

SENATE BILL NO. 50

January 27, 2021, Introduced by Senators MACDONALD and WOJNO and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 49 and 50 (MCL 750.49 and 750.50), section 49 as amended by 2019 PA 176 and section 50 as amended by 2019 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 49. (1) As used in this section:
2 (a) "Animal" means a vertebrate other than a human being.
3 (b) "Animal control agency" means an animal control shelter,
4 an animal protection shelter, or a law enforcement agency. As used
5 in this subdivision, "animal control shelter" and "animal

1 protection shelter" mean those terms as defined in section 1 of
2 1969 PA 287, MCL 287.331.

3 (2) A person shall not knowingly do any of the following:

4 (a) Own, possess, use, buy, sell, offer to buy or sell,
5 import, or export an animal for fighting or baiting, or as a target
6 to be shot at as a test of skill in marksmanship.

7 (b) Be a party to or cause the fighting, baiting, or shooting
8 of an animal as described in subdivision (a).

9 (c) Rent or otherwise obtain the use of a building, shed,
10 room, yard, ground, premises, vehicle, or any other venue for
11 fighting, baiting, or shooting an animal as described in
12 subdivision (a).

13 (d) Permit the use of a building, shed, room, yard, ground,
14 premises, vehicle, or any other venue belonging to him or her or
15 under his or her control for any of the purposes described in this
16 section.

17 (e) Organize, promote, or collect money, property, or any
18 other thing of value for the fighting, baiting, or shooting of an
19 animal as described in subdivisions (a) to (d).

20 (f) Be present at a building, shed, room, yard, ground,
21 premises, vehicle, or any other venue where preparations are being
22 made for an exhibition described in subdivisions (a) to (d), or be
23 present at the exhibition, knowing that an exhibition is taking
24 place or about to take place.

25 (g) Breed, buy, sell, offer to buy or sell, exchange, import,
26 or export an animal the person knows has been trained or used for
27 fighting as described in subdivisions (a) to (d), or breed, buy,
28 sell, offer to buy or sell, exchange, import, or export the
29 offspring of an animal the person knows has been trained or used

1 for fighting as described in subdivisions (a) to (d). This
2 subdivision does not prohibit owning, breeding, buying, selling,
3 offering to buy or sell, exchanging, importing, or exporting an
4 animal for agricultural or agricultural exposition purposes. This
5 subdivision does not prohibit an animal control agency from owning,
6 adopting, or transferring ownership of an animal for the purpose of
7 adoption of an animal trained or used for fighting as described in
8 subdivisions (a) to (d) or an animal that is the first- or second-
9 generation offspring of an animal trained or used for fighting as
10 described in subdivisions (a) to (d). If an animal is found fit for
11 placement and is transferred or adopted, the animal control agency
12 that transfers or adopts the animal shall do all of the following:

13 (i) Sterilize the animal or collect a good-faith deposit for
14 sterilization as required under section 8a of 1969 PA 287, MCL
15 287.338a.

16 (ii) Provide a copy of the animal's history, including, but not
17 limited to, a description of why the animal was seized, veterinary
18 records, and a copy of subsections (8) to (14) to the person to
19 whom the animal is transferred or adopted.

20 (h) Own, possess, use, buy, sell, offer to buy or sell,
21 transport, or deliver any device or equipment intended for use in
22 the fighting, baiting, or shooting of an animal as described in
23 subdivisions (a) to (d).

24 **(i) Provide an animal to another individual with knowledge**
25 **that the individual intends to use the animal for fighting as**
26 **described in subdivisions (a) to (d).**

27 (3) A person who violates subsection (2) (a) to (e) is guilty
28 of a felony punishable by 1 or more of the following:

29 (a) Imprisonment for not more than 4 years.

1 (b) A fine of not less than \$5,000.00 or more than \$50,000.00.

2 (c) Not less than 500 or more than 1,000 hours of community
3 service.

4 (4) A person who violates subsection (2) (f) to ~~(h)~~—(i) is
5 guilty of a felony punishable by 1 or more of the following:

6 (a) Imprisonment for not more than 4 years.

7 (b) A fine of not less than \$1,000.00 or more than \$5,000.00.

8 (c) Not less than 250 or more than 500 hours of community
9 service.

10 (5) The court may order a person convicted of violating this
11 section to pay the costs of prosecution.

12 (6) The court may order a person convicted of violating this
13 section to pay the costs for investigating the violation of this
14 section, disposition of the animal, and housing and caring for the
15 animal, including, but not limited to, providing veterinary medical
16 treatment. As used in this subsection, "disposition" includes the
17 transfer, euthanasia, or adoption of an animal.

18 (7) As part of the sentence for a violation of subsection (2),
19 the court shall order the person convicted not to own or possess an
20 animal of the same species involved in the violation of this
21 section for 5 years after the date of sentencing. Failure to comply
22 with the order of the court pursuant to this subsection is
23 punishable as contempt of court.

24 (8) If a person incites an animal trained or used for fighting
25 or an animal that is the first- or second-generation offspring of
26 an animal trained or used for fighting to attack a person and the
27 attack causes the death of that person, the owner is guilty of a
28 felony punishable by imprisonment for life or for a term of years
29 greater than 15 years.

1 (9) If a person incites an animal trained or used for fighting
2 or an animal that is the first- or second-generation offspring of
3 an animal trained or used for fighting to attack a person, but the
4 attack does not result in the death of the person, the owner is
5 guilty of a felony punishable by imprisonment for not more than 4
6 years or a fine of not more than \$2,000.00, or both.

7 (10) If an animal trained or used for fighting or an animal
8 that is the first- or second-generation offspring of an animal
9 trained or used for fighting attacks a person without provocation
10 and causes the death of that person, the owner of the animal is
11 guilty of a felony punishable by imprisonment for not more than 15
12 years.

13 (11) If an animal trained or used for fighting or an animal
14 that is the first- or second-generation offspring of an animal
15 trained or used for fighting attacks a person without provocation,
16 but the attack does not cause the death of the person, the owner is
17 guilty of a misdemeanor punishable by imprisonment for not more
18 than 1 year or a fine of not more than \$1,000.00, or both.

19 (12) Subsections (8) to (11) do not apply if the person
20 attacked was committing or attempting to commit an unlawful act on
21 the property of the owner of the animal.

22 (13) If an animal trained or used for fighting or an animal
23 that is the first- or second-generation offspring of a dog trained
24 or used for fighting goes beyond the property limits of its owner
25 without being securely restrained, the owner is guilty of a
26 misdemeanor punishable by imprisonment for not more than 90 days or
27 a fine of not less than \$50.00 nor more than \$500.00, or both.

28 (14) If an animal trained or used for fighting or an animal
29 that is the first- or second-generation offspring of a dog trained

1 or used for fighting is not securely enclosed or restrained on the
2 owner's property, the owner is guilty of a misdemeanor punishable
3 by imprisonment for not more than 90 days or a fine of not more
4 than \$500.00, or both.

5 (15) Subsections (8) to (14) do not apply to any of the
6 following:

7 (a) A dog trained or used for fighting, or the first- or
8 second-generation offspring of a dog trained or used for fighting,
9 that is used by a law enforcement agency of this state or a county,
10 city, village, or township.

11 (b) A certified leader dog recognized and trained by a
12 national guide dog association for the blind or for persons with
13 disabilities.

14 (c) A corporation licensed under the private security business
15 and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1092, when
16 a dog trained or used for fighting, or the first- or second-
17 generation offspring of a dog trained or used for fighting, is used
18 in accordance with the private security business and security alarm
19 act, 1968 PA 330, MCL 338.1051 to 338.1092.

20 (16) Except as provided in subsection (20), an animal that has
21 been used to fight in violation of this section or that is involved
22 in a violation of subsections (8) to (14) must be confiscated by a
23 law enforcement officer and must not be returned to the owner,
24 trainer, or possessor of the animal. The animal must be taken to a
25 local animal control agency. If an animal owner, trainer, or
26 possessor is convicted of violating subsection (2) or subsections
27 (8) to (14), the court shall award the animal involved in the
28 violation to the animal control agency for evaluation and
29 disposition.

1 (17) An animal control agency taking custody of an animal
2 under subsection (16) shall give notice within 72 hours after
3 seizure of the animal by registered mail to the last known address
4 of the animal's owner, if the owner of the animal is known. If the
5 owner of the animal is unknown, an animal control agency taking
6 custody of an animal under subsection (16) shall give notice within
7 72 hours after seizure of the animal by 1 of the following methods:

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

9 (b) Delivery to a person residing at the location of the
10 seizure.

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

12 (18) The notice required under subsection (17) must include
13 all of the following:

14 (a) A description of each animal seized.

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

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

21 (d) A statement that the owner or possessor of the animal may
22 post a security deposit or bond that may prevent the forfeiture of
23 the animal for the duration of the criminal, forfeiture, or other
24 court proceeding until the court makes a final determination
25 regarding the animal's disposition, that failure to post a security
26 deposit or bond within 14 days after the date on the notice will
27 result in forfeiture of the animal, and that the owner or possessor
28 of the animal may, before the expiration of the 14-day period
29 described in this subdivision, request a hearing on whether the

1 requirement to post a security deposit or bond is justified or
2 whether the cost associated with the security deposit or bond is
3 fair and reasonable for the care of and provision for the seized
4 animal. Notice of a request for a hearing under this subdivision
5 must be served on the animal control agency holding the animal
6 before the expiration of the 14-day period described in this
7 subdivision. At a hearing on whether the requirement to post a
8 security deposit or bond is justified, the prosecuting attorney has
9 the burden to establish by a preponderance of the evidence that a
10 violation of this section occurred. If the court finds that the
11 prosecuting attorney has met its burden, the animal will be
12 forfeited to the animal control agency that seized the animal
13 unless the owner or possessor of the animal posts the required
14 security deposit or bond. An owner or possessor's failure to appear
15 at a scheduled hearing requested under this subdivision will result
16 in automatic forfeiture of the animal if the date of the scheduled
17 hearing is more than 14 days after the date on the notice described
18 in this subdivision.

19 (e) A statement that the owner or possessor of the animal is
20 responsible for all costs described in subsection (6), unless the
21 court determines that the seizure of the animal was not
22 substantially justified by law.

23 (19) An animal control agency that has custody of a seized
24 animal under subsection (16) shall hold the animal for a period of
25 14 consecutive days, including weekends and holidays, beginning on
26 the date notice was given under subsection (17). After the
27 expiration of the 14 days, if the owner or a possessor of the
28 animal has not posted a security deposit or bond as provided in
29 subsection (20), the animal is forfeited, and the animal control

1 agency may dispose of the animal by adoption, transfer to another
2 animal control agency, or humane euthanasia.

3 (20) The owner or possessor of an animal seized under
4 subsection (16) may prevent forfeiture and disposition of the
5 animal by an animal control agency for the duration of the
6 criminal, forfeiture, or other court proceeding until the court
7 makes a final determination regarding the animal's disposition by
8 posting a security deposit or bond with the court within 14 days
9 after the date on the notice described in subsection (18). The bond
10 must be in a sufficient amount to secure payment of all costs
11 described in subsection (6) during a 30-day period of boarding and
12 veterinary treatment of the animal after examination by a licensed
13 veterinarian. The animal control agency shall determine the amount
14 of the bond no later than 72 hours after the seizure of the animal,
15 and shall make the amount of the bond available to the owner or
16 possessor of the animal upon request. The owner or possessor of the
17 animal shall provide proof of the security deposit or bond to the
18 animal control agency no later than 14 days after the date on the
19 notice described in subsection (18).

20 (21) An animal control agency that is holding or requiring to
21 be held a seized animal as provided in this section may draw on a
22 security deposit or bond posted under subsection (20) or (22) to
23 cover the actual reasonable costs incurred in the seizure, care,
24 keeping, and disposition of the animal as described in subsection
25 (6) from the date of the seizure to the date of the official
26 disposition of the animal in the criminal action.

27 (22) If a security deposit or bond has been posted under
28 subsection (20), and trial in the criminal action does not occur
29 within the initial 30-day bond period or is continued to a later

1 date, the owner or possessor shall post an additional security
2 deposit or bond in an amount determined sufficient to cover the
3 costs described in subsection (6) as anticipated to be incurred by
4 the animal control agency caring for the animal. The additional
5 security deposit or bond must be calculated in 30-day increments
6 and continue until the criminal action is resolved. If the owner or
7 possessor of the animal fails to post a new security deposit or
8 bond with the court before the previous security deposit or bond
9 expires, the animal is forfeited to the animal control agency
10 caring for the animal.

11 (23) If the owner or possessor that posted a security deposit
12 or bond under subsection (20) or (22) is found not guilty in the
13 criminal action, the amount of the security deposit or bond posted
14 to prevent disposition of the animal may be returned to the owner
15 or possessor at the court's discretion, and, subject to subsections
16 (25) and (26), the animal must be returned to the owner.

17 (24) If a security deposit or bond is posted by an owner or
18 possessor of an animal under subsection (20) or (22) and the court
19 determines that the animal is a dangerous animal or lacks any
20 useful purpose under subsection (26), the posting of the security
21 deposit or bond must not prevent disposition of the animal.

22 (25) Upon receiving an animal seized under this section, or at
23 any time thereafter, an animal control agency may humanely
24 euthanize the animal or have the animal euthanized if, in the
25 opinion of a licensed veterinarian, the animal is injured or
26 diseased past recovery or the animal's continued existence is
27 inhumane so that euthanasia is necessary to relieve pain and
28 suffering. This subsection applies to an animal whether or not a
29 security deposit or bond has been posted under subsection (20) or

1 (22).

2 (26) An animal control agency that receives an animal under
3 this section may apply to the district court or municipal court for
4 a hearing to determine whether the animal must be humanely
5 euthanized because of its lack of any useful purpose or the public
6 safety threat it poses. The court shall hold a hearing not more
7 than 30 days after the filing of the application and shall give
8 notice of the hearing to the owner of the animal. Upon a finding by
9 the court that the animal lacks any useful purpose or poses a
10 threat to public safety, the animal control agency shall humanely
11 euthanize the animal or have the animal euthanized. Expenses
12 incurred in connection with the housing, care, upkeep, or
13 euthanasia of the animal by an animal control agency, or by a
14 person, firm, partnership, corporation, or other entity, may, in
15 the court's discretion, be assessed against the owner of the
16 animal.

17 (27) Subject to subsections (16), (25), and (26), all animals
18 being used or to be used in fighting, equipment, devices, and money
19 involved in a violation of subsection (2) must be forfeited to this
20 state. All other instrumentalities, proceeds, and substituted
21 proceeds of a violation of subsection (2) are subject to forfeiture
22 under chapter 47 of the revised judicature act of 1961, 1961 PA
23 236, MCL 600.4701 to 600.4710.

24 (28) The seizing agency may deposit money seized under
25 subsection (27) into an interest-bearing account in a financial
26 institution. As used in this subsection, "financial institution"
27 means a state or nationally chartered bank or a state or federally
28 chartered savings and loan association, savings bank, or credit
29 union whose deposits are insured by an agency of the United States

1 government and that maintains a principal office or branch office
2 located in this state under the laws of this state or the United
3 States.

4 (29) An attorney for a person who is charged with a violation
5 of subsection (2) involving or related to money seized under
6 subsection (27) must be afforded a period of 60 days within which
7 to examine that money. This 60-day period will begin to run after
8 notice of forfeiture is given but before the money is deposited
9 into a financial institution under subsection (28). If the attorney
10 general, prosecuting attorney, or city or township attorney fails
11 to sustain his or her burden of proof in forfeiture proceedings
12 under subsection (27), the court shall order the return of the
13 money, including any interest earned on money deposited into a
14 financial institution under subsection (28).

15 (30) This section does not apply to conduct that is permitted
16 by and is in compliance with any of the following:

17 (a) Part 401 of the natural resources and environmental
18 protection act, 1994 PA 451, MCL 324.40101 to 324.40120.

19 (b) Part 435 of the natural resources and environmental
20 protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

21 (c) Part 427 of the natural resources and environmental
22 protection act, 1994 PA 451, MCL 324.42701 to 324.42714.

23 (d) Part 417 of the natural resources and environmental
24 protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

25 (31) This section does not prohibit a person from being
26 charged with, convicted of, or punished for any other violation of
27 law that is committed by that person while violating this section.

28 Sec. 50. (1) As used in this section and section 50b:

29 (a) "Adequate care" means the provision of sufficient food,

1 water, shelter, sanitary conditions, exercise, and veterinary
2 medical attention in order to maintain an animal in a state of good
3 health.

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

5 (c) **"Animal abuse offense" means that term as defined in**
6 **section 1 of 1969 PA 287, MCL 287.331.**

7 (d) "Animal control shelter" means a facility operated by a
8 county, city, village, or township to impound and care for animals
9 found in streets or otherwise at large contrary to an ordinance of
10 the county, city, village, or township or state law.

11 (e) ~~(d)~~—"Animal protection shelter" means a facility operated
12 by a person, humane society, society for the prevention of cruelty
13 to animals, or any other nonprofit organization, for the care of
14 homeless animals.

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

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

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

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

1 or other legal entity.

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

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

10 **(m)** ~~(l)~~—"Shelter" means adequate protection from the elements
11 and weather conditions suitable for the age, species, and physical
12 condition of the animal so as to maintain the animal in a state of
13 good health. Shelter, for livestock, includes structures or natural
14 features such as trees or topography. Shelter, for a dog, includes
15 1 or more of the following:

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

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

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

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

1 **(o)** ~~(n)~~ "Tethering" means the restraint and confinement of a
2 dog by use of a chain, rope, or similar device.

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

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

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

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

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

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

25 (e) Abandon an animal or cause an animal to be abandoned, in
26 any place, without making provisions for the animal's adequate
27 care, unless premises are vacated for the protection of human life
28 or the prevention of injury to a human. An animal that is lost by
29 an owner or custodian while traveling, walking, hiking, or hunting

1 is not abandoned under this section when the owner or custodian has
2 made a reasonable effort to locate the animal.

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

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

14 **(h) Make an agreement to provide an animal to an individual**
15 **for the purpose of animal abuse. An owner, possessor, breeder,**
16 **operator of a pet shop, or person having the charge or custody of**
17 **an animal does not violate this subdivision unless the individual**
18 **receiving the animal is subsequently convicted under this act for**
19 **an animal abuse offense.**

20 (3) If an animal is impounded and is being held by an animal
21 control shelter or its designee or an animal protection shelter or
22 its designee or a licensed veterinarian pending the outcome of a
23 criminal action charging a violation of this section or section
24 50b, before final disposition of the criminal charge, the
25 prosecuting attorney may file a civil action in the court that has
26 jurisdiction of the criminal action, requesting that the court
27 issue an order forfeiting the animal to the animal control shelter
28 or animal protection shelter or to a licensed veterinarian before
29 final disposition of the criminal charge. The prosecuting attorney

1 shall serve a true copy of the summons and complaint upon the
2 defendant and upon a person with a known ownership interest or
3 known security interest in the animal or a person who has filed a
4 lien with the secretary of state on the animal. The forfeiture of
5 an animal under this section encumbered by a security interest is
6 subject to the interest of the holder of the security interest if
7 he or she did not have prior knowledge of or did not consent to the
8 commission of the crime. Upon the filing of the civil action, the
9 court shall set a hearing on the complaint. The hearing must be
10 conducted within 14 days of the filing of the civil action, or as
11 soon as practicable. The hearing must be before a judge without a
12 jury. At the hearing, the prosecuting attorney has the burden of
13 establishing by a preponderance of the evidence that a violation of
14 this section or section 50b occurred. If the court finds that the
15 prosecuting attorney has met this burden, the court shall order
16 immediate forfeiture of the animal to the animal control shelter or
17 animal protection shelter or the licensed veterinarian unless the
18 defendant, within 72 hours of the hearing, submits to the court
19 clerk cash or other form of security in an amount determined by the
20 court to be sufficient to repay all reasonable costs incurred, and
21 anticipated to be incurred, by the animal control shelter or animal
22 protection shelter or the licensed veterinarian in caring for the
23 animal from the date of initial impoundment to the date of trial.
24 If cash or other security has been submitted, and the trial in the
25 action is continued at a later date, any order of continuance must
26 require the defendant to submit additional cash or security in an
27 amount determined by the court to be sufficient to repay all
28 additional reasonable costs anticipated to be incurred by the
29 animal control shelter or animal protection shelter or the licensed

1 veterinarian in caring for the animal until the new date of trial.
2 If the defendant submits cash or other security to the court under
3 this subsection the court may enter an order authorizing the use of
4 that cash or other security before final disposition of the
5 criminal charges to pay the reasonable costs incurred by the animal
6 control shelter or animal protection shelter or the licensed
7 veterinarian in caring for the animal from the date of impoundment
8 to the date of final disposition of the criminal charges. The
9 testimony of a person at a hearing held under this subsection is
10 not admissible against him or her in any criminal proceeding except
11 in a criminal prosecution for perjury. The testimony of a person at
12 a hearing held under this subsection does not waive the person's
13 constitutional right against self-incrimination. An animal seized
14 under this section or section 50b is not subject to any other civil
15 action pending the final judgment of the forfeiture action under
16 this subsection.

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~~**is** 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 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. 51 of the 101st Legislature is enacted into
12 law.