

HOUSE BILL No. 5987

(as amended December 1, 2016)

October 19, 2016, Introduced by Rep. Lauwers and referred to the Committee on Agriculture.

[A bill to amend 1988 PA 466, entitled "Animal industry act," by amending the title and section 46 (MCL 287.746), the title as amended by 1996 PA 369 and section 46 as added by 2009 PA 117.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

[TITLE

An act to authorize and require the appointment of a state veterinarian within the department of agriculture **AND RURAL DEVELOPMENT**; to protect the human food chain and the livestock and aquaculture industries of the state through prevention, control, and eradication of infectious, contagious, or toxicological diseases of livestock and other animals; to prevent the importation of certain nonindigenous animals under certain circumstances; to safeguard the human population from certain diseases that are communicable between animals and humans; to prevent or control the contamination of livestock with certain toxic substances through certain livestock or livestock products; to provide for indemnification for livestock under certain circumstances; **TO ESTABLISH A LIVESTOCK CARE STANDARDS BOARD; TO PROVIDE FOR STANDARDS OF LIVESTOCK CARE**; to provide for certain powers and duties for certain state agencies and departments; to provide for the promulgation of rules; to provide for certain hearings; **TO MAKE APPROPRIATIONS**; to provide for remedies and penalties; and to repeal acts and parts of acts.]

1 Sec. 46. (1) As used in this section:

2 (a) "Calf raised for veal" means any calf of the bovine
3 species kept for the purpose of producing the food product
4 described as veal.

5 (b) "Covered animal" means any gestating sow, calf raised for
6 veal, or egg-laying hen that is kept on a farm.

7 (c) "Egg-laying hen" means any female domesticated chicken,
8 turkey, duck, goose, or guinea fowl kept for the purpose of egg
9 production.

10 (d) "Enclosure" means any cage, crate, or other structure used
11 to confine a covered animal. Enclosure includes what is commonly

1 described as a "gestation crate or stall" for gestating sows, a
2 "veal crate" for calves raised for veal, or a "battery cage" for
3 egg-laying hens.

4 (e) "Farm" means the land, building, support facilities, and
5 other equipment that are wholly or partially used for the
6 commercial production of animals or animal products used for food
7 or fiber. Farm does not include ~~A live animal markets.~~ **MARKET.**

8 (f) "Farm owner or operator" means any person who owns or
9 controls the operation of a farm.

10 (g) "Fully extending its limbs" means fully extending all
11 limbs without touching the side of an enclosure. In the case of
12 egg-laying hens, fully extending its limbs means fully spreading
13 both wings without touching the side of an enclosure or other egg-
14 laying hens and having access to at least 1.0 square feet of usable
15 floor space per hen.

16 (h) "Gestating sow" means any confirmed pregnant sow of the
17 porcine species kept for the primary purpose of breeding.

18 (i) "Person" means any individual, firm, partnership, joint
19 venture, association, limited liability company, corporation,
20 estate, trust, receiver, or syndicate.

21 (j) "Turning around freely" means turning in a complete circle
22 without any impediment, including a tether, and without touching
23 the side of an enclosure or another animal.

24 (2) ~~Notwithstanding~~ **SUBJECT TO SUBSECTIONS (3) AND (6),**
25 **NOTWITHSTANDING** any other provision of law, a farm owner or
26 operator shall not tether or confine any covered animal on a farm
27 for all or the majority of any day, in a manner that prevents ~~such~~

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1 **THE** animal from doing any of the following:

2 (a) Lying down, standing up, or fully extending its limbs.

3 (b) Turning around freely.

4 (3) ~~The prohibitions of subsection (2) shall~~ **SUBSECTION (2)**

5 **DOES** not apply to a covered animal during any of the following:

6 (a) Scientific or agricultural research.

7 (b) Examination, testing, individual treatment, or operation
8 for veterinary purposes, by a person licensed to practice
9 veterinary medicine under part 188 of the public health code, 1978
10 PA 368, MCL 333.18801 to 333.18838.

11 (c) Transportation, unless otherwise in violation of section
12 51 of the Michigan penal code, 1931 PA 328, MCL 750.51, relating to
13 confining animals on railroad cars.

14 (d) Rodeo exhibitions, state or county fair exhibitions, 4-H
15 programs, and similar exhibitions.

16 (e) The slaughter of a covered animal ~~in accordance with~~ **AS**
17 **PROVIDED BY** 1962 PA 163, MCL 287.551 to 287.556, and other
18 applicable law and rules.

19 (f) In the case of a gestating sow, the period beginning 7
20 days before the gestating sow's expected date of giving birth.

21 (4) The department or the attorney general may bring a civil
22 action to restrain, by temporary or permanent injunction, any act
23 or practice in violation of this section [**OR RULES PROMULGATED UNDER THIS**
24 **SECTION**]. The action may be brought
25 in the circuit court for the county where the defendant resides or
26 conducts business. The court may issue a temporary or permanent
27 injunction and issue other equitable orders or judgments. A defense
described and made available relating to customary animal husbandry

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1 or farming practices involving livestock, under sections 50(11)(f)
 2 and 50b(8) of the Michigan penal code, 1931 PA 328, MCL 750.50 and
 3 750.50b, or similar provisions, ~~are not considered~~ **IS NOT** a defense
 4 to an action brought for the violation of this section [~~involving a~~
 5 ~~covered animal~~ **OR RULES PROMULGATED UNDER THIS SECTION.**] In addition,
 6 the criminal penalties provided in
 7 section 44 are not applicable to violations of this section [**OR RULES**
 8 **PROMULGATED UNDER THIS SECTION**].

9 (5) ~~The provisions of this section are~~ **THIS SECTION IS** in
 10 addition to, and not in lieu of, any other laws protecting animal
 11 welfare. This section ~~shall not be construed to~~ **DOES NOT** limit any
 12 other state law ~~or rules~~ protecting the welfare of animals.

13 ~~(6) The provisions of this section do not apply to calves~~
 14 ~~raised for veal until October 1, 2012.~~

15 (6) ~~(7) The provisions of this section do~~ **THIS SECTION DOES**
 16 not apply to egg-laying hens **UNTIL OCTOBER 12, 2025** and **DOES NOT**
 17 **APPLY TO** gestating sows until ~~10 years after the enactment date of~~
 18 ~~the amendatory act that added this section.~~ **APRIL 1, 2020.**

[(7) THE LIVESTOCK CARE STANDARDS BOARD IS CREATED WITHIN THE DEPARTMENT. THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(A) ONE MEMBER REPRESENTING PRODUCERS OF LIVESTOCK.
(B) ONE LICENSED VETERINARIAN WHO SPECIALIZES IN CARE OF LIVESTOCK.
(C) ONE MEMBER REPRESENTING A STATEWIDE ORGANIZATION OF FARM OWNERS OR OPERATORS.

(D) ONE MEMBER REPRESENTING AGRICULTURAL BUSINESSES OTHER THAN FARM OWNERS OR OPERATORS.

(E) ONE MEMBER REPRESENTING THE GENERAL PUBLIC.

(8) THE MEMBERS FIRST APPOINTED TO THE BOARD SHALL BE APPOINTED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE 2016 AMENDATORY ACT THAT ADDED THIS SUBSECTION. MEMBERS OF THE BOARD SHALL SERVE FOR TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS APPOINTED, WHICHEVER IS LATER, EXCEPT THAT OF THE MEMBERS FIRST APPOINTED 1 SHALL SERVE FOR 1 YEAR, 1 SHALL SERVE FOR 2 YEARS, AND 1 SHALL SERVE FOR 3 YEARS.

(9) IF A VACANCY OCCURS ON THE BOARD, THE GOVERNOR SHALL MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT. THE GOVERNOR MAY REMOVE A MEMBER OF THE BOARD FOR INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

(10) THE FIRST MEETING OF THE BOARD SHALL BE CALLED BY THE DIRECTOR. AT THE FIRST MEETING, THE BOARD SHALL ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS NECESSARY OR APPROPRIATE. AFTER THE FIRST MEETING, THE BOARD SHALL MEET AT LEAST

QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF THE CHAIRPERSON OR IF REQUESTED BY 2 OR MORE MEMBERS. A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

(11) THE BUSINESS THAT THE BOARD MAY PERFORM SHALL BE CONDUCTED AT A PUBLIC MEETING OF THE BOARD HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275. A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

(12) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION. HOWEVER, MEMBERS OF THE BOARD MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE BOARD.

(13) THE BOARD HAS THE EXCLUSIVE AUTHORITY TO ESTABLISH STANDARDS FOR THE CARE OF LIVESTOCK RAISED UNDER THE HUSBANDRY OF HUMANS IN THIS STATE, INCLUDING THE TYPES AND SIZES OF ENCLOSURES FOR LIVESTOCK. PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE BOARD SHALL PROMULGATE RULES TO ESTABLISH STANDARDS UNDER THIS SUBSECTION. BY OCTOBER 1, 2019, THE BOARD SHALL PROMULGATE RULES THAT MEET THE REQUIREMENTS OF THIS SUBSECTION. SUBSECTIONS (1), (2), (3), (5), AND (6) DO NOT APPLY AFTER THE PROMULGATION OF THE RULES.

(14) THE BOARD SHALL, TO THE GREATEST EXTENT PRACTICABLE, UTILIZE PRINCIPLES OF SOUND SCIENCE IN MAKING DECISIONS REGARDING ALL METHODS FOR RAISING OF LIVESTOCK, INCLUDING THE TYPES AND SIZES OF ENCLOSURES UTILIZED IN THIS STATE. THE BOARD SHALL TAKE TESTIMONY FROM THE PUBLIC, DEPARTMENT PERSONNEL, INDEPENDENT EXPERTS, AND OTHERS, AND REVIEW SCIENTIFIC LITERATURE AND DATA IN SUPPORT OF ITS DUTY TO USE PRINCIPLES OF SOUND SCIENCE IN DETERMINING THE METHODS USED TO RAISE LIVESTOCK UNDER THE HUSBANDRY OF HUMANS IN THIS STATE.

(15) FOR THE 2016-2017 STATE FISCAL YEAR, \$1,250,000.00 IS APPROPRIATED TO MICHIGAN STATE UNIVERSITY TO ACQUIRE RESEARCH AND DATA NEEDED TO DETERMINE THE OPTIMUM SPACE REQUIRED TO PROMOTE THE PRODUCTION, HEALTH, AND CARE OF LIVESTOCK UNDER THE HUSBANDRY OF HUMANS RAISED IN ENCLOSURES. FUNDS THAT ARE NOT EXPENDED IN THE 2016-2017 STATE FISCAL YEAR SHALL NOT LAPSE TO THE GENERAL FUND BUT SHALL BE CARRIED FORWARD IN A WORK PROJECT ACCOUNT THAT IS IN COMPLIANCE WITH SECTION 451A OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, MCL 18.1451A. THE ESTIMATED COMPLETION COST OF THE WORK PROJECT IS \$1,250,000.00, AND THE ESTIMATED COMPLETION DATE IS SEPTEMBER 30, 2018.]

17 Enacting section 1. This amendatory act takes effect 90 days

18 after the date it is enacted into law.