pets.htm (last visited Feb. 4, 2003); Swiss Federal Veterinary Office, at http://www.bvet.admin.ch/0_navigation-e/0_index-intern.html (last visited Feb. 4, 2003); Embassy of Turkey, at www.turkishembassy.org/consularservices (last visited Feb. 10, 2003).

25. *Regina v. The Minister for Agriculture, Fisheries and Food, ex parte Matt Geiden and Others*, [2000] 1 C.M.L.R. 289, 291 (Q.B. 1999).

26. *Rabies Fact Sheet No. 99*, World Health Organization, at <http://www.who.int/inf-fs/en/fact099.html> (last visited Feb. 6, 2003).

27. *Id.*

28. *Memorandum on Rabies Prevention and Control*, United Kingdom Department of Health, available at <http://www.doh.gov.uk/memorandumonrabies/index.html> (last visited Feb. 6, 2003).

several isolated incidents in 1969, 1970, and 1996.²⁹ The United Kingdom implemented a strict six-month quarantine regime to prevent the reintroduction of rabies into the country from Europe and other areas where the disease is still in existence.³⁰ Beginning in 1897, dogs were required to be quarantined in an owner's home for six months and in 1901 they were required to be quarantined by veterinarians.³¹ Cats were required to be quarantined since 1928.³² Great Britain's current quarantine procedures require pets to be vaccinated against rabies within 48 hours of their arrival in the country and quarantined in isolation for six months.³³

In the last ten years the incidence of rabies in E.U. countries has fallen.³⁴ Although rabies is still prevalent in Eastern European countries, some Western European countries report that they were rabies-free for the fourth quarter of 2001.³⁵ Furthermore, a recent world survey of rabies trends indicates a decrease or stabilization of rabies incidents in most developed countries including the United States.³⁶ Although in 2000, there were 7369

29. *Id.* In 1969 and 1970, two dogs died after being quarantined in Great Britain and a bat was infected with rabies in 1996. *Id.*

30. *Id.* For a historical discussion of rabies and how scientific advances have led to changes in Great Britain's quarantine system see generally Rachel Castillo, *Canines Cry Out: Is Six Months in a British Quarantine a Necessity for Rabies Prevention?*, 16 DICK. J. INT'L L. 459 (1998).

31. Rowena Jones et al., *Quantitative Risk Assessment to Compare the Risk of Rabies Entering Great Britain from North America via Quarantine and PETS*, U.K. Department for Environment, Food and Rural Affairs, at 5 (2002), at <http://defra.gov.uk/animalh/quarantine/PETS/SAFETY/vla2002> (last visited Feb. 10, 2003).

32. *Id.*

33. *Id.*

34. *Rabies Fact Sheet No. 99*, *supra* note 26.

35. The World Health Organization (WHO) defines a rabies-free area as: [O]ne in which an effective import policy is implemented and, in the presence of adequate disease surveillance, no case of indigenously acquired rabies infection has been confirmed in humans or any animal species at any time during the previous 2 years. Conversely, an area can be considered to be rabies-infected if an indigenously acquired rabies infection has been confirmed in humans or any animal at any time during the previous 2 years.

W.W. Muller, *Rabies-Free—as Understood by WHO and OIE*, at http://www.who-rabies-bulletin.org/sl_misc_art/frame1_01_sel.html (last visited Feb. 10, 2003). Belgium, Cyprus, Finland, Greece, Iceland, Ireland, Italy, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom reported that they were rabies-free countries for the first quarter, 2002. Albania, Denmark, the Netherlands, and France reported no rabies cases but there were reported cases less than two years ago. Austria, Bosnia, Bulgaria, Belarus, Croatia, Czech Republic, Germany, Estonia, Yugoslavia, Hungary, Lithuania, Latvia, Moldova, Poland, Romania, and Turkey all reported rabies cases in the first quarter, 2002. *Rabies Bulletin Europe 2002*, at http://www.who-rabies-bulletin.org/q2_2002/stats/statistics/rbe-tab5.1-q2-2002.html (last visited Feb. 10, 2003).

36. *World Survey of Rabies for the Year 1999*, at <http://www.who.int/emc-documents> (last visited Feb. 8, 2003).

reported rabies cases in the United States, only 6.9 percent of the reported cases involved domestic animals, and none of the cases involved humans.³⁷ The number of reported rabid domestic animals in the United States decreased 15.3 percent from 601 reported cases in 1999 to 509 reported cases in 2000.³⁸ During the twentieth century, human deaths in the United States from rabies dramatically decreased from 100 to one or two deaths each year.³⁹ The decline in deaths is attributed to animal vaccination programs and human rabies vaccines.⁴⁰

Many countries have eased quarantine restrictions in response to the decline in the spread of the rabies virus. Some countries allow visiting pets with a valid health certificate and a rabies vaccination certificate issued by a certified veterinarian.⁴¹ Other countries limit the quarantine period to one month. For example, Australia and New Zealand quarantine animals arriving from most countries for thirty days.⁴² Other countries liberally allow visiting pets from Western European countries, but have enacted stringent quarantine regulations that deter American pet owners from traveling to these same countries with their pets. Sweden and Norway quarantine animals arriving from the United States for four months followed by a two month isolation period and Norway only has one approved quarantine facility.⁴³ Iceland subjects animals to an eight-week quarantine.⁴⁴

37. *Rabies Epidemiology*, National Center for Infectious Diseases, at <http://www.cdc.gov/ncidod/dvrd/rabies/Epidemiology/Epidemiology.htm> (last visited Feb. 6, 2003).

38. *Id.*

39. *Id.*

40. *Id.*; see also John W. Krebs et al., *Rabies Surveillance in the United States During 2000*, 219 J. AM. VET. MED. ASS'N 1687, 1687-99 (2001).

41. For example, France only requires a current vaccination. Embassy of France, *supra* note 24. Italy requires a current health certificate signed by a veterinarian. Embassy of Italy, *supra* note 24. Belgium and Mexico require current vaccination and health certificates. Embassy of Belgium, *supra* note 24; Embassy of Mexico, *supra* note 24.

42. Animals arriving in Australia from most countries, including the United States, are subject to a thirty-day quarantine. Animals arriving from New Zealand are exempt from the Australian quarantine. Australia Department of Agriculture, Fisheries and Forestry, at <http://www.affa.gov.au> (last visited Feb. 4, 2003). Animals arriving in New Zealand from designated rabies free countries including the United States are subject to a thirty-day quarantine. Animals arriving from Australia, Hawaii, Ireland, Norway, Singapore, Sweden, and the United Kingdom are exempt from the New Zealand quarantine. See New Zealand Ministry of Agriculture and Forestry, at <http://www.maf.govt.nz/biosecurity/import/animals/standars/domaniic.lspe.htm> (last visited Feb. 13, 2003).

43. Sweden and Norway exempt animals from quarantine when they arrive from designated European countries. *Information on the concept of "rabies-free country"*, Jorbruksverket, available at <http://www.sjv.se/net/SJV/Home/Amnesomraden/Animal+health+&+welfare> (last visited Feb. 13, 2003).

44. Animals arriving from the United Kingdom, Norway, or Sweden are only subjected to a six-week quarantine. Embassy of Iceland, at <http://www.iceland.org/pets/html> (last visited Feb. 13, 2003).

The United Kingdom had implemented one of the strictest importation and quarantine schemes subjecting pets arriving from the United States and Canada to a six-month quarantine.⁴⁵ Until 2000, pets arriving from most countries had been subjected to the same harsh quarantine. Between 1972 and 1998, of the 300,000 cats and dogs subjected to the United Kingdom's stringent and costly quarantine regulations, 3000 died while in quarantine.⁴⁶ Critics of the British quarantine system have challenged the welfare conditions of quarantine. Critics rebuked the British government for failing to regulate quarantine kennels and ensure adequate quarantine welfare standards.⁴⁷ A 1999 four-year study of quarantine kennel conditions in the United Kingdom detailed reported physical animal cruelty and abuse, poor hygiene standards, insufficient food, poor veterinary care, and unsanitary conditions related illnesses.⁴⁸ Currently, British quarantine facilities are not required to comply with any mandatory welfare standards for pets kept at their facilities.⁴⁹ The Animal Health Act, as amended in 1998, empowered the British governing authorities to issue statutory welfare standards for quarantined animals, but the British government has yet to enact mandatory welfare standards.⁵⁰ The Department of Environment, Food and Rural Affairs (DEFRA), the agency charged with administering the Animal Health Act, has formulated a code of practice for quarantine facilities, but the code is entirely voluntary.⁵¹

45. Rabies (Importation of Dogs, Cats and Other Mammals) Order, (1974) SI 1974/2211; The Pet Travel Scheme (Pilot Arrangements) (Eng.) Order, (1999) SI 1999/3443.

46. *Passports for Pets UK Rabies Quarantine Changes*, Passport for Pets, A Voluntary Organization for Quarantine Reform, at <http://freespace.virgin.net/passports.forpets> (last visited Feb. 12, 2003).

47. *Well-Deserved Honour for Pet Passport Campaigner*, PetPlanet, at <http://www.petplanet.co.uk> (last visited Feb. 12, 2003).

48. June Hamilton, *New Report on UK Quarantine Kennels Reveals Horrific Conditions and Unacceptable Death Rates*, Oct. 28, 1999, QUAFF Press Information, at <http://freespace.virgin.net/simon.green/press> (last visited Feb. 12, 2003). The study reported dogs being locked in totally dark two feet by three feet sleeping compartments for eighteen hours a day, with little opportunity for exercise, excrement in cages and water bowls, untreated infections and diseases, and unnecessary surgery performed without owner consent. *Id.*

49. *Welfare in Quarantine*, at <http://www.defra.gov.uk/animalh/quarantine/quarantine/welfare/qwelfare.shtml> (last visited Jan. 3, 2003).

50. Lady Mary Fretwell, *Passports for Pets Newsletter May 2002*, Passports for Pets, A Voluntary Organization for Quarantine Reform, at <http://freespace.virgin.net/passports.forpets/newsletter-may.html> (last visited Feb. 12, 2003).

51. *Welfare in Quarantine*, *supra* note 49. DEFRA is charged with administering the Animal Health Act of 1981, which was previously administered by the Ministry of Agriculture, Ministry of Agriculture, Fisheries and Food (Dissolution) Order, (2002) SI 2002/794.

Critics have also questioned the effectiveness and usefulness of the quarantine system. Pet owners who elect to use the quarantine system must pay the high costs for transport, airport charges, veterinary fees, boarding fees, and other quarantine related expenses.⁵² Some pet owners resort to smuggling as an alternative means of bringing their pets into the United Kingdom.⁵³ Smuggled pets raise the risk of animals entering the country from rabies-infested areas without the proper vaccination.⁵⁴ For example, in 2001, French tourists illegally imported a dog carrying the rabies disease into France from Morocco by camper-van.⁵⁵ That same year a German national imported a diseased dog from Azerbaijan to Germany after the animal received inadequate vaccinations.⁵⁶

Critics challenged the scientific and legal bases for these quarantine regulations. In 1999, a pet owner and the Quarantine Abolition Fighting Fund (QUAFF), an animal rights organization, challenged the quarantine system in the British courts after the Ministry of Agriculture refused to admit without a six-month quarantine a microchipped, vaccinated, and blood-tested cat from the rabies-free country of Sweden.⁵⁷ QUAFF asserted that the quarantine regulations violated the free movement laws of the treaty establishing the European Community, which had precedence over Britain's national quarantine law.⁵⁸ QUAFF argued that British citizens have the right to move freely throughout the European Union with their goods, including cats and dogs, as provided in the European Treaty.⁵⁹ QUAFF claimed that the public health exception of Article 30 of the European Treaty did not justify the quarantine system because a vaccination system was a less onerous alternative to protect the safety and welfare of citizens and animals.⁶⁰ The court rejected all of these arguments and the notion that the quarantine system was a disproportionate response to the public health threat posed by pet importation of the rabies disease.⁶¹

52. See Castillo, *supra* note 30. Ms. Castillo's Article provides a historical discussion of quarantine reform in the United Kingdom prior to the adoption of the Pet Passport Scheme.

53. *Id.* at 463–64.

54. *Id.*

55. *Rabies Bulletin Europe 2002*, *supra* note 35.

56. *Id.*

57. *Regina v. The Minister for Agriculture, Fisheries and Food*, *supra* note 25, at 289.

58. *Id.*

59. Article 28 of the Treaty prohibits restrictions in imports. *Id.* at 296.

60. Article 30 of the Treaty provides that Article 28 shall not preclude prohibitions "justified on grounds of the protection of health and life of humans, animals" *Id.* at 297.

61. See *id.*

III. THE UNITED KINGDOM'S PET PASSPORT TRAVEL SCHEME (PETS)

For years, critics lobbied in favor of modern scientific alternatives to the quarantine.⁶² In January 2000, the United Kingdom responded to scientific support for alternatives and relaxed the quarantine restrictions for pet dogs and cats arriving from European countries and some rabies free non-European countries under legislation known as the Pet Passport Travel Scheme (PETS).⁶³ The legislation became effective in February 2000, and was extended to other countries in January 2001 and to Bahrain in May, 2002.⁶⁴ On November 20, 2002, the British Parliament extended PETS to the United States and Canada, effective December 11, 2002.⁶⁵

On February 28, 2000, Frodo Baggin, a pug, was the first animal to travel with a "pet passport" under PETS. Frodo and seventeen other dogs and cats arrived by train or ferry in Great Britain with their pet passports.⁶⁶ PETS replaced the country's 100-year-old pet quarantine rules with a vaccination, blood testing, and microchip system for pets arriving from twenty-two Western European countries and twenty-eight additional rabies-free countries.⁶⁷

Scientific advances in rabies vaccination, testing, and microchip technology prompted the U.K. government to reconsider its quarantine policy and initiate the PETS Passport Scheme. A September 1998 report

62. Quarantine Abolition Fighting Fund and Passports for Pets are two of the voluntary organizations working for the reform of Great Britain's quarantine laws. Fretwell, *supra* note 50.

63. PETS applies to domestic dogs and cats that are not traded commercially. The Pet Travel Scheme (Pilot Arrangements) (Eng.) Order, *supra* note 45.

64. *Id.* The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) Order, (2001) SI 2001/6.

65. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, (2002) SI 2002/2850.

66. Sudha G. Tilak, *A Passport for Your Pet*, THE STATESMAN LTD. (India), Mar. 9, 2000, available at 2000 WL 3895484.

67. Andorra, Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Gibraltar, Greece, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, Norway, Portugal (including Azores and Madeira), San Marino, Spain (including Canary Islands), Sweden, Switzerland, and the Vatican. Non-European countries and territories of Antigua and Barbuda, Ascension Island, Australia, Barbados, Cayman Islands, Bermuda, Fiji, Falkland Islands, Guadeloupe, French Polynesia, Jamaica, Hawaii, Martinique, Japan, Mayotte, Mauritius, New Caledonia, Montserrat, Reunion, New Zealand, St. Kitts & Nevis, St. Helena, St. Vincent, Singapore, Vanuatu, and Wallis & Futuna were included in the Pet Travel Scheme on January 31, 2001. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) Order, *supra* note 64. Bahrain was included in the scheme on May 1, 2002. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, (2002) SI 2002/1011. The United States and Canada were recently included as of December 11, 2002. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, *supra* note 65.

issued by The Advisory Group on Quarantine (AGQ) laid the framework for PETS.⁶⁸ The report, prepared by Ian Kennedy, was an independent assessment of the risk of importing rabies into the United Kingdom.⁶⁹ The Advisory Group concluded that the risk of importing rabies would only be marginally increased if dogs and cats residing in Great Britain traveled to E.U.⁷⁰ countries and other rabies-free areas without having to undergo quarantine on their return.⁷¹ The committee reached the same conclusion as to dogs and cats entering Great Britain after residing for more than six months in E.U. countries and other rabies-free areas.⁷² The Kennedy Report recommended that the quarantine system be replaced by a new system based on microchip identification, vaccination, blood testing, certification, and treatment against specified parasites.⁷³ These recommendations did not apply to dogs and cats entering Great Britain from nonqualifying countries, including the United States and Canada. Dogs and cats arriving from these countries were to remain subject to the six-month quarantine.⁷⁴ The 1998 report cited rabies in wildlife in North America as a cause of concern and recommended further study and risk assessment on the North American issue.⁷⁵ The report also recommended that for consistency all member countries of the European Union should adopt similar controls.⁷⁶

Based on the 1998 Kennedy Report, pets arriving in the United Kingdom from the continental United States⁷⁷ and Canada were still subject to a six-month quarantine at an average cost of \$2500.⁷⁸ The quarantine program negatively impacted travelers, diplomats, government employees, military

68. *Quarantine and Rabies—A Reappraisal (The Kennedy Report)*, Advisory Group on Quarantine, MAFF Publications, London, at <http://www.defra.gov.uk/animalh/quarantine/index.htm> (last visited Jan. 11, 2003) [hereinafter *The Kennedy Report*].

69. Professor Kennedy teaches Ethics and Policy at the School of Public Policy, University College, London, England. The Advisory Group consisted of health and health law experts from England, France, Switzerland, and Scotland. *See id.*

70. The European Union is comprised of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Republic of Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom. *Id.* at glossary.

71. *Id.* at recommendation 1.

72. *Id.* at recommendation 2.

73. *Id.* at recommendations 7, 11, 12, 35. The report also recommended elimination of the quarantine system for non-carnivores arriving from qualifying countries because there is no scientific evidence that these animals are responsible for rabies. The report, however, recommended a six-month quarantine for carnivores, other than cats and dogs, e.g. bears, foxes, and wolves. *Id.* at recommendations 30, 32.

74. *Id.* at recommendation 6.

75. *Id.* at recommendation 5.

76. *Id.* at recommendations 27–29.

77. On January 31, 2001, when DEFRA expanded the program to new states and territories, Hawaii was included as a non-European participant in the U.K. program.

78. Brian O'Neill, *Dogs, Cats, Corpses, and Quarantine*, BLOOMBERG NEWS, Jan. 30, 2001.

personnel, and individuals with business ties to the United Kingdom. Some North American pet owners who traveled to Great Britain circumvented the quarantine rules by sending their pets for a holiday in another European country so that they could qualify for the pet passport to Great Britain.⁷⁹ U.S. government officials lobbied for a relaxation of quarantine rules and the inclusion of pets from the United States in the British pet passport scheme.⁸⁰

On July 1, 2002, the British government announced that it intended to extend the pet travel scheme to the United States and Canada pending a satisfactory scientific assessment that the risk of importing rabies from North America is low.⁸¹ In a July 1, 2002 press release, DEFRA recognized that extending the scheme “could remove a significant barrier for people in the USA and Canada wanting to come to the UK with their pets on holiday, business or even permanently.”⁸² Scientists from Edinburgh University had completed a preliminary scientific report indicating that the increased rabies risk would be minimal if North America was included in the pet travel program.⁸³ In the Edinburgh study, scientists concluded that if North American pets were included in the pet travel scheme it was likely that there would be thirty-five-year intervals between cases of rabies occurring in the United Kingdom as compared with thirty-six-year intervals under a six-month quarantine policy.⁸⁴ The study found that the risk associated with the number of imported pets from North America would be smaller than the risk associated with the high volume of imported pets from European countries.⁸⁵ Another scientific assessment completed in October 2002, concluded that the probability of an infected rabies pet entering the United Kingdom through either the quarantine or PETS system was very low. The scientists determined that statistical differences between the quarantine system and the PETS scheme would depend on compliance with PETS regulations.⁸⁶ The

79. *Id.*

80. Jill Lawless, *Britain May Extend Pet Passports to North America*, NEWARK STAR-LEDGER, Apr. 28, 2002, available at 2002 WL 19887100.

81. Press Notice, *Pet Travel Scheme—Europe and North American Developments*, U.K. Department for Environment, Food and Rural Affairs (July 1, 2002).

82. *Id.*

83. KAREN LAURENSEN ET AL., UNIVERSITY OF EDINBURGH & LONDON SCHOOL OF HYGIENE AND TROPICAL MEDICINE, REVISED ASSESSMENT OF THE RISK OF IMPORTING RABIES IF PET ANIMALS FROM NORTH AMERICA WERE ELIGIBLE FOR THE PET TRAVEL SCHEME (PETS) 10 (2002), at <http://www.defra.gov.uk/animalh/quarantine/PETS/SAFETY/vla2002.pdf> (last visited Feb. 4, 2003).

84. *Id.* at 9.

85. *Id.* at 10.

86. Jones et al., *supra* note 31.

study concluded that if pet owners fully complied with PETS regulations, the PETS scheme would present a lower rabies risk than the quarantine system.⁸⁷ On November 20, 2002, the British Parliament considered these reports and approved legislation amending the Pet Travel Scheme to include the United States, Alaska, and Canada as of December 11, 2002.⁸⁸ These countries are the first countries permitted into the PETS program that have reported epizootic rabies in mammals.⁸⁹

IV. TRAVEL ARRANGEMENTS UNDER PETS

Travelers to and from the United Kingdom have enthusiastically endorsed PETS.⁹⁰ Since February 2000, approximately 75,000 dogs and cats have entered Great Britain under PETS.⁹¹ The program has improved the way animals travel to the United Kingdom.⁹² Some European ferry companies now provide on-board kennels.⁹³ In addition, some insurance companies include pet coverage in travel insurance policies.⁹⁴ These policies cover overseas veterinary bills, costs to replace pet travel certificates, and owner liability coverage.⁹⁵

87. *Id.*

88. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, *supra* note 65.

89. Jones et al., *supra* note 31.

90. Quarantine reform, however, has adversely affected kennel facilities that board quarantined animals. Some kennels suffered a thirty percent decline in business over a three-year period. After the Minister of Agriculture had denied a request from kennel owners for government compensation for business losses, kennel owners sought relief from the British courts. They claimed that the kennels were started, and existed solely, to accomplish the state's regulation of disease and that the government's decision to reduce the need for kennels interfered with their possessions. The courts rejected this argument finding that the kennel owners should have been aware of the forthcoming reduced need for quarantine and its effect on their business. The courts found that the changes in the quarantine regulations had not extinguished the kennels' business because the owners retained their property and could diversify into other business areas. See *Wykeham Knightwood Kennels v. The Minister of State for Agriculture, Fisheries and Food*, CO/2745/2000, CO/3497/2000 (Q.B. 2001).

91. Fourteen thousand five hundred and forty-nine cats and dogs entered in 2000; 26,268 cats and dogs entered in 2001, and 31,220 cats and dogs entered in 2002 for a total number of 72,038 pets arriving since inception of the program. *PETS Statistics: Number of Pet Cats and Dogs Entering England Under PETS Each Month* at <http://www.defra.gov.uk/animalh/quarantine/PETS/procedures/stats.shtml> (last visited Feb. 4, 2003). See discussion *supra* note 67 for a list of participating European and non-European countries.

92. PETS applies only to cats and dogs that are not traded commercially. The Pet Travel Scheme (Pilot Arrangements) (Eng.) Order, *supra* note 45, § 2.

93. See generally Richard Eden, *Welcome Aboard Sea Dogs*, THE DAILY TELEGRAPH, June 22, 2002.

94. For example, Pet Protect provides insurance coverage for thirty-one days of travel under the Pet Travel Scheme. Matthew Wall, *Online Insurers Offer Good Deals for Pets*, SUNDAY TIMES (London), May 26, 2002, available at 2002 WL 19027402.

95. Devitt Insurance Services and E & L Insurance Company are two British companies offering pet coverage in travel insurance policies. Ben Bold, *Pet Owners Slip the Red Tape Collar*, PR WEEK, Mar. 10, 2000, available at WL 8685379; *Pet Unleashed*, POST MAG., Feb. 17, 2000, available at LEXIS, News Library, Post Mag. File.

A pet owner from a qualifying non-European country, however, utilizing PETS must prepare the animal six months before it is to enter or return to the United Kingdom. Animals must be identified, vaccinated, and tested for rabies and treated and tested for ticks and tapeworms.⁹⁶ A veterinarian must implant an approved microchip in the animal for identification.⁹⁷ The microchip, an electronic transponder, is to be read by a handheld scanning device.⁹⁸ After the microchip has been inserted and recorded on the pet's vaccination certificate, a veterinarian must inoculate the animal for rabies.⁹⁹ The dog or cat must be at least three months old before it is vaccinated.¹⁰⁰ The vaccination record should include the animal's date of birth, vaccine product name, microchip number and location of microchip, batch number, date of vaccination, and date by which a booster vaccine must be given.¹⁰¹ A DEFRA approved laboratory must then verify that the rabies vaccine is effective before a government authorized veterinary surgeon issues an official Pet Travel Scheme certificate verifying the identification and inoculation process.¹⁰² The certificate is valid from six months after obtaining the

96. The Pet Travel Scheme (Pilot Arrangements) (Eng.) Order, *supra* note 45, § 7; The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, *supra* note 65.

97. The Kennedy Report rejected tattooing as a means of identification because the Advisory Group concluded that tattooing was not a reliable form of identification. They reasoned that tattoos fade over time and become unreadable and tattooed characteristics could be altered by further tattooing. See The Kennedy Report, *supra* note 68. The most recent amendment to PETS dated Nov. 20, 2002, however, recognizes registration and identification by tattoo if conducted in accordance with mandatory identification systems of the designated countries. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, *supra* note 65.

98. The microchip is a permanent number radio frequency identification device. DEFRA recommends that the microchips meet the specifications of the International Standards Organization (ISO). DEFRA suggests using microchips meeting ISO Standard 11784 or Annex A of ISO standard 11785. *What You Need to Do to Bring Your Pet into or Back into the UK Under the Pet Travel Scheme*, at <http://www.defra.gov.uk/animalh/quarantine/pets/Procedures/owners.shtml> (last visited Feb. 4, 2003). If a different microchip is implanted into the animal, then the pet owner must provide a microchip reader to enable the carrier to check the identity of the animal at the time it enters the United Kingdom. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, *supra* note 65, at sched. 6, § 2.

99. The Pet Travel Scheme (Pilot Arrangements) (Eng.) Order, *supra* note 45, § 6(1).

100. *Id.*

101. *Id.* at sched. 3; see also *The UK Pet Travel Scheme—USA and Canada*, at <http://www.defra.gov.uk/animalh/quarantine/factsheet/usafactsheet.shtml> (last visited Feb. 4, 2003).

102. The microchip number and vaccination record must appear on the vaccination record and official PETS certificate. The Pet Travel Scheme (Pilot Arrangements) (Eng.) Order, *supra* note 45; The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, *supra* note 65.

blood sample until the date that the next rabies booster shot is required.¹⁰³ The pet owner must also sign a declaration that the pet has not been outside any of the PETS qualifying countries before leaving for the United Kingdom.¹⁰⁴ Six months after a successful blood test, the pet can enter the United Kingdom from one of the approved countries. Pets must also be treated for ticks and tapeworms twenty-four to forty-eight hours before entering the country, and that treatment must be reflected in an official health certificate.¹⁰⁵

Pets arriving into Great Britain must travel by way of an approved route and transport company. Currently, pet owners traveling from European countries can elect to transport pets by approved air carrier, ferry line, or the Eurotunnel Shuttle Service.¹⁰⁶ Pets may not travel by private boat or plane.¹⁰⁷ Pets arriving from non-European countries and territories other than Ascension Island, the Falkland Islands, or St. Helena, must travel by approved air carrier in a cargo container that complies with International Air Transport Association standards.¹⁰⁸ The container must be affixed with an official nonbroken seal reflecting that the animal has not been exposed to rabies or infection en route.¹⁰⁹ Pets cannot enter from non-European countries by sea route or the Channel Tunnel linking Great Britain with mainland Europe.¹¹⁰ Pets arriving by way of a nonapproved route require an import license, must travel in a cargo crate with an official seal, and are subjected to an early-release quarantine if proper documentation is provided to officials.¹¹¹

103. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, *supra* note 65.

104. *Id.*

105. *Id.*

106. Airlines currently licensed to carry non-quarantined pets into Great Britain from countries other than the United States and Canada include British Airways, British Midland, Finnair, Japan Airlines, Qantas, and Lufthansa. London's Heathrow Airport is the authorized port of entry for these carriers. *Approved European Routes and Transport Companies*, <http://www.defra.gov.uk/animalh/quarantine/PETS/procedures/support-info/routes.shtml> (last visited Feb. 4, 2003).

107. *Id.*

108. The Pet Travel Scheme (Pilot Arrangements) (Eng.) (amend.) (No. 2) Order, *supra* note 65; *see also The UK Pet Travel Scheme—USA and Canada*, *supra* note 101.

109. This is a measure aimed at protecting public and animal health. From some of the Long Haul countries, direct flights to the United Kingdom will not exist, nor will it always be possible for pets to be carried by an authorized carrier for the first part of this journey. Some direct flights may need to stop for refueling in a country that is not rabies free. Having pets travel in a container bearing an official seal provides a guarantee that the pets have not been exposed to rabies while en route to the United Kingdom. *See Approved European Routes and Transport Companies*, at <http://www.defra.gov.uk/animalh/quarantine/PETS/procedures/support-info/rfis.shtml> (last visited Feb. 4, 2003).

110. Pets arriving from Ascension Island, the Falkland Islands, or St. Helena are exempted from this requirement and may travel to Great Britain by sea. *Approved European Routes and Transport Companies*, *supra* note 109.

111. *Id.*

V. EUROPEAN UNION PETS REGULATION

The United Kingdom has offered its successful pet passport program as a model pet movement system for other countries that use a quarantine system. Recently, the E.U. Parliament adopted a proposal for legislation modeled after the United Kingdom's pet passport program that would harmonize the animal health requirements for non-commercial pet movement within the E.U. countries and movement of pets from approved non-European countries.¹¹² The European Union's proposal attempts to eliminate national peculiarities for admitting domestic pets that now exist in some member countries.¹¹³ The regulations provide for a five-year transitional period of implementation in all European member countries except the United Kingdom, Ireland, and Sweden, which would continue to operate their own individual systems for the transitional period.¹¹⁴

The E.U. regulations will require an owner or a designated representative to accompany and be responsible for an animal as it moves from country to country.¹¹⁵ The regulations divide the world into member countries, low-risk countries, and high-risk countries.¹¹⁶ Similar to the provisions of the U.K. regulations, pets must be identified by either a tattoo or an electronic identification system.¹¹⁷ Cats and dogs moving between European member countries and from designated low-risk nonmember areas¹¹⁸ must be vaccinated against rabies and have a

112. Common Position (EC) No. 57/2002, [2002] O.J. (C 275 E) 17, at 42.

113. *Id.* See also European Union Parliamentary Questions, Commission Response to Written Question E-3451/00, [2001] O.J. (C 163 E) 6, at 123 [hereinafter E.U. Parliamentary Questions].

114. E.U. Parliamentary Questions, *supra* note 112, arts. 6, 16.

115. *Id.* art. 3.

116. Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland, and the Vatican have already been designated as countries included in the European Union program. Additional countries will be included if they demonstrate: 1) an established rabies notification system; 2) an established monitoring system; 3) organized veterinary services to guarantee the validity of veterinary certificates; 4) implementation of regulatory measure for prevention and control of rabies; and, 5) regulations for marketing anti-rabies vaccines. *Id.* art. 10.

117. *Id.* art. 5. The E.U. Committee on the Environment provided for alternative identification systems because the recommended ISO chips are not available in all countries. Proposal for a Regulation of the European Parliament and of the Council on the Animal-Health Requirements Applicable to the Non-commercial Movement of Pet Animals and Amending Council Directive, 92/65/EEC (Oct. 23, 2002) [hereinafter Animal Health Directive].

118. Animal Health Directive, *supra* note 117, annex II, pt. B, sec. 2.

veterinarian's certificate verifying proper rabies vaccination.¹¹⁹ Pets that fail to meet the European Union requirements will either be subjected to quarantine or returned to their country of origin.¹²⁰

VI. IMPLEMENTING THE NORTH AMERICAN PETS PROGRAM

Travelers from the United States will welcome the flexibility of these long overdue regulations only if meeting the PETS program requirements is not complicated or costly. The ailing airlines will also welcome and reap benefits from the PETS program as a marketing tool and revenue booster if it is financially feasible for them to participate in the program. Thus, implementation of the North American PETS Passport Program can positively impact the airline and travel industry if the government works with private industry to promote the program and makes it economically feasible for the industry and pet owners alike.

Initially, the federal government and the travel industry should commission a study to determine the impact that traveling with pets would have on increasing travel abroad. A government-initiated study on consumer use of the PETS program is consistent with the present administration's "family friendly" policies and it is warranted because many of the individuals who are potential users of the program are government employees who travel abroad for extended periods of time. If the study's results indicate that PETS can significantly affect airlines and travel industry revenues, then the government should provide incentives to assist the travel industry in establishing procedures and programs to meet the PETS requirements.

The government, its agencies, and the travel industry should work in concert to establish procedures for securing the necessary microchip, vaccinations, treatment, and paperwork. Although PETS permits any registered or licensed veterinary surgeons to microchip, vaccinate, treat, and test the animals, only authorized veterinarians can review the vaccination record and blood test results and issue the PETS certificates.¹²¹ In addition, only DEFRA-approved laboratories can perform the required testing procedures.¹²² Currently, only two laboratories in the United

119. *Id.* art. 5, annex III, pt. A.

120. As a last resort, pets that cannot be quarantined or returned to their country of origin will be put down without the owner receiving any financial compensation. *Id.* art. 14.

121. *Advice to Veterinary Surgeons in USA and Canada*, available at <http://www.britain-info.org/pets> (last visited Feb. 4, 2003). An official veterinary surgeon outside the United Kingdom is defined as a veterinary surgeon authorized by the competent governmental authority to grant certification for the purposes of export of dogs and cats. The Pet Travel Scheme (Pilot Arrangements) (Eng.) Order, *supra* note 45, § 3.

122. A laboratory can be added to the list of DEFRA-approved testing facilities if it meets specified physical features and operating conditions. For a list of DEFRA's requirements see *Laboratory Containment Requirements*, available at <http://www.defra.gov.uk/animalh/quarantine/index.htm> (last visited Feb. 10, 2003).

States meet the specifications and are officially recognized as facilities that can conduct the necessary blood tests.¹²³ The government and the airlines should enlist veterinarians, veterinary clinics and university laboratories in each state to become certified and work in partnership to provide the testing, vaccination, treatment, and paperwork services needed to ready pets for transport in compliance with PETS requirements.

Airline carriers, air cargo and other transport companies can benefit financially from the PETS program if approved as licensed carriers. Pets will only be admitted into the United Kingdom under the North American PETS program if they are transported to an airport in England on carriers and routes approved by DEFRA.¹²⁴ DEFRA requires pets that are transported by air to travel as costly cargo in a container with an official seal rather than as excess baggage because the paperwork involved for cargo ensures that the controls are in place from booking to the point of release.¹²⁵ Approved carriers will be responsible for ensuring that the pets have been properly transported and have met all of the legal requirements for entry under the PETS scheme.¹²⁶ Carriers will also be responsible for formulating procedures to handle pets that are refused entry in the United Kingdom.¹²⁷

VII. COMPLICATIONS SPARKED BY FEDERAL LEGISLATION

Transporting pets by approved airline carriers under the North American PETS program will be complicated by recent restrictive policies implemented after the enactment of The Safe Air Travel for

123. The Kansas State University Laboratory (www.vet.ksu.edu/rabies) has been approved to conduct the required blood testing of animals traveling to the United Kingdom and other rabies-free countries. The facility uses the Fluorescent Antibody Virus Neutralization (FAVN) test to detect the rabies virus neutralizing antibody after vaccination. The Veterinary Command Food Analysis and Diagnostic Laboratory, Ft. Sam Houston, Texas is authorized to perform the required blood testing for pets owned by U.S. Military Personnel and their families. *DEFRA Recognized Blood Testing Laboratories*, available at <http://www.defra.gov.uk/animalh/quarantine/index.htm> (last visited Feb. 10, 2003); *Serologic Testing by the Fluorescent Antibody Virus Neutralization (FAVN) Method*, Kansas State University Rabies Lab, available at <http://www.vet.ksu.edu/depts/rabies> (last visited Feb. 11, 2003); *Advice to Veterinary Surgeons in USA and Canada*, *supra* note 121.

124. The British government has not as yet approved any routes or transport companies from the United States and Canada. To seek approval, airlines must complete DEFRA's Required Methods of Operation Form at <http://www.defra.gov.uk/> (last visited Feb. 11, 2003).

125. Fretwell, *supra* note 50.

126. The Pet Travel Scheme (Pilot Arrangements) (Eng.) Order, *supra* note 45, art. 9; The Pet Travel Scheme Order 2001, sched. 6 (Rabies-Free Islands), para. 8 (Jan. 31, 2001), available at <http://www.defra.gov.uk/animalh/quarantine/PETS/Regulation/law.shtml>.

127. The Pet Travel Scheme Order 2001, *supra* note 126.

Animals Act (Act) and the aftermath of the attacks of September 11, 2001. The U.S. Congress passed the Act in April 2000.¹²⁸ According to a 1999 study conducted by the American Society for the Prevention of Animal Cruelty to Animals, more than 500 animals per year died or suffered from baggage handling injuries, temperature fluctuations, and insufficient oxygen.¹²⁹ The Act,¹³⁰ commonly referred to as the “Boris Bill”, was passed in response to the number of deaths and injuries suffered by animals that were transported in cargo holds by air carriers.

128. Title 49 was amended by Public Law 106–181, which added Section 41721 to Chapter 417. Senator Frank Lautenberg and Representative Robert Menendez of New Jersey introduced broader versions of the Act, which would have recognized that it is inappropriate to treat animals transported by air as baggage. The proposed legislation would have required the airlines to improve the temperature control and ventilation systems of cargo holds, increased the civil penalties imposed on airlines for pet injuries, and increased the amount a pet owner could recover for loss or injury to a pet to double the amount recoverable for lost or damaged baggage. Safe Air Travel for Animals Act, S. 1193, 106th Cong. (2000), available at <http://thomas.loc.gov> (last visited Feb. 12, 2003); H.R. 2776, 106th Cong. (2000).

129. *Report Highlights Dangers of Flying for Pets*, AIRLINE INDUSTRY INFORMATION, Mar. 25, 1999, available at 1999 WL 10468836. For example, in *Gluckman v. American Airlines*, a pet owner sued the airlines after his dog died from heat-induced injuries suffered during transport in the cargo hold of an airplane. The court categorized the animal as property and limited the pet owner’s recovery to the market value of the animal, subject to the contractual limitations set forth in the airfare ticket. The court denied the owners’ claims for the dog’s pain and suffering and the owner’s loss of companionship and intentional infliction of emotional distress. *Gluckman v. American Airlines*, 844 F. Supp. 151, 154 (S.D.N.Y. 1994). For a discussion of a pet owner’s limited ability to recover for injuries suffered by their pets see Lynn A. Epstein, *Resolving Confusion in Pet Owner Tort Cases: Recognizing Pets’ Anthropomorphic Qualities Under a Property Classification*, 26 S. ILL. U. L.J. 31 (2001); William C. Root, Note, “Man’s Best Friend”: Property or Family Member? An Examination of the Legal Classification of Companion Animals and Its Impact on Damages Recoverable for Their Wrongful Death or Injury, 47 VILL. L. REV. 423 (2002); Debra Squires-Lee, *In Defense of Floyd: Appropriately Valuing Companion Animals in Tort*, 70 N.Y.U. L. REV. 1059 (1995).

130. 49 U.S.C. § 41721. The Act requires: 1) improved safety standards for traveling pets; 2) improved training in animal care, and safe transport techniques for airline employees who handle pets as baggage; and, 3) public access to monthly reports of animal losses, deaths, injuries and consumer complaints involving animals. *Id.* Proposed rules will require air carriers to submit monthly reports to the Department of Agriculture detailing incidents involving the loss, injury, or death of an animal during air transport including the entire period from check-in until the animal is returned at its destination to its owner or guardian. Reports by Carriers on Incidents Involving Animals During Air Transport, 67 Fed. Reg. 61, 238 (proposed Sept. 27, 2002) (to be codified at 14 C.F.R. pt. 119). The Department of Agriculture is to share the information with the Department of Transportation, and the Office of Aviation Enforcement and Proceedings will publish these reports monthly in the Air Travel Consumer Report. Reports by Carriers on Incidents Involving Animals During Air Transport. *Id.* The ASPCA has criticized the proposed regulations because they omit training requirements for airline personnel and baggage handlers as set out in the statute, and because they limit the definition of animal to warm or cold-blooded animals. *Federal Aviation Administration Issues Regulations to Make Air Travel for Animals Safer*, available at <http://www.aspc.org/site> (last visited Jan. 3, 2003).

Boris, a fifty-pound boxer, was severely injured after he was transported as cargo on a flight from Ft. Lauderdale to New York.¹³¹ When Boris' owner arrived to meet Boris at the airport, he found a bloodied, broken cage, but no Boris. Boris was found several weeks later missing most of his teeth and suffering from frostbite and an infection.¹³² Boris' owner received \$1500 as compensation from the airline.¹³³

After the legislation was enacted, airlines were reluctant to transport pets as checked baggage and many airlines eliminated that practice.¹³⁴ The legislation enabled airlines to establish pet transport programs and charge higher fees for transportation of animals.¹³⁵ However, unsuspecting travelers who take a pet into the cabin area, as permitted by U.S. airline policy, will have their pet confiscated and quarantined when they reach the United Kingdom. Some of these new liberal U.S. policies conflict with PETS.

Further complicating matters, the Federal Aviation Authority (FAA) and airline carriers, after the September 11, 2001 terrorist attacks, imposed more restrictive pet transportation policies.¹³⁶ Airlines are conducting many more inspections of pet carriers and investigating who had custody of an animal before it was tendered to the airline, as well as the credentials of veterinarians.¹³⁷ Additional security regulations severely limit an individual's ability to ship his or her pet as cargo on board flights originating in the United States. After September 11th, some pet owners found their pets stranded by new airline policies refusing to accept pets from individuals and requiring all cargo goods to be shipped by "known" professional shippers. Individuals were no longer able to walk up and tender a pet to an air carrier for transportation to a destination.¹³⁸ Flights would only accept cargo on passenger aircraft from individuals who meet the FAA's requirements as a registered and certified "known" shipper, or from registered Indirect Air Carriers (IAC).¹³⁹ Thus, pet owners were forced to use the costly services of airline transport programs and animal transport companies, which

131. Dan Christensen, *Making the Skies Friendlier for Animals*, BROWARD DAILY BUS. REV., Apr. 24, 2000, at A1.

132. *Id.*

133. *Id.*

134. Gene Sloan, *Airlines Loosening the Leash for Traveling Pets*, USA TODAY, Oct. 4, 2002, at D9. Some airlines opted to allow pets to travel in cabins, confined to a cage. *Id.*

135. *Id.*

136. Lee Romney, *Response to Terror-Air Travel Policies Put Pets Through Hoops*, L.A. TIMES, Sept. 27, 2001, at C1, available at 2001 WL 2521155.

137. *Id.*

138. *Id.*

139. Costello, *supra* note 8.

charged from \$250 to \$1200 to transport a pet aboard a transcontinental flight plus additional fees for board and ground transportation.¹⁴⁰ Because of the additional safety and security measures, the airlines and cargo transport companies have implemented costly alternative pet transportation programs. The costs for transporting a pet on a transatlantic flight could well exceed an individual traveler's round-trip airfare. Providing transportation services for pets to travel abroad can be a boom to falling revenues; however, for travelers to embrace the North American PETS program, airlines and cargo transport companies must competitively price the required transport services. Additionally, teaching the airlines and traveling public to navigate the maze of regulations instituted by PETS and the new U.S. legislation will be one of the travel industries biggest challenges.

VIII. CONCLUSION

The North American PETS program can be used by the airlines and travel industry as a successful marketing strategy to boost transatlantic revenues if the government and the travel industry work as partners to promote, regulate, and provide reasonably priced services. Although the PETS program is long overdue for U.S. travelers, it is likely to become nothing more than an unfunded mandate if the preliminary and transport requirements are too difficult and costly to implement.

140. *Id.*