

# HOUSE BILL No. 4239

February 5, 1997, Introduced by Reps. Law, Gire, Gubow, Rocca, Cropsey, Bodem, McManus, Willard, Dobronski, Freeman, London, Brewer, LaForge, Jellema, DeHart, Godchaux, Varga, Jaye, Hanley and Galloway and referred to the Committee on Health Policy.

A bill to amend 1969 PA 287, entitled "An act to regulate pet shops, dog pounds and animal shelters," by amending the title and sections 1, 6, 7, 8, and 9 (MCL 287.331, 287.336, 287.337, 287.338, and 287.339), section 1 as amended by 1980 PA 214, and by adding sections 8a, 9a, and 9b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

### TITLE

2

An act to regulate pet shops, ~~dog pounds~~ ANIMAL CONTROL

3

SHELTERS, and animal PROTECTION shelters; TO ESTABLISH UNIFORM

4

PROCEDURES AND MINIMUM REQUIREMENTS FOR ADOPTION OF DOGS, CATS,

5

AND FERRETS; AND TO PRESCRIBE PENALTIES AND PROVIDE REMEDIES.

6

Sec. 1. As used in this act:

7

~~(a) "Dog pound" means a facility operated by a county,~~

8

~~city, village, or township to impound and care for animals found~~

~~1 in streets or otherwise at large contrary to any ordinance of the  
2 county, city, village, or township or state law.~~

~~3 (b) "Pet shop" means a place where animals are sold or  
4 offered for sale, exchange, or transfer.~~

5 (A) "ADOPTION" MEANS A TRANSFER OF OWNERSHIP, WITH OR WITH-  
6 OUT REMUNERATION, OF A DOG, CAT, OR FERRET FROM AN ANIMAL CONTROL  
7 SHELTER OR ANIMAL PROTECTION SHELTER TO AN INDIVIDUAL FOR THE  
8 PURPOSE OF BEING A COMPANION ANIMAL FOR THAT INDIVIDUAL. AS USED  
9 IN THIS SUBDIVISION, A COMPANION ANIMAL INCLUDES BUT IS NOT  
10 LIMITED TO A DOG THAT IS USED FOR HUNTING OR AS A GUARD DOG.

11 (B) "ALTERATION" MEANS A PROFESSIONAL STERILIZATION PROCE-  
12 DURE PERFORMED BY A VETERINARIAN THAT RENDERS A DOG, CAT, OR  
13 FERRET INCAPABLE OF REPRODUCING.

14 (C) "ALTERED", IN REFERENCE TO A DOG, CAT, OR FERRET, MEANS  
15 HAVING UNDERGONE ALTERATION.

16 (D) ~~(c)~~ "Animal" means a mammal except ~~rodents and live-~~  
17 stock as defined in ~~Act No. 284 of the Public Acts of 1937, as~~  
18 ~~amended, being sections 287.121 to 287.131 of the Michigan~~  
19 ~~Compiled Laws~~ 1937 PA 284, MCL 287.121 TO 287.131, AND RODENTS.

20 (E) "ANIMAL CONTROL SHELTER" MEANS A FACILITY OPERATED BY A  
21 MUNICIPALITY FOR THE IMPOUNDMENT AND CARE OF ANIMALS THAT ARE  
22 FOUND IN THE STREETS OR AT LARGE, ANIMALS THAT ARE OTHERWISE HELD  
23 DUE TO THE VIOLATION OF A MUNICIPAL ORDINANCE OR STATE LAW, OR  
24 ANIMALS THAT ARE SURRENDERED TO THE ANIMAL CONTROL SHELTER.

25 (F) ~~(d)~~ "Animal PROTECTION shelter" means a facility oper-  
26 ated by a person, humane society, society for the prevention of

1 cruelty to animals, or any other nonprofit organization for the  
2 care of homeless animals.

3 (G) "CAT" MEANS A DOMESTIC CAT OF ANY AGE OF THE SPECIES  
4 FELIS CATUS.

5 (H) "DEPARTMENT" MEANS THE STATE DEPARTMENT OF AGRICULTURE.

6 (I) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS  
7 OR HER AUTHORIZED REPRESENTATIVE.

8 (J) "DOG" MEANS A DOMESTIC DOG OF ANY AGE OF THE SPECIES  
9 CANIS FAMILIARIS.

10 (K) "FERRET" MEANS AN ANIMAL OF ANY AGE OF THE SPECIES  
11 MUSTELA FURO.

12 (l) ~~(e)~~ "Health certificate" means a certificate in a form  
13 prescribed by the department ~~of agriculture~~ in which a veteri-  
14 narian attests to the age, sex, breed, and description of an  
15 animal, and to the fact that at the time of preparation of the  
16 certificate, the veterinarian examined the animal and found the  
17 animal free from visual evidence of communicable disease.

18 (M) "MUNICIPALITY" MEANS A COUNTY, CITY, VILLAGE, OR  
19 TOWNSHIP.

20 (N) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
21 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

22 (O) "VETERINARIAN" MEANS A PERSON LICENSED TO PRACTICE VET-  
23 ERINARY MEDICINE UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978  
24 PA 368, MCL 333.16101 TO 333.18838.

25 Sec. 6. ~~No county, city, village or township~~ A  
26 MUNICIPALITY shall NOT operate ~~a dog pound~~ AN ANIMAL CONTROL  
27 SHELTER unless ~~they first register~~ the ~~dog pound~~ ANIMAL

1 CONTROL SHELTER IS REGISTERED with the department. ~~of~~  
2 ~~agriculture. No person, humane society, a~~ A society for the  
3 prevention of cruelty to animals, or any other ~~nonprofit~~  
4 ~~organization~~ PERSON, shall NOT operate an animal PROTECTION  
5 shelter unless ~~they first register~~ THE SHELTER IS REGISTERED  
6 with the department. ~~of agriculture.~~

7       Sec. 7. Application for registration of ~~a dog pound or~~ AN  
8 animal CONTROL SHELTER OR ANIMAL PROTECTION shelter shall be on  
9 ~~such~~ forms ~~as~~ approved by the department. ~~of agriculture.~~

10       Sec. 8. The department ~~of agriculture~~ shall not register  
11 ~~any dog pound or~~ AN animal CONTROL SHELTER OR ANIMAL PROTECTION  
12 shelter unless ~~they~~ THE DEPARTMENT first ~~inspect~~ INSPECTS it  
13 to ~~assure~~ ENSURE that it complies with ~~the provisions of~~ this  
14 act and the rules ~~of the department of agriculture~~ PROMULGATED  
15 UNDER THIS ACT.

16       SEC. 8A. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,  
17 AN ANIMAL CONTROL SHELTER OR ANIMAL PROTECTION SHELTER SHALL NOT  
18 PERMIT A PERSON TO ADOPT A DOG, CAT, OR FERRET THAT HAS NOT BEEN  
19 ALTERED, UNLESS THAT PERSON HAS ENTERED INTO A CONTRACT FOR THE  
20 ALTERATION OF THE DOG, CAT, OR FERRET WITH THE ANIMAL CONTROL  
21 SHELTER OR ANIMAL PROTECTION SHELTER. THE CONTRACT SHALL STATE  
22 THAT THE ADOPTING PERSON AGREES TO HAVE AN ALTERATION PERFORMED  
23 ON THE DOG, CAT, OR FERRET AND SHALL OTHERWISE COMPLY WITH THIS  
24 SECTION.

25       (2) A CONTRACT WITH AN ANIMAL CONTROL SHELTER OR ANIMAL PRO-  
26 TECTION SHELTER ENTERED INTO PURSUANT TO SUBSECTION (1) SHALL  
27 REQUIRE THE ADOPTING PERSON TO HAVE AN ALTERATION PERFORMED ON

1 THE DOG, CAT, OR FERRET WITHIN 4 WEEKS AFTER THE ADOPTION DATE IF  
2 AT THE TIME OF ADOPTION THE DOG, CAT, OR FERRET IS 6 MONTHS OF  
3 AGE OR OLDER. IF THE DOG, CAT, OR FERRET TO BE ADOPTED IS UNDER  
4 6 MONTHS OF AGE AT THE TIME OF ADOPTION, THE CONTRACT SHALL CON-  
5 TAIN THE DATE UPON WHICH THE DOG, CAT, OR FERRET WILL BE 6 MONTHS  
6 OF AGE, AND SHALL REQUIRE THE PERSON ADOPTING THE DOG, CAT, OR  
7 FERRET TO HAVE AN ALTERATION PERFORMED ON THE DOG, CAT, OR FERRET  
8 WITHIN 4 WEEKS AFTER THAT DATE. THIS SECTION DOES NOT PREVENT A  
9 VETERINARIAN FROM PERFORMING AN ALTERATION ON A DOG, CAT, OR  
10 FERRET THAT IS UNDER 6 MONTHS OF AGE.

11 (3) UPON CERTIFICATION BY A VETERINARIAN IN WRITING THAT AN  
12 ALTERATION POSES A SERIOUS, PERMANENT MEDICAL OR HEALTH PROBLEM  
13 FOR THE DOG, CAT, OR FERRET, A DOG, CAT, OR FERRET ADOPTED IS NOT  
14 REQUIRED TO BE ALTERED. IF A SERIOUS MEDICAL OR HEALTH PROBLEM  
15 IS TEMPORARY, THE ALTERATION MAY BE POSTPONED UNTIL THE TIME THAT  
16 THE PROBLEM IS NO LONGER PRESENT AS DETERMINED BY A VETERINARIAN  
17 THROUGH PERIODIC REEVALUATION OF THE ANIMAL AT INTERVALS THAT DO  
18 NOT EXCEED 14 DAYS.

19 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6), A CON-  
20 TRACT ENTERED INTO PURSUANT TO SUBSECTION (1) SHALL REQUIRE THE  
21 ADOPTING PERSON TO LEAVE WITH THE ANIMAL CONTROL SHELTER OR  
22 ANIMAL PROTECTION SHELTER, OR A DESIGNEE OF THE ANIMAL CONTROL  
23 SHELTER OR ANIMAL PROTECTION SHELTER, A GOOD FAITH DEPOSIT OF AT  
24 LEAST \$25.00 THAT INDICATES THE PERSON'S INTENTION TO HAVE THE  
25 ADOPTED DOG, CAT, OR FERRET ALTERED WITHIN THE TIME PROVIDED PUR-  
26 SUANT TO SUBSECTION (2). IF THE PERSON FAILS TO COMPLY WITH THE  
27 TERMS OF THE CONTRACT, THE DEPOSIT IS FORFEITED. IF THE ADOPTING

1 PERSON SUBMITS WRITTEN PROOF FROM A VETERINARIAN THAT THE ANIMAL  
2 THAT WAS THE SUBJECT OF A CONTRACT ENTERED INTO UNDER  
3 SUBSECTION (1) DIED WITHIN THE TIME PERIOD IN WHICH THE ALTER-  
4 ATION WAS REQUIRED UNDER SUBSECTION (2), THE GOOD FAITH DEPOSIT  
5 SHALL BE RETURNED TO THE PERSON. MONEY FORFEITED UNDER THIS SUB-  
6 SECTION SHALL BE USED BY THE ANIMAL CONTROL SHELTER OR ANIMAL  
7 PROTECTION SHELTER TO FINANCE ALTERATIONS, FOR PUBLIC EDUCATION  
8 REGARDING THE VALUE OF HAVING DOGS, CATS, AND FERRETS ALTERED, OR  
9 TO OTHERWISE ENSURE COMPLIANCE WITH THIS SECTION.

10 (5) IF THE ADOPTING PERSON COMPLIES WITH THE TERMS OF A CON-  
11 TRACT ENTERED INTO UNDER SUBSECTION (1), THE GOOD FAITH DEPOSIT  
12 OF AT LEAST \$25.00 SHALL BE REFUNDED BY THE ANIMAL CONTROL SHEL-  
13 TER, ANIMAL PROTECTION SHELTER, OR A DESIGNEE OF THE ANIMAL CON-  
14 TROL SHELTER OR ANIMAL PROTECTION SHELTER, UPON SUBMISSION BY THE  
15 ADOPTING PERSON OF WRITTEN CERTIFICATION BY A VETERINARIAN THAT  
16 THE ADOPTED DOG, CAT, OR FERRET WAS ALTERED. THE CERTIFICATE  
17 SHALL INCLUDE THE DATE OF ALTERATION, THE NAME OF THE OWNER OF  
18 THE DOG, CAT, OR FERRET, THE DESCRIPTION OF THE DOG, CAT, OR  
19 FERRET, AND THE SIGNATURE OF THE VETERINARIAN WHO PERFORMED THE  
20 ALTERATION.

21 (6) THE GOOD FAITH DEPOSIT UNDER SUBSECTION (4) IS NOT  
22 REQUIRED IN EITHER OF THE FOLLOWING CIRCUMSTANCES:

23 (A) A DOG IS TRANSFERRED TO A LOCAL, STATE, OR FEDERAL LAW  
24 ENFORCEMENT AGENCY.

25 (B) A DOG IS TRANSFERRED TO AN ORGANIZATION OR TRAINER THAT  
26 TRAINS GUIDE OR LEADER DOGS FOR PERSONS WHO ARE BLIND.

1           (7) A CONTRACT ENTERED INTO PURSUANT TO SUBSECTION (1) SHALL  
2 INCLUDE A STATEMENT THAT IF THE TERMS OF THE CONTRACT ARE  
3 BREACHED BECAUSE A PERSON ADOPTING A DOG, CAT, OR FERRET FAILS TO  
4 HAVE THE ANIMAL ALTERED AS REQUIRED IN THE CONTRACT, THEN THE  
5 PERSON AGREES TO PAY LIQUIDATED DAMAGES OF \$100.00 TO COVER THE  
6 ANIMAL CONTROL SHELTER'S OR ANIMAL PROTECTION SHELTER'S COSTS TO  
7 ENFORCE THE CONTRACT. IMMEDIATELY BEFORE A PERSON SIGNS THE CON-  
8 TRACT, A REPRESENTATIVE OF THE ANIMAL CONTROL SHELTER OR ANIMAL  
9 PROTECTION SHELTER SHALL VERBALLY DIRECT THE PERSON'S ATTENTION  
10 TO THE LIQUIDATED DAMAGES AGREEMENT IN THE CONTRACT.

11           Sec. 9. (1) ~~This act does~~ THE LICENSING AND REGISTRATION  
12 REQUIREMENTS OF THIS ACT DO NOT apply to ~~any person who breeds~~  
13 ~~his own animals, or to any person subject to the provisions of~~  
14 ~~Act No. 282 of the Public Acts of 1966, being sections 287.361 to~~  
15 ~~287.375 of the Compiled Laws of 1948.~~ EITHER OF THE FOLLOWING:

16           (A) AN INDIVIDUAL WHO BREEDS HIS OR HER OWN MALE OR FEMALE  
17 ANIMALS IF THE INDIVIDUAL SELLS OR OTHERWISE TRANSFERS HIS OR HER  
18 OWN ANIMALS OR FIRST GENERATION OFFSPRING FROM HIS OR HER OWN  
19 ANIMALS AND DOES NOT ACT AS AN ANIMAL CONTROL SHELTER OR ANIMAL  
20 PROTECTION SHELTER.

21           (B) AN INDIVIDUAL WHO LEGALLY OBTAINS AN ANIMAL WITH THE  
22 EXPRESS INTENTION OF RESELLING THE ANIMAL OR FINDING THE ANIMAL  
23 ANOTHER HOME AS LONG AS THE PERSON HAS NO MORE THAN 2 SUCH ANI-  
24 MALS AT 1 TIME AND DOES NOT ENGAGE IN MORE THAN 6 TRANSACTIONS IN  
25 A 12-MONTH PERIOD.

26           (2) SUBSECTION (1) DOES NOT CREATE AN EXEMPTION FROM  
27 VACCINATION AND LICENSING REQUIREMENTS UNDER THE DOG LAW OF 1919,

1 1919 PA 339, MCL 287.261 TO 287.290, OR FROM VACCINATION AND  
2 HANDLING REQUIREMENTS UNDER 1994 PA 358, MCL 287.891 TO 287.901.

3 SEC. 9A. AN ANIMAL CONTROL SHELTER OR ANIMAL PROTECTION  
4 SHELTER SHALL MAINTAIN WRITTEN RECORDS ON THE TOTAL NUMBER OF  
5 DOGS, CATS, AND FERRETS UNDER 6 MONTHS OF AGE, THE TOTAL NUMBER  
6 OF DOGS, CATS, AND FERRETS 6 MONTHS OF AGE AND OLDER, AND ALL  
7 OTHER ANIMALS RECEIVED, RETURNED TO OWNERS, ADOPTED TO NEW  
8 OWNERS, SOLD, OR TRANSFERRED WITH OR WITHOUT REMUNERATION TO ANY  
9 PERSON, THE NUMBER OF ADOPTED DOGS, CATS, AND FERRETS THAT WERE  
10 ALTERED, THE NUMBER OF ADOPTED DOGS, CATS, AND FERRETS THAT WERE  
11 NOT ALTERED, AND THE NUMBER OF DOGS, CATS, AND FERRETS EUTHANIZED  
12 ANNUALLY, AND SHALL ANNUALLY PROVIDE A COPY OF THESE STATISTICS  
13 TO THE DEPARTMENT, BY MARCH 31 OF THE YEAR FOLLOWING THE YEAR FOR  
14 WHICH THE STATISTICS WERE COMPILED.

15 SEC. 9B. (1) IN ADDITION TO ANY OTHER REMEDY UNDER THIS  
16 ACT, AN ANIMAL CONTROL SHELTER OR AN ANIMAL PROTECTION SHELTER  
17 THAT VIOLATES SECTION 8A(1) BY NOT ENTERING INTO A CONTRACT  
18 REQUIRED UNDER SECTION 8A IS SUBJECT TO REVOCATION OF THE ANIMAL  
19 CONTROL SHELTER'S OR ANIMAL PROTECTION SHELTER'S REGISTRATION  
20 UNDER SECTION 6.

21 (2) IF A PERSON FAILS TO COMPLY WITH A CONTRACT FOR THE  
22 ALTERATION OF A DOG, CAT, OR FERRET AS REQUIRED UNDER SECTION 8A,  
23 A COURT WITH APPROPRIATE JURISDICTION MAY ORDER TRANSFER OF  
24 OWNERSHIP OF THE ADOPTED ANIMAL ONLY TO 1 OF THE FOLLOWING:

25 (A) THE FACILITY FROM WHICH THE ANIMAL WAS ADOPTED.

26 (B) A VETERINARIAN, ANIMAL CONTROL SHELTER, OR ANIMAL  
27 PROTECTION SHELTER WILLING TO ACCEPT THE ANIMAL AND EITHER

1 HUMANELY EUTHANIZE THE ANIMAL OR ADOPT THE ANIMAL TO AN OWNER WHO  
2 AGREES TO HAVE THE ANIMAL ALTERED.

3 (3) IN ADDITION TO ANY OTHER ACTION AUTHORIZED BY THIS ACT,  
4 THE DIRECTOR MAY BRING AN ACTION TO DO 1 OR MORE OF THE  
5 FOLLOWING:

6 (A) OBTAIN A DECLARATORY JUDGMENT THAT A METHOD, ACT, OR  
7 PRACTICE IS IN VIOLATION OF THIS ACT.

8 (B) OBTAIN AN INJUNCTION AGAINST A PERSON WHO IS ENGAGING,  
9 OR ABOUT TO ENGAGE, IN A METHOD, ACT, OR PRACTICE THAT VIOLATES  
10 THIS ACT.

11 Enacting section 1. This amendatory act takes effect  
12 January 1, 1998.