

# HOUSE BILL NO. 5809

May 20, 2020, Introduced by Rep. Wozniak and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 50 (MCL 750.50), as amended by 2019 PA 135.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 50. (1) As used in this section and section 50b:
- 2           (a) "Adequate care" means the provision of sufficient food,
- 3 water, shelter, sanitary conditions, exercise, and veterinary
- 4 medical attention in order to maintain an animal in a state of good
- 5 health.



1 (b) "Animal" means a vertebrate other than a human being.

2 ~~(c) "Animal control shelter" means a facility operated by a~~  
3 ~~county, city, village, or township to impound and care for animals~~  
4 ~~found in streets or otherwise at large contrary to an ordinance of~~  
5 ~~the county, city, village, or township or state law.~~

6 ~~(d) "Animal protection shelter" means a facility operated by a~~  
7 ~~person, humane society, society for the prevention of cruelty to~~  
8 ~~animals, or any other nonprofit organization, for the care of~~  
9 ~~homeless animals.~~

10 (c) "Animal control agency" means an animal control shelter,  
11 an animal protection shelter, or a law enforcement agency.

12 (d) "Animal control shelter" and "animal protection shelter"  
13 mean those terms as defined in section 1 of 1969 PA 287, MCL  
14 287.331.

15 (e) "Breeder" means a person that breeds animals other than  
16 livestock or dogs for remuneration, or that is a large-scale dog  
17 breeding kennel as that term is defined in section 1 of 1969 PA  
18 287, MCL 287.331.

19 (f) "Licensed veterinarian" means a person licensed or  
20 otherwise authorized to practice veterinary medicine under article  
21 15 of the public health code, 1978 PA 368, MCL 333.16101 to  
22 333.18838.

23 (g) "Livestock" means that term as defined in section 3 of the  
24 animal industry act, 1988 PA 466, MCL 287.703.

25 (h) "Neglect" means to fail to sufficiently and properly care  
26 for an animal to the extent that the animal's health is  
27 jeopardized.

28 (i) "Person" means an individual, partnership, limited  
29 liability company, corporation, association, governmental entity,



1 or other legal entity.

2 (j) "Pet shop" means that term as defined in section 1 of 1969  
3 PA 287, MCL 287.331.

4 (k) "Sanitary conditions" means space free from health hazards  
5 including excessive animal waste, overcrowding of animals, or other  
6 conditions that endanger the animal's health. This definition does  
7 not include any condition resulting from a customary and reasonable  
8 practice pursuant to farming or animal husbandry.

9 (l) "Shelter" means adequate protection from the elements and  
10 weather conditions suitable for the age, species, and physical  
11 condition of the animal so as to maintain the animal in a state of  
12 good health. Shelter, for livestock, includes structures or natural  
13 features such as trees or topography. Shelter, for a dog, includes  
14 1 or more of the following:

15 (i) The residence of the dog's owner or other individual.

16 (ii) A doghouse that is an enclosed structure with a roof and  
17 of appropriate dimensions for the breed and size of the dog. The  
18 doghouse must have dry bedding when the outdoor temperature is or  
19 is predicted to drop below freezing.

20 (iii) A structure, including a garage, barn, or shed, that is  
21 sufficiently insulated and ventilated to protect the dog from  
22 exposure to extreme temperatures or, if not sufficiently insulated  
23 and ventilated, contains a doghouse as provided under subparagraph

24 (ii) that is accessible to the dog.

25 (m) "State of good health" means freedom from disease and  
26 illness, and in a condition of proper body weight and temperature  
27 for the age and species of the animal, unless the animal is  
28 undergoing appropriate treatment.

29 (n) "Tethering" means the restraint and confinement of a dog



1 by use of a chain, rope, or similar device.

2 (o) "Water" means potable water that is suitable for the age  
3 and species of animal and that is made regularly available unless  
4 otherwise directed by a licensed veterinarian.

5 (2) An owner, possessor, breeder, operator of a pet shop, or  
6 person having the charge or custody of an animal shall not do any  
7 of the following:

8 (a) Fail to provide an animal with adequate care.

9 (b) Cruelly drive, work, or beat an animal, or cause an animal  
10 to be cruelly driven, worked, or beaten.

11 (c) Carry or cause to be carried in or upon a vehicle or  
12 otherwise any live animal having the feet or legs tied together,  
13 other than an animal being transported for medical care or a horse  
14 whose feet are hobbled to protect the horse during transport, or in  
15 any other cruel and inhumane manner.

16 (d) Carry or cause to be carried a live animal in or upon a  
17 vehicle or otherwise without providing a secure space, rack, car,  
18 crate, or cage in which livestock may stand and in which all other  
19 animals may stand, turn around, and lie down during transportation,  
20 or while awaiting slaughter. As used in this subdivision, for  
21 purposes of transportation of sled dogs, "stand" means sufficient  
22 vertical distance to allow the animal to stand without its  
23 shoulders touching the top of the crate or transportation vehicle.

24 (e) Abandon an animal or cause an animal to be abandoned, in  
25 any place, without making provisions for the animal's adequate  
26 care, unless premises are vacated for the protection of human life  
27 or the prevention of injury to a human. An animal that is lost by  
28 an owner or custodian while traveling, walking, hiking, or hunting  
29 is not abandoned under this section when the owner or custodian has



1 made a reasonable effort to locate the animal.

2 (f) Negligently allow any animal, including one who is aged,  
3 diseased, maimed, hopelessly sick, disabled, or nonambulatory to  
4 suffer unnecessary neglect, torture, or pain.

5 (g) Tether a dog unless the tether is at least 3 times the  
6 length of the dog as measured from the tip of its nose to the base  
7 of its tail and is attached to a harness or nonchoke collar  
8 designed for tethering. This subdivision does not apply if the  
9 tethering of the dog occurs while the dog is being groomed,  
10 trained, transported, or used in a hunt or event where a shorter  
11 tether is necessary for the safety and well-being of the dog and  
12 others.

13 ~~(3) If an animal is impounded and is being held by an animal~~  
14 ~~control shelter or its designee or an animal protection shelter or~~  
15 ~~its designee or a licensed veterinarian pending the outcome of a~~  
16 ~~criminal action charging a violation of this section or section~~  
17 ~~50b, before final disposition of the criminal charge, the~~  
18 ~~prosecuting attorney may file a civil action in the court that has~~  
19 ~~jurisdiction of the criminal action, requesting that the court~~  
20 ~~issue an order forfeiting the animal to the animal control shelter~~  
21 ~~or animal protection shelter or to a licensed veterinarian before~~  
22 ~~final disposition of the criminal charge. The prosecuting attorney~~  
23 ~~shall serve a true copy of the summons and complaint upon the~~  
24 ~~defendant and upon a person with a known ownership interest or~~  
25 ~~known security interest in the animal or a person who has filed a~~  
26 ~~lien with the secretary of state on the animal. The forfeiture of~~  
27 ~~an animal under this section encumbered by a security interest is~~  
28 ~~subject to the interest of the holder of the security interest if~~  
29 ~~he or she did not have prior knowledge of or did not consent to the~~



1 ~~commission of the crime. Upon the filing of the civil action, the~~  
2 ~~court shall set a hearing on the complaint. The hearing must be~~  
3 ~~conducted within 14 days of the filing of the civil action, or as~~  
4 ~~soon as practicable. The hearing must be before a judge without a~~  
5 ~~jury. At the hearing, the prosecuting attorney has the burden of~~  
6 ~~establishing by a preponderance of the evidence that a violation of~~  
7 ~~this section or section 50b occurred. If the court finds that the~~  
8 ~~prosecuting attorney has met this burden, the court shall order~~  
9 ~~immediate forfeiture of the animal to the animal control shelter or~~  
10 ~~animal protection shelter or the licensed veterinarian unless the~~  
11 ~~defendant, within 72 hours of the hearing, submits to the court~~  
12 ~~elk cash or other form of security in an amount determined by the~~  
13 ~~court to be sufficient to repay all reasonable costs incurred, and~~  
14 ~~anticipated to be incurred, by the animal control shelter or animal~~  
15 ~~protection shelter or the licensed veterinarian in caring for the~~  
16 ~~animal from the date of initial impoundment to the date of trial.~~  
17 ~~If cash or other security has been submitted, and the trial in the~~  
18 ~~action is continued at a later date, any order of continuance must~~  
19 ~~require the defendant to submit additional cash or security in an~~  
20 ~~amount determined by the court to be sufficient to repay all~~  
21 ~~additional reasonable costs anticipated to be incurred by the~~  
22 ~~animal control shelter or animal protection shelter or the licensed~~  
23 ~~veterinarian in caring for the animal until the new date of trial.~~  
24 ~~If the defendant submits cash or other security to the court under~~  
25 ~~this subsection the court may enter an order authorizing the use of~~  
26 ~~that cash or other security before final disposition of the~~  
27 ~~criminal charges to pay the reasonable costs incurred by the animal~~  
28 ~~control shelter or animal protection shelter or the licensed~~  
29 ~~veterinarian in caring for the animal from the date of impoundment~~



1 ~~to the date of final disposition of the criminal charges. The~~  
2 ~~testimony of a person at a hearing held under this subsection is~~  
3 ~~not admissible against him or her in any criminal proceeding except~~  
4 ~~in a criminal prosecution for perjury. The testimony of a person at~~  
5 ~~a hearing held under this subsection does not waive the person's~~  
6 ~~constitutional right against self-incrimination. An animal seized~~  
7 ~~under this section or section 50b is not subject to any other civil~~  
8 ~~action pending the final judgment of the forfeiture action under~~  
9 ~~this subsection.~~**Except as provided in subsection (18), an animal**  
10 **that is a victim of a violation of this section and was confiscated**  
11 **by a law enforcement officer must not be returned to the owner,**  
12 **trainer, or possessor of the animal. The animal must be taken to a**  
13 **local animal control agency. If an animal owner, trainer, or**  
14 **possessor is convicted of violating subsection (2), the court shall**  
15 **award the animal involved in the violation to the animal control**  
16 **agency for evaluation and disposition.**

17 (4) A person who violates subsection (2) is guilty of a crime  
18 as follows:

19 (a) Except as otherwise provided in subdivisions (c) to (f),  
20 if the violation involved 1 animal, the person is guilty of a  
21 misdemeanor punishable by 1 or more of the following and may be  
22 ordered to pay the costs of prosecution:

23 (i) Imprisonment for not more than 93 days.

24 (ii) A fine of not more than \$1,000.00.

25 (iii) Community service for not more than 200 hours.

26 (b) Except as otherwise provided in subdivisions (c) to (f),  
27 if the violation involved 2 or 3 animals or the death of any  
28 animal, the person is guilty of a misdemeanor punishable by 1 or  
29 more of the following and may be ordered to pay the costs of



1 prosecution:

2 (i) Imprisonment for not more than 1 year.

3 (ii) A fine of not more than \$2,000.00.

4 (iii) Community service for not more than 300 hours.

5 (c) If the violation involved 4 or more animals but fewer than  
6 10 animals or the person had 1 prior conviction under subsection  
7 (2), the person is guilty of a felony punishable by 1 or more of  
8 the following and may be ordered to pay the costs of prosecution:

9 (i) Imprisonment for not more than 2 years.

10 (ii) A fine of not more than \$2,000.00.

11 (iii) Community service for not more than 300 hours.

12 (d) If the violation involved 10 or more animals but fewer  
13 than 25 animals or the person had 2 prior convictions for violating  
14 subsection (2), the person is guilty of a felony punishable by 1 or  
15 more of the following and may be ordered to pay the costs of  
16 prosecution:

17 (i) Imprisonment for not more than 4 years.

18 (ii) A fine of not more than \$5,000.00.

19 (iii) Community service for not more than 500 hours.

20 (e) If the violation involved 25 or more animals or the person  
21 has had 3 or more prior convictions for violating subsection (2),  
22 the person is guilty of a felony punishable by 1 or more of the  
23 following and may be ordered to pay the costs of prosecution:

24 (i) Imprisonment for not more than 7 years.

25 (ii) A fine of not more than \$10,000.00.

26 (iii) Community service for not more than 500 hours.

27 (f) If the person is a breeder, or if the person is an  
28 operator of a pet shop and he or she has had 5 or more prior





1 convictions for violating 1969 PA 287, MCL 287.331 to 287.340, the  
2 person is guilty of a felony punishable by imprisonment for not  
3 more than 2 years or a fine of not more than \$5,000.00, or both.

4 (5) The court may order a person convicted of violating  
5 subsection (2) to be evaluated to determine the need for  
6 psychiatric or psychological counseling and, if determined  
7 appropriate by the court, to receive psychiatric or psychological  
8 counseling. The evaluation and counseling shall be at the  
9 defendant's own expense.

10 (6) This section does not prohibit a person from being charged  
11 with, convicted of, or punished for any other violation of law  
12 arising out of the same transaction as the violation of this  
13 section.

14 (7) The court may order a term of imprisonment imposed for a  
15 violation of this section to be served consecutively to a term of  
16 imprisonment imposed for any other crime including any other  
17 violation of law arising out of the same transaction as the  
18 violation of this section.

19 (8) As a part of the sentence for a violation of subsection  
20 (2), the court may order the defendant to pay the costs of the  
21 care, housing, and veterinary medical care for the animal, as  
22 applicable. If the court does not order a defendant to pay all of  
23 the applicable costs listed in this subsection, or orders only  
24 partial payment of these costs, the court shall state on the record  
25 the reason for that action.

26 (9) As a part of the sentence for a violation of subsection  
27 (2), the court may, as a condition of probation, order the  
28 defendant not to own or possess an animal for a period of time not  
29 to exceed the period of probation. If a person is convicted of a



1 second or subsequent violation of subsection (2), the court may  
2 order the defendant not to own or possess an animal for any period  
3 of time, including permanent relinquishment of animal ownership.

4 (10) A person who owns or possesses an animal in violation of  
5 an order issued under subsection (9) is subject to revocation of  
6 probation if the order is issued as a condition of probation. A  
7 person who owns or possesses an animal in violation of an order  
8 issued under subsection (9) is also subject to the civil and  
9 criminal contempt power of the court, and if found guilty of  
10 criminal contempt, may be punished by imprisonment for not more  
11 than 90 days or a fine of not more than \$500.00, or both.

12 (11) As part of the sentence imposed under subsection (4) (e),  
13 the court may place the defendant on probation for any term of  
14 years, but not less than 5 years.

15 (12) This section does not prohibit the lawful killing or  
16 other use of an animal, including the following:

17 (a) Fishing.

18 (b) Hunting, trapping, or wildlife control regulated under the  
19 natural resources and environmental protection act, 1994 PA 451,  
20 MCL 324.101 to 324.90106.

21 (c) Horse racing.

22 (d) The operation of a zoological park or aquarium.

23 (e) Pest or rodent control regulated under part 83 of the  
24 natural resources and environmental protection act, 1994 PA 451,  
25 MCL 324.8301 to 324.8336.

26 (f) Farming or a generally accepted animal husbandry or  
27 farming practice involving livestock.

28 (g) Scientific research under 1969 PA 224, MCL 287.381 to  
29 287.395.



1 (h) Scientific research or the lawful killing of an animal  
2 under sections 2226, 2671, 2676, and 7333 of the public health  
3 code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

4 (i) The lawful killing or use of an animal under the animal  
5 industry act, 1988 PA 466, MCL 287.701 to 287.746.

6 (13) This section does not apply to a veterinarian or a  
7 veterinary technician lawfully engaging in the practice of  
8 veterinary medicine under part 188 of the public health code, 1978  
9 PA 368, MCL 333.18801 to 333.18838.

10 (14) As part of the sentence imposed under this section, the  
11 court may order the defendant to pay the costs of investigating the  
12 violation of this section and disposition of the animal. As used in  
13 this subsection, "disposition of the animal" includes, but is not  
14 limited to, the transfer, euthanasia, or adoption of the animal.

15 (15) An animal control agency taking custody of an animal  
16 under subsection (3) shall give notice within 72 hours after  
17 seizure of the animal in person or by registered mail to the last  
18 known address of the animal's owner, if the owner of the animal is  
19 known. If the owner of the animal is unknown, an animal control  
20 agency taking custody of an animal under subsection (3) shall give  
21 notice within 72 hours after seizure of the animal by 1 of the  
22 following methods:

23 (a) Posting at the location of the seizure.

24 (b) Delivery to a person residing at the location of the  
25 seizure.

26 (c) Registered mail to the location of the seizure.

27 (16) The notice required under subsection (15) must include  
28 all of the following:

29 (a) A description of each animal seized.



1 (b) The time, date, location, and description of circumstances  
2 under which the animal was seized.

3 (c) The address and telephone number of the location where the  
4 animal is being held and contact information for the individual  
5 present at that location from whom security deposit or bond  
6 information may be obtained.

7 (d) A statement that the owner or possessor of the animal may  
8 post a security deposit or bond that may prevent the forfeiture of  
9 the animal for the duration of the criminal, forfeiture, or other  
10 court proceeding until the court makes a final determination  
11 regarding the animal's disposition, that failure to post a security  
12 deposit or bond within 14 days after the date on the notice will  
13 result in forfeiture of the animal, and that the owner or possessor  
14 of the animal may, before the expiration of the 14-day period  
15 described in this subdivision, request a hearing on whether the  
16 requirement to post a security deposit or bond is justified or  
17 whether the cost associated with the security deposit or bond is  
18 fair and reasonable for the care of and provision for the seized  
19 animal. Notice of a request for a hearing under this subsection  
20 shall be served on the animal control agency holding the animal  
21 before the expiration of the 14-day period described in this  
22 subsection. At a hearing on whether the requirement to post a  
23 security deposit or bond is justified, the prosecuting attorney has  
24 the burden to establish by a preponderance of the evidence that a  
25 violation of this section occurred. If the court finds that the  
26 prosecuting attorney has met its burden, the animal will be  
27 forfeited to the animal control agency that seized the animal  
28 unless the owner or possessor of the animal posts the required  
29 security deposit or bond. An owner or possessor's failure to appear



1 at a scheduled hearing requested under this subdivision will result  
2 in automatic forfeiture of the animal if the date of the scheduled  
3 hearing is more than 14 days after the date on the notice described  
4 in this subsection.

5 (e) A statement that the owner or possessor of the animal is  
6 responsible for all costs described in subsections (8) and (14),  
7 unless the court determines that the seizure of the animal was not  
8 substantially justified by law.

9 (17) An animal control agency that has custody of a seized  
10 animal under subsection (3) shall hold the animal for a period of  
11 14 consecutive days, including weekends and holidays, beginning on  
12 the date notice was given under subsection (15). After the  
13 expiration of the 14 days, if the owner or a possessor of the  
14 animal has not posted a security deposit or bond as provided in  
15 subsection (18), the animal is forfeited, and the animal control  
16 agency may dispose of the animal by adoption, transfer to another  
17 animal control agency, or humane euthanasia.

18 (18) The owner or possessor of an animal seized under  
19 subsection (3) may prevent forfeiture and disposition of the animal  
20 by an animal control agency for the duration of the criminal,  
21 forfeiture, or other court proceeding until the court makes a final  
22 determination regarding the animal's disposition by posting a  
23 security deposit or bond with the court within 14 days after the  
24 date on the notice described in subsection (16). The bond must be  
25 in a sufficient amount to secure payment of all costs described in  
26 subsections (8) and (14) during a 30-day period of boarding and  
27 veterinary treatment of the animal after examination by a licensed  
28 veterinarian. The animal control agency shall determine the amount  
29 of the bond no later than 72 hours after the seizure of the animal,



1 and shall make the amount of the bond available to the owner or  
2 possessor of the animal upon request. The owner or possessor of the  
3 animal shall provide proof of the security deposit or bond to the  
4 animal control agency no later than 14 days after the date on the  
5 notice described in subsection (16).

6 (19) An animal control agency that is holding or requiring to  
7 be held a seized animal as provided in this section may draw on a  
8 security deposit or bond posted under subsection (18) or (20) to  
9 cover the actual reasonable costs incurred in the seizure, care,  
10 keeping, and disposition of the animal as described in subsections  
11 (8) and (14) from the date of the seizure to the date of the  
12 official disposition of the animal in the criminal action.

13 (20) If a security deposit or bond has been posted under  
14 subsection (18), and trial in the criminal action does not occur  
15 within the initial 30-day bond period or is continued to a later  
16 date, the owner or possessor shall post an additional security  
17 deposit or bond in an amount determined sufficient to cover the  
18 costs described in subsections (8) and (14) as anticipated to be  
19 incurred by the animal control agency caring for the animal. The  
20 additional security deposit or bond must be calculated in 30-day  
21 increments and continue until the criminal action is resolved. If  
22 the owner or possessor of the animal fails to post a new security  
23 deposit or bond with the court before the previous security deposit  
24 or bond expires, the animal is forfeited to the animal control  
25 agency caring for the animal.

26 (21) If the owner or possessor that posted a security deposit  
27 or bond under subsection (18) or (20) is found not guilty in the  
28 criminal action, the amount of the security deposit or bond posted  
29 to prevent disposition of the animal may be returned to the owner



1 or possessor at the court's discretion, and, subject to subsections  
2 (23) and (24), the animal must be returned to the owner.

3 (22) If a security deposit or bond is posted by an owner or  
4 possessor of an animal under subsection (18) or (20) and the court  
5 determines that the animal is a dangerous animal or lacks any  
6 useful purpose under subsection (24), the posting of the security  
7 deposit or bond must not prevent disposition of the animal.

8 (23) Upon receiving an animal seized under this section, or at  
9 any time thereafter, an animal control agency may humanely  
10 euthanize the animal or have the animal euthanized if, in the  
11 opinion of a licensed veterinarian, the animal is injured or  
12 diseased past recovery or the animal's continued existence is  
13 inhumane so that euthanasia is necessary to relieve pain and  
14 suffering. This subsection applies to an animal whether or not a  
15 security deposit or bond has been posted under subsection (18) or  
16 (20).

17 (24) An animal control agency that receives an animal under  
18 this section may apply to the district court or municipal court for  
19 a hearing to determine whether the animal must be humanely  
20 euthanized because of its lack of any useful purpose or the public  
21 safety threat it poses. The court shall hold a hearing not more  
22 than 30 days after the filing of the application and shall give  
23 notice of the hearing to the owner of the animal. Upon a finding by  
24 the court that the animal lacks any useful purpose or poses a  
25 threat to public safety, the animal control agency shall humanely  
26 euthanize the animal or have the animal euthanized. Expenses  
27 incurred in connection with the housing, care, upkeep, or  
28 euthanasia of the animal by an animal control agency, or by a  
29 person, firm, partnership, corporation, or other entity, may, in



1 the court's discretion, be assessed against the owner of the  
2 animal.

