

HOUSE BILL NO. 5876

June 27, 2024, Introduced by Rep. Martus and referred to the Committee on Criminal Justice.

A bill to provide for the forfeiture of seized animals and certain items under certain circumstances; to provide for the disposition of seized animals; to provide for the powers and duties of certain departments and agencies in relation to the forfeitures of animals; to provide immunity to certain persons in certain circumstances; and to provide for a referendum.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1. This act may be cited as the "animal forfeiture act".
- 2 Sec. 2. As used in this act:
- 3 (a) "Animal" and "animal control agency" mean those terms as

1 defined in section 49 of the Michigan penal code, 1931 PA 328, MCL
2 750.49.

3 (b) "Department" means the department of state police.

4 (c) "Disposal" or "disposition" means the transfer, adoption,
5 or euthanasia of a seized animal.

6 (d) "Listed animal offense" means any of the following
7 offenses:

8 (i) Section 3 of 1988 PA 426, MCL 287.323.

9 (ii) Section 29 of 1982 PA 239, MCL 287.679.

10 (iii) Section 15 of the wolf-dog cross act, 2000 PA 246, MCL
11 287.1015.

12 (iv) Section 49, 50, 50a, 50b, 50c, 57, 60, 61, 437, or 467 of
13 the Michigan penal code, 1931 PA 328, MCL 750.49, 750.50, 750.50a,
14 750.50b, 750.50c, 750.57, 750.60, 750.61, 750.437, and 750.467.

15 (v) For an animal victim, section 158 of the Michigan penal
16 code, 1931 PA 328, MCL 750.158.

17 (vi) For racketeering involving animal fighting, section 159i
18 of the Michigan penal code, 1931 PA 328, MCL 750.159i.

19 (vii) Section 15 of the animal abuser registry act.

20 (viii) Except as provided in section 11, any other violation of
21 a law of this state or a local ordinance of a municipality, that by
22 the nature of the offense involves unlawful harm to an animal.

23 Sec. 3. (1) Except as otherwise provided in this act, an
24 animal that was seized by an animal control agency pending the
25 outcome of a criminal action that charges a violation of a listed
26 animal offense must not be returned to the owner or possessor of
27 the animal if the owner or possessor is alleged to have violated a
28 listed animal offense.

29 (2) An animal control agency that takes custody of an animal

1 subject to a listed animal offense investigation shall give notice
2 not later than 72 hours after seizure of the animal by registered
3 mail to the last known address of the animal's owner if the owner
4 of the animal is known. If the owner of the animal is unknown, an
5 animal control agency that takes custody of the animal shall give
6 notice not later than 72 hours after seizure of the animal by 1 of
7 the following methods:

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

9 (b) Delivery to an individual residing at the location of the
10 seizure.

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

12 (3) The notice required under subsection (2) must include all
13 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, to prevent forfeiture of the animal, the
22 owner or possessor of the animal must post a security deposit or
23 bond in the actual amount of costs of care incurred to date by the
24 animal control agency and an estimate by the animal control agency
25 of the daily cost of care necessary to continue to support the
26 animal for the duration of the criminal, forfeiture, or other court
27 proceeding until the court makes a final determination regarding
28 the animal's disposition, that failure to post a security deposit
29 or bond not later than 21 days after the date on the notice will

1 result in forfeiture of the animal, and that the owner or possessor
2 of the animal may, before the expiration of the 21-day period,
3 request a hearing on whether the requirement to post a security
4 deposit or bond is reasonable or whether the costs of care incurred
5 or the estimated future costs of care to be incurred by the animal
6 control agency associated with the security deposit or bond are
7 accurate for the care of and provision for the seized animal.
8 Notice of a request for a hearing under this subdivision must be
9 served on the animal control agency and the prosecuting attorney
10 holding the animal before the expiration of the 21-day period. At
11 the hearing, the court shall determine whether the requirement to
12 post a security deposit or bond is reasonable. An owner or
13 possessor's failure to appear at a scheduled hearing requested
14 under this subdivision will result in automatic forfeiture of the
15 animal if the date of the scheduled hearing is set after the 21-day
16 period.

17 (e) A statement that, if the security deposit or bond is
18 posted as required and the court finds that the prosecuting
19 attorney has proven by a preponderance of the evidence that a
20 violation of a listed animal offense occurred in the forfeiture
21 hearing under section 8, the animal will be forfeited to the animal
22 control agency that seized the animal.

23 (f) A statement that, unless the court determines that the
24 seizure of the animal was not substantially justified by law, the
25 owner or possessor of the animal is responsible for the costs to
26 investigate the listed animal offense, to dispose of the animal,
27 and to house and care for the animal, including, but not limited
28 to, any necessary veterinary medical treatment.

29 Sec. 4. An animal control agency that has custody of a seized

1 animal under section 3 shall hold the animal for a period of 21
2 consecutive days, including weekends and holidays, beginning on the
3 date notice was given under section 3. After the expiration of the
4 21 days, if the owner or a possessor of the animal has not posted a
5 security deposit or bond as provided in section 5, the animal is
6 forfeited, and the animal control agency may dispose of the animal.

7 Sec. 5. (1) Except as otherwise provided in this act, an owner
8 or possessor of an animal seized under section 3 may prevent
9 forfeiture and disposition of the animal by an animal control
10 agency for the duration of the criminal, forfeiture, or other court
11 proceeding until the court makes a final determination regarding
12 the animal's disposition by posting a security deposit or bond with
13 the court not later than 21 days after the date on the notice
14 described in section 3. The bond must be in a sufficient amount to
15 secure payment of all costs described in section 3 during a 30-day
16 period of boarding and veterinary treatment of the animal after
17 examination by a licensed veterinarian. The animal control agency
18 shall determine the amount of the bond no later than 72 hours after
19 the seizure of the animal and shall make the amount of the bond
20 available to the owner or possessor of the animal upon request. The
21 owner or possessor of the animal shall provide proof of the
22 security deposit or bond to the animal control agency no later than
23 21 days after the date on the notice described in section 3.

24 (2) If a security deposit or bond has been posted under
25 subsection (1), the owner or possessor shall continue to post
26 additional security deposits or bonds in an amount determined
27 sufficient to cover the costs to house and care for the animal,
28 including, but not limited to, any necessary veterinary medical
29 treatment as anticipated to be incurred by the animal control

1 agency caring for the animal. The additional security deposit or
2 bond must be calculated in 30-day increments and continue until the
3 court enters a final order granting or denying the forfeiture. If
4 the owner or possessor of the animal fails to post a new security
5 deposit or bond with the court before the previous security deposit
6 or bond expires, the animal is forfeited to the animal control
7 agency caring for the animal.

8 (3) An animal control agency that is holding or requiring to
9 be held a seized animal as provided in this section may draw on a
10 security deposit or bond posted under subsection (1) or (2) to
11 cover the actual reasonable costs incurred in the seizure, care,
12 keeping, and disposition of the animal from the date of the seizure
13 to the date of the official disposition of the animal.

14 Sec. 6. (1) If the owner or possessor of the animal that
15 posted a security deposit or bond under section 5 is found not
16 guilty in the criminal action, the amount of the security deposit
17 or bond posted to prevent disposition of the animal may be returned
18 to the owner or possessor at the court's discretion, and, unless
19 the animal has already been forfeited or disposed of under this
20 act, the animal must be returned to the owner.

21 (2) If a security deposit or bond is posted by an owner or
22 possessor of an animal under section 5 and the court determines
23 that the animal is a dangerous animal under section 7, the posting
24 of the security deposit or bond must not prevent disposition of the
25 animal.

26 Sec. 7. (1) An animal control agency that receives an animal
27 under this act may apply to the district court or municipal court
28 for a hearing to determine whether the animal must be humanely
29 euthanized because of the public safety threat it poses. The court

1 shall hold a hearing not later than 30 days after the filing of the
2 application and shall give notice of the hearing to the owner of
3 the animal. Upon a finding by the court that the animal poses a
4 threat to public safety, the animal control agency shall humanely
5 euthanize the animal or have the animal humanely euthanized.

6 Expenses incurred in connection with the housing, care, upkeep, or
7 euthanasia of the animal by an animal control agency or by a person
8 may, in the court's discretion, be assessed against the owner of
9 the animal.

10 (2) Subject to section 3 and this section, an animal that is
11 used or to be used in animal fighting must be forfeited to this
12 state under this act.

13 (3) Upon receiving an animal seized under this act, or at any
14 time thereafter, an animal control agency may humanely euthanize
15 the animal or have the animal humanely euthanized if, in the
16 opinion of a licensed veterinarian, the animal is injured or
17 diseased past recovery or the animal's continued existence is
18 inhumane so that euthanasia is necessary to relieve pain and
19 suffering. This section applies to an animal whether or not a
20 security deposit or bond has been posted under section 5.

21 Sec. 8. If an animal is seized and is being held by an animal
22 control shelter or its designee or an animal protection shelter or
23 its designee or a licensed veterinarian upon the filing of a
24 criminal complaint of a listed animal offense by the prosecuting
25 attorney, unless the animal is voluntarily forfeited, the
26 prosecuting attorney must file a civil action in the court that has
27 jurisdiction of the criminal action requesting that the court issue
28 an order to forfeit the animal to the animal control shelter or
29 animal protection shelter or to a licensed veterinarian. The

1 prosecuting attorney must serve a true copy of the summons and
2 complaint upon the defendant, a person with a known ownership
3 interest or known security interest in the animal or that has filed
4 a lien with the secretary of state on the animal, and the animal
5 control shelter or its designee, an animal protection shelter or
6 its designee, or a licensed veterinarian holding 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 the holder of the security interest did not have prior
10 knowledge of or did not consent to the commission of the crime.
11 Upon the filing of the civil action, the court must set a hearing
12 on the complaint. The hearing must be held separately from the
13 preliminary exam held in the criminal action, but evidence admitted
14 and the court's conclusions of law from the preliminary examination
15 or a bond hearing under section 3(3)(d) may be used in the
16 forfeiture proceeding. Where a preliminary examination is waived by
17 the defendant to the listed animal offense, the forfeiture hearing
18 must be conducted not later than 21 days after the filing of the
19 civil action, or prior to binding the listed animal offense over to
20 circuit court, or as soon as practicable, whichever is soonest. The
21 forfeiture hearing must be before a judge without a jury. At the
22 hearing, the prosecuting attorney has the burden of establishing by
23 a preponderance of the evidence that a violation of a listed animal
24 offense occurred. If the court finds that the prosecuting attorney
25 has met this burden, the court shall order immediate forfeiture of
26 the animal to the animal control shelter or animal protection
27 shelter or the licensed veterinarian. The animal owner has 21 days
28 to appeal the forfeiture finding. If an appeal is filed, the owner
29 shall post an additional bond for the animal pending appeal. The

1 testimony of the defendant at a hearing held under this section is
2 not admissible against the defendant in any criminal proceeding
3 except in a criminal prosecution for perjury. The testimony of the
4 defendant at a hearing held under this section does not waive the
5 defendant's constitutional right against self-incrimination. An
6 animal seized pending a listed animal offense investigation is not
7 subject to any other civil action pending the final judgment of the
8 forfeiture action under this section.

9 Sec. 9. (1) All instrumentalities, proceeds, and substituted
10 proceeds of a violation of animal fighting are subject to
11 forfeiture under chapter 47 of the revised judicature act of 1961,
12 1961 PA 236, MCL 600.4701 to 600.4710.

13 (2) The seizing agency may deposit money seized under
14 subsection (1) into an interest-bearing account in a financial
15 institution. As used in this subsection, "financial institution"
16 means a state or nationally chartered bank or a state or federally
17 chartered savings and loan association, savings bank, or credit
18 union whose deposits are insured by an agency of the United States
19 government and that maintains a principal office or branch office
20 located in this state under the laws of this state or the United
21 States.

22 (3) An attorney for an individual who is charged with a listed
23 animal offense involving or related to money seized under
24 subsection (1) must be afforded 60 days to examine the money. The
25 60-day period begins to run after notice of forfeiture is given but
26 before the money is deposited into a financial institution under
27 subsection (2). If the attorney general, prosecuting attorney, or
28 city or township attorney fails to sustain the burden of proof in
29 forfeiture proceedings under section 8, the court shall order the

1 return of the money deposited under subsection (2).

2 Sec. 10. (1) Unless all of the animals seized under this act
3 have already been forfeited or disposed of under this act, all
4 animals owned, possessed, used, bought, sold, imported, exported,
5 or handled by an individual convicted of a listed animal offense
6 are forfeited to the state and must be turned over to the animal
7 control agency that has jurisdiction over the location where the
8 animal was seized as the designated representative of the director
9 of the department for disposal.

10 (2) The department and the animal control agency are immune
11 from civil liability for the lawful disposal of an animal under
12 this section.

13 Sec. 11. (1) Forfeiture of animals under this act does not
14 apply to the lawful killing or use of an animal under any of the
15 following:

16 (a) Fishing.

17 (b) Hunting, trapping, or wildlife control regulated under the
18 natural resources and environmental protection act, 1994 PA 451,
19 MCL 324.101 to 324.90106, and orders issued under that act.

20 (c) Pest or rodent control regulated under part 83 of the
21 natural resources and environmental protection act, 1994 PA 451,
22 MCL 324.8301 to 324.8336.

23 (d) Section 19 of the dog law of 1919, 1919 PA 339, MCL
24 287.279.

25 (e) A veterinarian or a veterinary technician lawfully
26 engaging in the practice of veterinary medicine under part 188 of
27 the public health code, 1978 PA 368, MCL 333.18801 to 333.18838.

28 (f) The animal industry act, 1988 PA 466, MCL 287.701 to
29 287.746.

(2) Except for a farmer convicted of a listed animal offense, this act does not apply to a farmer who follows generally accepted agricultural and management practices as that term is defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

Enacting section 1. This act does not take effect unless approved by a majority of the registered and qualified electors of this state voting on the question at the general election to be held November 5, 2024. This act must be submitted to the registered and qualified electors of this state at the election as provided by the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. When submitted to the electors of this state, this act must be presented with the following question:

"APPROVAL OR DISAPPROVAL OF ACT TO PROVIDE A CLEAR AND STREAMLINED PROCESS TO FORFEIT ABUSED ANIMALS THAT ENSURES AN ACCUSED INDIVIDUAL THE RIGHT TO DUE PROCESS.

The act adopted by the Legislature would:

1. Create a procedure for animal forfeiture that streamlines and expedites the forfeiture process in order to keep animals in cages for the least amount of time possible during the pendency of any other adjudication.

2. Provide clear and uniform guidelines in regard to notice and right to a hearing and appeal for individuals whose animals are seized during an animal torture, abuse, neglect, fighting, or similar investigation.

Should this law be approved?

Yes []

No []".

Enacting section 2. If approved by the electors, this act

1 takes effect 10 days after the official declaration of the vote.