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Senate Bill 148 and 149 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Dayna Polehanki (S.B. 148)

Senator Kevin Hertel (S.B. 149)

Committee: Natural Resources and Agriculture

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INTRODUCTION

Taken together, the bills would require a research facility to first offer a dog or cat that would otherwise be euthanized to an animal shelter for adoption and prescribe administrative fines for failing to do so. They would provide research facilities and shelters with civil liability immunity in the transfer of the animals. The bills would require research facilities to report to the Michigan Department of Agriculture and Rural Development (MDARD) specified information about laboratory animals. Additionally, the bills would create the Laboratory Animal Fund and require MDARD to spend money from the Fund to administer the bills' requirements.

The bills are tie-barred.

BRIEF FISCAL IMPACT

The bills would have a moderate fiscal impact on MDARD and a minor fiscal impact on the Department of Attorney General.

BRIEF RATIONALE

In October 2022, approximately 4,000 beagles were rescued from a research facility in Virginia and re-homed by animal rescue organizations across the country. Apparently, this situation is not uncommon and many cats and dogs could be ultimately adopted when removed from a laboratory setting. Some people believe that Michigan should join 13 other states in offering adoption programs for cats and dogs that could be adopted but would otherwise be euthanized by laboratories.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bills 148 and 149 are reintroductions of House Bills 4881 and 4882, respectively, of the 2021-2022 Legislative Session.

MCL 287.392 et al. (S.B. 148)
287.381 et al. (S.B. 149)

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CONTENT

Senate Bill 149 (S-1) would amend Public Act (PA) 224 of 1969, which regulates research facilities that use cats or dogs, to do the following:

- Require MDARD to maintain and make available on its website a list of all research facilities operating in Michigan.**
- Require a research facility to offer for adoption a cat or dog that was no longer needed for research and would be euthanized to an animal protection shelter.**
- Exempt research facilities and shelters from civil liability in the transfer of a laboratory animal.**
- Modify certain definitions.**

Senate Bill 148 (S-1) would amend PA 224 of 1969 to do the following:

- Require a research facility that used cats or dogs to submit a report to MDARD, by March 31 of each year, that included information about laboratory cats and dogs and the release of those animals to animal protection shelters.**
- Prescribe administrative fines for a research facility that did not offer the appropriate release of a cat or dog no longer needed for research.**
- Create the Laboratory Animal Fund and prescribe how money would be spent from or deposited into the Fund.**

Senate Bill 149 (S-1)

Records

The Act requires research facilities and dealers to keep records regarding the purchase, sale transportation, and handling of dogs and cats as MDARD's Director prescribes. Under the bill, research facilities and dealers would have to *maintain* such records and research facilities would have to maintain any report submitted under Section 11a as proposed by Senate Bill 148 (S-1). Additionally, MDARD would have to maintain and make available on its website a list of all research facilities operating in the State.

Laboratory Animal Adoption

The bill would add Section 8a and designate it as "Teddy's Law". Under Section 8a, before euthanizing a laboratory cat or dog that was no longer needed for research, a research facility would have to offer the animal to an animal protection shelter located in the State for adoption. Additionally, the research facility could offer the laboratory animal to its employees before offering the animal to an animal protection shelter. A research facility could enter into a written agreement with an animal protection shelter for potential adoption purposes.

The animal would not have to be offered for adoption if an attending veterinarian determined that euthanizing the cat or dog were required for health or safety reasons. ("Attending veterinarian" would mean that term as defined in Federal law: a person who has graduated from a veterinary school accredited by the American Veterinary Medical Association's Council on Education, or has a certificate issued by the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates, or has received equivalent formal education as determined by the Administrator; has received training or experience in the care and management of the species being attended; and who has direct or delegated authority for activities involving animals at a facility subject to the jurisdiction of the Secretary.)

The bill specifies that a research facility that provided, and a shelter that received, a cat or dog as provided by the bill would be immune from civil liability for or resulting from the

transfer of the laboratory animal, if the facility or shelter acted in good faith concerning the health and physical condition of the laboratory animal.

Definitions

"Animal protection shelter" would mean a facility that is registered under Section 6 of Public Act 287 of 1969 and is operated by any of the following:

- A person.
- A humane society.
- A society for the prevention of cruelty of animals.
- Any other nonprofit organization for the care of homeless animals.

Under the Act, "cat" means any live domestic cat (*felis catus*) for the use or intended to be used for research, tests, or experiments at research facilities. Instead, "cat" would mean a domestic cat of any age of the species *Felis catus*.

Under the Act, "dog" means any live dog of the species *canis familiaris* for use or intended to be used for research tests or experiments at research facilities. Instead, "dog" would mean a domestic dog of any age of the species *Canis lupis familiaris*.

"Laboratory animal" would mean a dog or cat that is used or intended to be used for laboratory research at a laboratory facility. "Laboratory research" would mean research, tests, or experiments, conducted for education, scientific, medical, or experimental purposes.

"Municipality" would mean a county, city, village, or township.

"Person" would mean an individual, estate, business, or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

Under the Act, "research facility" means any school, hospital, laboratory, institution, organization, or person that uses or intends to use dogs or cats in research, tests or experiments, and that purchases or transports such animals or receives any funds from the State or a local government, or any agency or instrumentality thereof to finance its operations by means of grants, loans, or otherwise.

Instead, "research facility" would mean a school, hospital, laboratory, institution, organization, or person that *is licensed or other otherwise registered with the United States Department of Agriculture* that uses or intends to use a *laboratory animal* in laboratory research, that does at least one of the following:

- Purchases or transports laboratory animals.
- Receives funds from the State, a local government, or an agency or instrumentality of the State or a local government to finance its operations through grants, loans, or other funds.

Senate Bill 148 (S-1)

Research Facility Animal Report

The bill would add Section 11a to PA 224 of 1969 to require a research facility that used cats and dogs to submit a report to MDARD, by March 31 of each year, that included the following information regarding the previous calendar year:

- The total number of dogs and cats owned by the research facility.
- The total number of dogs and cats that were used for laboratory research conducted at the research facility.

-- The total number of dogs and cats released by the research facility.

Under the bill, MDARD would have to use the information in the report for the purpose of determining compliance with the provisions of Section 8a as proposed by Senate Bill 149 (S-1) and could not make any information provided in the report available on its website.

Violation of Laboratory Animal Adoption Opportunity

The bill would specify that if a research facility violated Section 8a or 11a after notice and opportunity for a hearing under the Administrative Procedures Act, MDARD could impose an administrative fine as described in the table below.

Type of Violation	Maximum Fine
A violation involving one dog or cat.	\$1,000
A violation involving two or three dogs or cats.	\$2,000
A violation involving four or more, but fewer than 10 dogs or cats.	\$3,000
A violation involving 10 or more, but fewer than 25 dogs or cats.	\$5,000
A violation involving 25 or more dogs or cats.	\$10,000
A violation with one prior violation.	\$3,000
A violation with two prior violations.	\$5,000
A violation with three prior violations.	\$10,000

The Department would have to advise the Attorney General of the failure of a person to pay an administrative fine listed above. Additionally, the Attorney General would have to bring an action to enforce compliance with Section 8a and 11a and to recover the administrative fine, actual costs and fees, and attorney fees. The court would have to triple the administrative fine as part of any monetary judgement.

One year after the bill's effective date, MDARD could issue a warning for a violation instead of imposing a fine.

Laboratory Animal Fund

The bill would create the Laboratory Animal Fund within the Department of Treasury. Under the bill, the fines collected above would be deposited into the Fund by the State Treasurer.

The State Treasurer also could receive money or other assets from any other source for deposit into the Fund. The State Treasurer would have to credit to the Fund interest and earnings from its investments.

Money in the Fund at the close of the fiscal year would not lapse into the General Fund. The Department would be the administrator of the Laboratory Animal Fund for auditing purposes and would have to spend money from it to administer the potential release of cats or dogs no longer needed by research facilities.

FISCAL IMPACT

The bills would require MDARD to perform certain administrative duties, including the establishment of a database of all research facilities using dogs or cats operating as laboratory animals research facilities in Michigan (and publish this on its website). They would allow MDARD to impose administrative fines on facilities in violation of the bill's provisions and annually gather data related to the operations of research facilities that use laboratory animals. The Department estimates that compliance with the bills' requirements would require an additional 1.0 FTE and \$200,000 in appropriations. The percentage of the estimated appropriation that would have to come from General Fund/general purpose dollars would

depend upon the amount of restricted revenue received from potential fines. To this end, the enrolled FY 2023-24 budget bill for MDARD (House Bill 4289) contains General Fund/General purpose appropriations of \$500,000 one-time and \$200,000 ongoing to support the requirements of these bills.

Senate Bill 149 (S-1) would create the Laboratory Animal Fund in the State Treasury, into which the administrative fines (and other sources) proposed under Senate Bill 148 (S-1) would be deposited for use by MDARD in the administration of the bills' provisions. It cannot be estimated at this time the amount of funds that would be deposited in the Fund annually. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse to the General Fund.

Senate Bill 149 (S-1) also would add additional costs to the Attorney General by requiring the Attorney General to bring civil action against individuals who failed to pay administrative fines under the bill. The costs would include additional prosecutor and support staff. The costs are likely to be minimal and supported within current appropriations as the number of individuals likely to be prosecuted would be minimal and there is no timeline on whether the Attorney General is required to bring civil action against individuals.

The bills would add costs to the Department of Treasury to create and administer the Laboratory Animal Fund. The costs are likely to be less than \$100 charged to the Department and supported within current appropriations.