

HOUSE BILL No. 5057

July 16, 1997, Introduced by Reps. Jellema, Law, Middleton and London 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 1996 PA 458.

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, and veterinary medical
4 attention in order to maintain an animal in a state of good
5 health.

6 (b) "Animal" means 1 or more vertebrates other than a human
7 being.

8 (c) "Animal PROTECTION shelter" means a facility operated by
9 a person, humane society, society for the prevention of cruelty
10 to animals, or any other nonprofit organization for the care of
11 homeless animals.

1 (d) ~~"Dog pound"~~ "ANIMAL CONTROL SHELTER" means a facility
2 operated by a county, city, village, or township to impound and
3 care for animals found in streets or otherwise at large contrary
4 to any ordinance of the county, city, village, or township or
5 state law.

6 (e) "Licensed veterinarian" means a person licensed to prac-
7 tice veterinary medicine under article 15 of the public health
8 code, ~~Act No. 368 of the Public Acts of 1978, being~~
9 ~~sections 333.16101 to 333.18838 of the Michigan Compiled Laws~~
10 1978 PA 368, MCL 333.16101 TO 333.18838.

11 (f) "Livestock" ~~has the meaning attributed to the~~ MEANS
12 THAT term AS DEFINED in the animal industry act of 1987, ~~Act~~
13 ~~No. 466 of the Public Acts of 1988, being sections 287.701 to~~
14 ~~287.747 of the Michigan Compiled Laws~~ 1988 PA 466, MCL 287.701
15 TO 287.747.

16 (g) "Person" means an individual, partnership, limited
17 liability company, corporation, association, governmental entity,
18 or other legal entity.

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

22 (i) "Sanitary conditions" means space free from health haz-
23 ards including excessive animal waste, overcrowding of animals,
24 or other conditions that endanger the animal's health. This def-
25 inition does not include a condition resulting from a customary
26 and reasonable practice pursuant to farming or animal husbandry.

1 (j) "Shelter" means adequate protection from the elements
2 suitable for the age and species of animal and weather conditions
3 to maintain the animal in a state of good health, including
4 structures or natural features such as trees and topography.

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

9 (l) "Water" means potable water that is suitable for the age
10 and species of animal, made regularly available unless otherwise
11 directed by a veterinarian licensed to practice veterinary
12 medicine.

13 (2) An owner, possessor, or person having the charge or cus-
14 tody of an animal shall not do any of the following:

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

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

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

23 (d) Carry or cause to be carried a live animal in or upon a
24 vehicle or otherwise without providing a secure space, rack, car,
25 crate, or cage, in which livestock may stand, and in which all
26 other animals may stand, turn around, and lie down during
27 transportation, or while awaiting slaughter. As used in this

1 subdivision, for purposes of transportation of sled dogs, "stand"
2 means sufficient vertical distance to allow the animal to stand
3 without its shoulders touching the top of the crate or transpor-
4 tation vehicle.

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

13 (f) Willfully or negligently allow any animal, including one
14 who is aged, diseased, maimed, hopelessly sick, disabled, or non-
15 ambulatory to suffer unnecessary neglect, torture, or pain.

16 (3) If an animal is impounded and is being held by ~~a dog~~
17 ~~pound~~ AN ANIMAL CONTROL SHELTER OR ITS DESIGNEE or AN animal
18 PROTECTION shelter OR ITS DESIGNEE or a licensed veterinarian
19 pending THE outcome of A criminal action charging a violation of
20 this section or section 50b, before final disposition of the
21 criminal charge, the prosecuting attorney may file a ~~petition~~
22 ~~in~~ CIVIL ACTION IN THE COURT THAT HAS JURISDICTION OF the crimi-
23 nal action, requesting that the court issue an order forfeiting
24 the animal to the ~~dog pound~~ ANIMAL CONTROL SHELTER or animal
25 PROTECTION shelter or TO a licensed veterinarian before final
26 disposition of the criminal charge. The ~~petitioner~~ PROSECUTING
27 ATTORNEY shall serve a true copy of the ~~petition~~ SUMMONS OR

1 COMPLAINT upon the defendant and upon a person with a known
2 ownership interest or known security interest in the animal or a
3 person who has filed a lien with the secretary of state in an
4 animal involved in the pending action. The forfeiture of an
5 animal under this section encumbered by a security interest is
6 subject to the interest of the holder of the security interest
7 who did not have prior knowledge of, or consent to the commission
8 of ~~—~~ the crime. Upon ~~receipt of a petition~~ THE FILING OF THE
9 CIVIL ACTION, the court shall set a hearing on the ~~petition~~
10 COMPLAINT. The hearing shall be conducted within 14 days of the
11 filing of the ~~petition~~ CIVIL ACTION, or as soon as
12 practicable. THE HEARING SHALL BE BEFORE A JUDGE WITHOUT A JURY.
13 At the hearing, the ~~petitioner~~ PROSECUTING ATTORNEY has the
14 burden of establishing by a preponderance of the evidence that a
15 violation of this section or section 50b occurred. If the court
16 finds that the ~~petitioner~~ PROSECUTING ATTORNEY has met this
17 burden, the court shall order immediate forfeiture of the animal
18 to the ~~dog pound~~ ANIMAL CONTROL SHELTER or animal PROTECTION
19 shelter or the licensed veterinarian unless the defendant, within
20 72 hours of the hearing, submits to the court clerk cash or other
21 form of security in an amount determined by the court to be suf-
22 ficient to repay all reasonable costs incurred, and anticipated
23 to be incurred, by the ~~dog pound~~ ANIMAL CONTROL SHELTER or
24 animal PROTECTION shelter or the licensed veterinarian in caring
25 for the animal from the date of initial impoundment to the date
26 of trial. If cash or other security has been submitted, and the
27 trial in the action is continued at a later date, any order of

1 continuance shall require the defendant to submit additional cash
2 or security in an amount determined by the court to be sufficient
3 to repay all additional reasonable costs anticipated to be
4 incurred by the ~~dog pound~~ ANIMAL CONTROL SHELTER or animal
5 PROTECTION shelter or the licensed veterinarian in caring for the
6 animal until the new date of trial. If the defendant submits
7 cash or other security to the court under this subsection the
8 court may enter an order authorizing the use of that money or
9 other security before final disposition of the criminal charges
10 to pay the reasonable costs incurred by the ~~dog pound~~ ANIMAL
11 CONTROL SHELTER or animal PROTECTION shelter or the licensed vet-
12 erinarian in caring for the animal from the date of impoundment
13 to the date of final disposition of the criminal charges. The
14 testimony of a person at a hearing held under this subsection is
15 not admissible against him or her in any criminal proceeding
16 except in a criminal prosecution for perjury. The testimony of a
17 person at a hearing held under this subsection does not waive the
18 person's constitutional right against self-incrimination. AN
19 ANIMAL SEIZED UNDER THIS SECTION OR SECTION 50B IS NOT SUBJECT TO
20 ANY OTHER CIVIL ACTION PENDING THE FINAL JUDGMENT OF THE FORFEI-
21 TURE ACTION UNDER THIS SUBSECTION.

22 (4) A person who violates subsection (2) is guilty of a mis-
23 demeanor punishable by imprisonment for not more than 93 days or
24 a fine of not more than \$1,000.00 or community service for not
25 more than 200 hours, or any combination of these penalties and
26 the cost of prosecution. A person who violates subsection (2) on
27 a second occasion is guilty of a felony punishable by

1 imprisonment for not more than 2 years or a fine of not more than
2 \$2,000.00 or community service for not more than 300 hours, or
3 any combination of these penalties and the cost of prosecution.

4 A person who violates subsection (2) on a third or subsequent
5 occasion is guilty of a felony punishable by imprisonment for not
6 more than 4 years or a fine of not more than \$5,000.00 or commu-
7 nity service for not more than 500 hours, or any combination of
8 these penalties and the cost of prosecution.

9 (5) If forfeiture is not ordered pursuant to subsection (3),
10 as a part of the sentence for a violation of subsection (2), the
11 court may order the defendant to pay the costs of the care, hous-
12 ing, and veterinary medical care for the animal, as applicable.
13 If the court does not order a defendant to pay all of the appli-
14 cable costs listed in this subsection, or orders only partial
15 payment of these costs, the court shall state on the record the
16 reason for that action.

17 (6) As a part of the sentence for a violation of
18 subsection (2), the court may, as a condition of probation, order
19 the defendant not to own or possess an animal for a period of
20 time not to exceed the period of probation. If a person is con-
21 victed of a second or subsequent violation of subsection (2), a
22 court order under this subsection may order the defendant not to
23 own or possess an animal for any period of time which may include
24 permanent relinquishment of animal ownership.

25 (7) A person who owns or possesses an animal in violation of
26 an order issued under subsection (6) is subject to revocation of
27 probation if the order is issued as a condition of probation. A

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

6 (8) This section does not prohibit the lawful killing or
7 other use of an animal, including, but not limited to, the
8 following:

9 (a) Fishing.

10 (b) Hunting, trapping, or wildlife control regulated pursu-
11 ant to the natural resources and environmental protection act,
12 ~~Act No. 451 of the Public Acts of 1994, being sections 324.101~~
13 ~~to 324.90106 of the Michigan Compiled Laws~~ 1994 PA 451, MCL
14 324.101 TO 324.90106.

15 (c) Horse racing.

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

17 (e) Pest or rodent control.

18 (f) Farming or a generally accepted animal husbandry or
19 farming practice involving livestock. ~~As used in this subsec-~~
20 ~~tion, "livestock" has the meaning attributed to the term in Act~~
21 ~~No. 466 of the Public Acts of 1988.~~

22 (g) Activities authorized pursuant to rules promulgated
23 under section 9 of the executive organization act of 1965, ~~Act~~
24 ~~No. 380 of the Public Acts of 1965, being section 16.109 of the~~
25 ~~Michigan Compiled Laws~~ 1965 PA 380, MCL 16.109.

1 (h) Scientific research pursuant to ~~Act No. 224 of the~~
2 ~~Public Acts of 1969, being sections 287.381 to 287.395 of the~~
3 ~~Michigan Compiled Laws~~ 1969 PA 224, MCL 287.381 TO 287.395.

4 (i) Scientific research pursuant to sections 2226, 2671,
5 2676, and 7333 of ~~Act No. 368 of the Public Acts of 1978, being~~
6 ~~sections 333.2226, 333.2671, 333.2676, and 333.7333 of the~~
7 ~~Michigan Compiled Laws~~ THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
8 333.2226, 333.2671, 333.2676, AND 333.7333.