

# United States Senate

WASHINGTON, DC 20510

August 10, 2010

The Honorable Ray LaHood  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Ave. SE  
Washington, DC 20590

Dear Secretary LaHood,

We are writing to ask that the Department of Transportation update regulations requiring the loss, injury, or death of animals in air transport to better reflect Congressional intent.

Pursuant to 49 U.S.C. § 41721, the Department requires airlines to report on the loss, injury, or death of animals in air transport. Section 41721 does not explicitly define the word “animal.” Current DOT policy interprets the definition to mean any animal being kept as a pet. Unfortunately, this narrow interpretation does not require airlines to report on the loss, injury, or death of certain animals that Congress originally intended to be covered under the act.

We propose that DOT modify the current definitions of animals to include dogs and cats transported by anyone, including commercial breeders and handlers for dog and cat shows. In the original legislation the word “guardian” in section 41721 was intended to cover anyone entrusted with the animal’s care. Also, it was not legislative intent for the word “return” in section 41721 to mean the animal in question had to be physically delivered to the person who placed the animal in the custody of the airline at the point of origin. Congress simply intended that when a person sends an animal in the custody of the airline that it should be received by the intended person and if not, reported.

When Senator Menendez first proposed this legislation in the House of Representatives, many Members of Congress were moved by the story of a dog named Boris. His owners decided to bring him on a plane with them. After they landed, they discovered that Boris was no longer in his mangled carrying crate, but his blood and missing teeth were.

Unfortunately, since Congress passed the legislation, we continue to hear stories of animals that slip through the cracks of the reporting requirement. As Senator Menendez related to your predecessor in a letter of October 28, 2008, Maggie Mae, a West Highland terrier puppy, flew in the cargo hold of an April 5, 2008 Delta flight. Maggie Mae, in the course of a regularly scheduled passenger flight to her new home, was tragically crushed to death during a flight transfer at Atlanta’s Hartsfield-Jackson International Airport. Since the breeder was a commercial owner and not a family household, Maggie Mae did not fit the definition of “animal” under the still-operative regulations.

In another recent incident, Illinois resident Mr. James Hough was awaiting the arrival of a Neapolitan mastiff puppy from a breeder when he was informed that the puppy died en route aboard a Delta flight. Even though the mastiff puppy was being delivered from the breeder to its new owner, the airline did not have to report the incident because it was a commercial shipment and not considered an “animal” under current regulations.

Incidents such as these are not reported in the official record of animal incidents, making it more difficult for individuals to make informed decisions about air transport for their animal. We would ask that you review the current definition of the word “animal” as it relates to 49 U.S.C. § 41721 and work with us to expand it to cover these sorts of cases.

Thanks to the Department’s hard work these last ten years, consumers have been able to better understand airline safety records when it comes to protecting household pets. We were very interested to learn about the results of a report released in July that showed that short-nosed breeds of dogs were more likely to die on airplanes than other breeds of dogs. This report would not have been possible had it not been for the law we passed and the regulations that the Department has enforced. We commend the Department for its outstanding work on this front, and we hope that this issue can be resolved shortly.

Sincerely,

  
ROBERT MENENDEZ  
United States Senator

  
RICHARD DURBIN  
United States Senator

  
JOSEPH LIEBERMAN  
United States Senator