

SENATE BILL NO. 395

April 28, 2021, Introduced by Senator POLEHANKI and referred to the Committee on Agriculture.

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

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

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

9 (e) "Breeder" means a person that breeds animals other than
10 livestock or dogs for remuneration, or that is a large-scale dog
11 breeding kennel as that term is defined in section 1 of 1969 PA
12 287, MCL 287.331.

13 (f) "Licensed veterinarian" means ~~a person~~ **an individual**
14 licensed or otherwise authorized to practice veterinary medicine
15 under ~~article 15~~ **part 188** of the public health code, 1978 PA 368,
16 MCL ~~333.16101~~ **333.18801** to 333.18838.

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

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

22 (i) "Person" means an individual, partnership, limited
23 liability company, corporation, association, governmental entity,
24 or other legal entity.

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

27 (k) "Sanitary conditions" means space free from health hazards
28 including excessive animal waste, overcrowding of animals, or other
29 conditions that endanger the animal's health. ~~This definition does~~

1 **Sanitary conditions do** not include ~~any a condition resulting that~~
2 **results** from a customary and reasonable **farming or animal husbandry**
3 practice. ~~pursuant to farming or animal husbandry.~~

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

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

11 (ii) ~~A-Except as otherwise provided in subparagraph (iv), a~~
12 doghouse that is an enclosed structure with a roof and of
13 appropriate dimensions for the breed and size of the dog. The
14 doghouse must have dry bedding. ~~when the outdoor temperature is or~~
15 ~~is predicted to drop below freezing.~~

16 (iii) ~~A-Except as otherwise provided in subparagraph (iv), a~~
17 structure, including a garage, barn, or shed, that is sufficiently
18 insulated and ventilated to protect the dog from exposure to
19 extreme temperatures or, if not sufficiently insulated and
20 ventilated, contains a doghouse as provided under subparagraph (ii)
21 that is accessible to the dog.

22 (iv) **If the outside temperature is below 32 degrees Fahrenheit,**
23 **a dog may be outside for a maximum of 30 consecutive minutes and**
24 **then the dog must be brought inside an enclosure heated to at least**
25 **45 degrees Fahrenheit that otherwise qualifies as a shelter under**
26 **this section for at least 30 minutes. The maximum of 30 consecutive**
27 **minutes in this section does not apply if the dog is actively**
28 **participating in a recreational activity with the dog's owner or**
29 **other individual responsible for the dog's care. As used in this**

1 **subparagraph, "recreational activity" includes, but is not limited**
2 **to, walking, running, hiking, hunting or field trials, mushing, or**
3 **playing with an individual or other dogs.**

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

8 (n) "Tethering" means the restraint and confinement of a dog
9 by use of a chain, rope, or similar device.

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

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

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

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

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

24 (d) Carry or cause to be carried a live animal in or upon a
25 vehicle or otherwise without providing a secure space, rack, car,
26 crate, or cage in which livestock may stand and in which all other
27 animals may stand, turn around, and lie down during transportation,
28 or while awaiting slaughter. As used in this subdivision, for
29 purposes of ~~transportation of~~ **transporting** sled dogs, "stand" means

1 sufficient vertical distance to allow the ~~animal-sled dog~~ to stand
 2 without its shoulders touching the top of the crate or
 3 transportation vehicle.

4 (e) Abandon an animal or cause an animal to be abandoned, in
 5 any place, without making provisions for the animal's adequate
 6 care, unless premises are vacated for the protection of human life
 7 or the prevention of injury to a human. An animal that is lost by
 8 an owner or custodian while traveling, walking, hiking, or hunting
 9 is not abandoned under this section when the owner or custodian has
 10 made a reasonable effort to locate the animal.

11 (f) Negligently allow ~~any-an~~ animal, including ~~one who-an~~
 12 **animal that** is aged, diseased, maimed, hopelessly sick, disabled,
 13 or nonambulatory to suffer unnecessary neglect, torture, or pain.

14 (g) Tether a dog unless the tether is at least 3 times the
 15 length of the dog as measured from the tip of its nose to the base
 16 of its tail and is attached to a harness or nonchoke collar
 17 designed for tethering. This subdivision does not apply ~~if-to~~ the
 18 tethering of the dog ~~occurs~~ while the dog is being groomed,
 19 trained, transported, or used in a hunt or event ~~where-if~~ a shorter
 20 tether is necessary for the safety and well-being of the dog and
 21 others.

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

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

1 court to be sufficient to repay all additional reasonable costs
2 anticipated to be incurred by the animal control shelter or animal
3 protection shelter or the licensed veterinarian in caring for the
4 animal until the new date of trial. If the defendant submits cash
5 or other security to the court under this subsection the court may
6 enter an order authorizing the use of that cash or other security
7 before final disposition of the criminal charges to pay the
8 reasonable costs incurred by the animal control shelter, ~~or~~ animal
9 protection shelter, or ~~the~~ licensed veterinarian in caring for the
10 animal from the date of impoundment to the date of final
11 disposition of the criminal charges. The testimony of a person at a
12 hearing held under this subsection is not admissible against him or
13 her in any criminal proceeding except in a criminal prosecution for
14 perjury. The testimony of a person at a hearing held under this
15 subsection does not waive the person's constitutional right against
16 self-incrimination. An animal seized under this section or section
17 50b is not subject to any other civil action pending the final
18 judgment of the forfeiture action under this subsection.

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

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

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

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

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

28 (b) Except as otherwise provided in subdivisions (c) to (f),
29 if the violation involved 2 or 3 animals or the death of any

1 animal, the person is guilty of a misdemeanor punishable by 1 or
2 more of the following and may be ordered to pay the costs of
3 prosecution:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (f) If the person is a breeder, or if the person is an
3 operator of a pet shop and he or she has ~~had~~ 5 or more prior
4 convictions for violating 1969 PA 287, MCL 287.331 to 287.340, the
5 person is guilty of a felony punishable by imprisonment for not
6 more than 2 years or a fine of not more than \$5,000.00, or both.

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

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

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

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

29 (9) As a part of the sentence for a violation of subsection

1 (2), the court may, as a condition of probation, order the
2 defendant not to own or possess an animal for a period of time not
3 to exceed the period of probation. If a person is convicted of a
4 second or subsequent violation of subsection (2), the court may
5 order the defendant not to own or possess an animal for any period
6 of time, including permanent relinquishment of animal ownership.

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

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

18 (12) This section does not prohibit the lawful killing or
19 other use of an animal, including **all of** the following:

20 (a) Fishing.

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

24 (c) Horse racing.

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

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

29 (f) Farming or a generally accepted animal husbandry or

1 farming practice involving livestock.

2 (g) Scientific research under 1969 PA 224, MCL 287.381 to
3 287.395.

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

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

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

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.