

**SUBSTITUTE FOR
SENATE BILL NO. 276**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 50 and 50b (MCL 750.50 and 750.50b), section
50 as amended by 2007 PA 152 and section 50b as amended by 2008 PA
339.

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 ~~any~~ **A** vertebrate other than a human being.

7 (c) "Animal protection shelter" means a facility operated by a

1 person, humane society, society for the prevention of cruelty to
2 animals, or any other nonprofit organization, for the care of
3 homeless animals.

4 (d) "Animal control shelter" means a facility operated by a
5 county, city, village, or township to impound and care for animals
6 found in streets or otherwise at large contrary to ~~any~~**AN** ordinance
7 of the county, city, village, or township or state law.

8 **(E) "BREEDER" MEANS A PERSON WHO BREEDS ANIMALS OTHER THAN**
9 **LIVESTOCK FOR REMUNERATION.**

10 (F) ~~(e)~~"Licensed veterinarian" means a person licensed **OR**
11 **OTHERWISE AUTHORIZED** to practice veterinary medicine under article
12 15 of the public health code, 1978 PA 368, MCL 333.16101 to
13 333.18838.

14 (G) ~~(f)~~"Livestock" means that term as defined in **SECTION 5 OF**
15 the animal industry act, ~~of 1987,~~1988 PA 466, MCL 287.701 ~~to~~
16 ~~287.747-~~**287.705.**

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

20 **(I) "PET SHOP" MEANS THAT TERM AS DEFINED IN SECTION 1 OF 1969**
21 **PA 287, MCL 287.331.**

22 (J) ~~(h)~~"Neglect" means to fail to sufficiently and properly
23 care for an animal to the extent that the animal's health is
24 jeopardized.

25 (K) ~~(i)~~"Sanitary conditions" means space free from health
26 hazards including excessive animal waste, overcrowding of animals,
27 or other conditions that endanger the animal's health. This

1 definition does not include any condition resulting from a
2 customary and reasonable practice pursuant to farming or animal
3 husbandry.

4 (I) ~~(j)~~ "Shelter" means adequate protection from the elements
5 and 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 doghouse that is an enclosed structure with a roof and
12 of appropriate dimensions for the breed and size of the dog. The
13 doghouse ~~shall~~ **MUST** have dry bedding when the outdoor temperature
14 is or is predicted to drop below freezing.

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

20 (M) ~~(k)~~ "State of good health" means freedom from disease and
21 illness, and in a condition of proper body weight and temperature
22 for the age and species of the animal, unless the animal is
23 undergoing appropriate treatment.

24 (N) ~~(l)~~ "Tethering" means the restraint and confinement of a
25 dog by use of a chain, rope, or similar device.

26 (O) ~~(m)~~ "Water" means potable water that is suitable for the
27 age and species of animal **AND** that is made regularly available

1 unless otherwise directed by a licensed veterinarian.

2 (2) An owner, possessor, **BREEDER, OPERATOR OF A PET SHOP**, or
3 person having the charge or custody of an animal shall not do any
4 of the following:

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

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

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

13 (d) Carry or cause to be carried a live animal in or upon a
14 vehicle or otherwise without providing a secure space, rack, car,
15 crate, or cage ~~—~~in which livestock may stand ~~—~~and in which all
16 other animals may stand, turn around, and lie down during
17 transportation, or while awaiting slaughter. As used in this
18 subdivision, for purposes of transportation of sled dogs, "stand"
19 means sufficient vertical distance to allow the animal to stand
20 without its shoulders touching the top of the crate or
21 transportation vehicle.

22 (e) Abandon an animal or cause an animal to be abandoned, in
23 any place, without making provisions for the animal's adequate
24 care, unless premises are vacated for the protection of human life
25 or the prevention of injury to a human. An animal that is lost by
26 an owner or custodian while traveling, walking, hiking, or hunting
27 is not abandoned under this section when the owner or custodian has

1 made a reasonable effort to locate the animal.

2 (f) Negligently allow any animal, including one who is aged,
3 diseased, maimed, hopelessly sick, disabled, or nonambulatory to
4 suffer unnecessary neglect, torture, or pain.

5 (g) Tether a dog unless the tether is at least 3 times the
6 length of the dog as measured from the tip of its nose to the base
7 of its tail and is attached to a harness or nonchoke collar
8 designed for tethering. **THIS SUBDIVISION DOES NOT APPLY TO FIELD**
9 **HUNTING, FIELD DOG TRIALS, OR DOG SHOWS, OR TO THE OPERATOR OF A**
10 **PET SHOP IF THE TETHERING OF THE DOG OCCURS WHILE THE DOG IS BEING**
11 **GROOMED ON THE PREMISES OF THE PET SHOP.**

12 (3) If an animal is impounded and is being held by an animal
13 control shelter or its designee or an animal protection shelter or
14 its designee or a licensed veterinarian pending the outcome of a
15 criminal action charging a violation of this section or section
16 50b, before final disposition of the criminal charge, the
17 prosecuting attorney may file a civil action in the court that has
18 jurisdiction of the criminal action, requesting that the court
19 issue an order forfeiting the animal to the animal control shelter
20 or animal protection shelter or to a licensed veterinarian before
21 final disposition of the criminal charge. The prosecuting attorney
22 shall serve a true copy of the summons and complaint upon the
23 defendant and upon a person with a known ownership interest or
24 known security interest in the animal or a person who has filed a
25 lien with the secretary of state ~~in an~~ **ON THE** animal. ~~involved in~~
26 ~~the pending action.~~ The forfeiture of an animal under this section
27 encumbered by a security interest is subject to the interest of the

1 holder of the security interest ~~who~~ **IF HE OR SHE** did not have prior
2 knowledge of ~~or~~ **DID NOT** consent to the commission of the crime.
3 Upon the filing of the civil action, the court shall set a hearing
4 on the complaint. The hearing ~~shall~~ **MUST** be conducted within 14
5 days of the filing of the civil action, or as soon as practicable.
6 The hearing ~~shall~~ **MUST** be before a judge without a jury. At the
7 hearing, the prosecuting attorney has the burden of establishing by
8 a preponderance of the evidence that a violation of this section or
9 section 50b occurred. If the court finds that the prosecuting
10 attorney has met this burden, the court shall order immediate
11 forfeiture of the animal to the animal control shelter or animal
12 protection shelter or the licensed veterinarian unless the
13 defendant, within 72 hours of the hearing, submits to the court
14 clerk cash or other form of security in an amount determined by the
15 court to be sufficient to repay all reasonable costs incurred, and
16 anticipated to be incurred, by the animal control shelter or animal
17 protection shelter or the licensed veterinarian in caring for the
18 animal from the date of initial impoundment to the date of trial.
19 If cash or other security has been submitted, and the trial in the
20 action is continued at a later date, any order of continuance ~~shall~~
21 **MUST** require the defendant to submit additional cash or security in
22 an amount determined by the court to be sufficient to repay all
23 additional reasonable costs anticipated to be incurred by the
24 animal control shelter or animal protection shelter or the licensed
25 veterinarian in caring for the animal until the new date of trial.
26 If the defendant submits cash or other security to the court under
27 this subsection the court may enter an order authorizing the use of

1 that ~~money~~**CASH** or other security before final disposition of the
2 criminal charges to pay the reasonable costs incurred by the animal
3 control shelter or animal protection shelter or the licensed
4 veterinarian in caring for the animal from the date of impoundment
5 to the date of final disposition of the criminal charges. The
6 testimony of a person at a hearing held under this subsection is
7 not admissible against him or her in any criminal proceeding except
8 in a criminal prosecution for perjury. The testimony of a person at
9 a hearing held under this subsection does not waive the person's
10 constitutional right against self-incrimination. An animal seized
11 under this section or section 50b is not subject to any other civil
12 action pending the final judgment of the forfeiture action under
13 this subsection.

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

16 (a) Except as otherwise provided in subdivisions (c) ~~and (d)~~,
17 **TO (F)**, if the violation involved 1 animal, the person is guilty of
18 a misdemeanor punishable by 1 or more of the following and may be
19 ordered to pay the costs of prosecution:

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

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

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

23 (b) Except as otherwise provided in subdivisions (c) ~~and (d)~~,
24 **TO (F)**, if the violation involved 2 or 3 animals or the death of
25 any animal, the person is guilty of a misdemeanor punishable by 1
26 or more of the following and may be ordered to pay the costs of
27 prosecution:

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

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

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

4 (c) If the violation involved 4 or more animals but fewer than
5 10 animals or the person had 1 prior conviction under subsection
6 (2), the person is guilty of a felony punishable by 1 or more of
7 the following and may be ordered to pay the costs of prosecution:

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

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

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

11 (d) If the violation involved 10 or more animals **BUT FEWER**
12 **THAN 25 ANIMALS** or the person had 2 ~~or more~~ prior convictions for
13 violating subsection (2), the person is guilty of a felony
14 punishable by 1 or more of the following and may be ordered to pay
15 the costs of prosecution:

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

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

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

19 **(E) IF THE VIOLATION INVOLVED 25 OR MORE ANIMALS OR THE PERSON**
20 **HAS HAD 3 OR MORE PRIOR CONVICTIONS FOR VIOLATING SUBSECTION (2),**
21 **THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY 1 OR MORE OF THE**
22 **FOLLOWING AND MAY BE ORDERED TO PAY THE COSTS OF PROSECUTION:**

23 **(i) IMPRISONMENT FOR NOT MORE THAN 7 YEARS.**

24 **(ii) A FINE OF NOT MORE THAN \$10,000.00.**

25 **(iii) COMMUNITY SERVICE FOR NOT MORE THAN 500 HOURS.**

26 **(F) IF THE PERSON IS A BREEDER, OR IF THE PERSON IS AN**
27 **OPERATOR OF A PET SHOP AND HE OR SHE HAS HAD 5 OR MORE PRIOR**

1 CONVICTIONS FOR VIOLATING 1969 PA 287, MCL 287.331 TO 287.340, THE
2 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
3 MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

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

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

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

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

26 (9) As a part of the sentence for a violation of subsection
27 (2), the court may, as a condition of probation, order the

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

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

14 (11) **AS PART OF THE SENTENCE IMPOSED UNDER SUBSECTION (4) (E),**
15 **THE COURT MAY PLACE THE DEFENDANT ON PROBATION FOR ANY TERM OF**
16 **YEARS, BUT NOT LESS THAN 5 YEARS.**

17 (12) ~~(11)~~ This section does not prohibit the lawful killing or
18 other use of an animal, including the following:

19 (a) Fishing.

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

23 (c) Horse racing.

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

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

1 (f) Farming or a generally accepted animal husbandry or
2 farming practice involving livestock.

3 ~~—— (g) Activities authorized under rules promulgated under~~
4 ~~section 9 of the executive organization act of 1965, 1965 PA 380,~~
5 ~~MCL 16.109.~~

6 (G) ~~(h)~~ Scientific research under 1969 PA 224, MCL 287.381 to
7 287.395.

8 (H) ~~(i)~~ Scientific research **OR THE LAWFUL KILLING OF AN ANIMAL**
9 under sections 2226, 2671, 2676, and 7333 of the public health
10 code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

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

15 Sec. 50b. (1) As used in this section: ~~,"animal"~~

16 (A) "ANIMAL" means ~~any~~ A vertebrate other than a human being.

17 (B) "COMPANION ANIMAL" MEANS AN ANIMAL THAT IS COMMONLY
18 CONSIDERED TO BE, OR IS CONSIDERED BY ITS OWNER TO BE, A PET.
19 COMPANION ANIMAL INCLUDES, BUT IS NOT LIMITED TO, DOGS AND CATS.

20 (2) Except as otherwise provided in this section, a person
21 shall not do any of the following without just cause:

22 (a) Knowingly kill, torture, mutilate, maim, or disfigure an
23 animal.

24 (b) Commit a reckless act knowing or having reason to know
25 that the act will cause an animal to be killed, tortured,
26 mutilated, maimed, or disfigured.

27 (c) Knowingly administer poison to an animal, or knowingly

1 expose an animal to any poisonous substance, with the intent that
2 the substance be taken or swallowed by the animal.

3 (D) VIOLATE OR THREATEN TO VIOLATE SUBDIVISION (A) OR (C) WITH
4 THE INTENT TO CAUSE MENTAL SUFFERING OR DISTRESS TO A PERSON OR TO
5 EXERT CONTROL OVER A PERSON.

6 (3) ~~A person who~~ IF THE ANIMAL IS A COMPANION ANIMAL AND IF A
7 PERSON VIOLATES SUBSECTION (2) (D) AND INTENTIONALLY violates
8 subsection ~~(2)~~ (2) (A) OR (C), THE PERSON IS GUILTY OF KILLING OR
9 TORTURING ANIMALS IN THE FIRST DEGREE.

10 (4) IF THE ANIMAL IS A COMPANION ANIMAL AND A PERSON VIOLATES
11 SUBSECTION (2) (D), OR IF A PERSON INTENTIONALLY VIOLATES SUBSECTION
12 (2) (A) OR (C), THE PERSON IS GUILTY OF KILLING OR TORTURING ANIMALS
13 IN THE SECOND DEGREE.

14 (5) A PERSON WHO VIOLATES SUBSECTION (2) IS GUILTY OF KILLING
15 OR TORTURING ANIMALS IN THE THIRD DEGREE.

16 (6) KILLING OR TORTURING ANIMALS IN THE FIRST DEGREE is guilty
17 ~~of a~~ felony punishable by 1 or more of the following:

18 (a) Imprisonment for not more than ~~4~~ 10 years.

19 (b) A fine of not more than \$5,000.00. ~~for a single animal and~~
20 ~~\$2,500.00 for each additional animal involved in the violation, but~~
21 ~~not to exceed a total of \$20,000.00.~~

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

23 (7) KILLING OR TORTURING ANIMALS IN THE SECOND DEGREE IS A
24 FELONY PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

25 (A) IMPRISONMENT FOR NOT MORE THAN 7 YEARS.

26 (B) A FINE OF NOT MORE THAN \$5,000.00.

27 (C) COMMUNITY SERVICE FOR NOT MORE THAN 500 HOURS.

1 (8) KILLING OR TORTURING ANIMALS IN THE THIRD DEGREE IS A
2 FELONY PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

3 (A) IMPRISONMENT FOR NOT MORE THAN 4 YEARS.

4 (B) A FINE OF NOT MORE THAN \$5,000.00.

5 (C) COMMUNITY SERVICE FOR NOT MORE THAN 500 HOURS.

6 (9) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR A
7 VIOLATION OF THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF
8 IMPRISONMENT IMPOSED FOR ANY OTHER CRIME INCLUDING ANY OTHER
9 VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE
10 VIOLATION OF THIS SECTION.

11 (10) ~~(4)~~As a part of the sentence for a violation of
12 subsection (2), the court may order the defendant to pay the costs
13 of the prosecution and the costs of the care, housing, and
14 veterinary medical care for the ~~impacted~~ animal victim, as
15 applicable. If the court does not order a defendant to pay all of
16 the applicable costs listed in this subsection, or orders only
17 partial payment of these costs, the court shall state on the record
18 the reasons for that action.

19 (11) ~~(5)~~If a term of probation is ordered for a violation of
20 subsection (2), the court may include as a condition of that
21 probation that the defendant be evaluated to determine the need for
22 psychiatric or psychological counseling and, if determined
23 appropriate by the court, to receive psychiatric or psychological
24 counseling at his or her own expense.

25 (12) ~~(6)~~As a part of the sentence for a violation of
26 subsection (2), the court may order the defendant not to own or
27 possess an animal for any period of time determined by the court,

1 which may include permanent relinquishment.

2 (13) ~~(7)~~—A person who owns or possesses an animal in violation
3 of an order issued under subsection ~~(6)~~—(12) is subject to
4 revocation of probation if the order is issued as a condition of
5 probation. A person who owns or possesses an animal in violation of
6 an order issued under subsection ~~(6)~~—(12) is also subject to the
7 civil and criminal contempt power of the court and, if found guilty
8 of criminal contempt, may be punished by imprisonment for not more
9 than 90 days or a fine of not more than \$500.00, or both.

10 (14) ~~(8)~~—This section does not prohibit the lawful killing of
11 livestock or a customary animal husbandry or farming practice
12 involving livestock. ~~As used in this subsection, "livestock" means~~
13 ~~that term as defined in section 5 of the animal industry act, 1988~~
14 ~~PA 466, MCL 287.705.~~

15 (15) ~~(9)~~—This section does not prohibit the lawful killing of
16 an animal pursuant to any of the following:

17 (a) Fishing.

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

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

24 ~~—(d) Activities authorized under rules promulgated under~~
25 ~~section 9 of the executive organization act of 1965, 1965 PA 380,~~
26 ~~MCL 16.109.~~

27 (D) ~~(e)~~—Section 19 of the dog law of 1919, 1919 PA 339, MCL

1 287.279.

2 (16) ~~(10)~~—This section does not prohibit the lawful killing or
3 use of an animal for scientific research under any of the following
4 or a rule promulgated under any of the following:

5 (a) 1969 PA 224, MCL 287.381 to 287.395.

6 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
7 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
8 333.7109, and 333.7333.

9 (17) ~~(11)~~—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.