



**House
Legislative
Analysis
Section**

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**VETERINARIAN "GOOD SAMARITAN"
IMMUNITY**

**House Bill 4807 as passed by the House
Second Analysis (1-13-00)**

**Sponsor: Rep. Gerald Law
Committee: Family and Civil Law**

THE APPARENT PROBLEM:

Often veterinarians and veterinary technicians are faced with difficult alternatives regarding the treatment of seriously injured animals. Choosing a course of treatment in such cases is made all the more difficult when the owner of the animal is unavailable or unknown and therefore cannot make the decision. The most common of these situations arises when a veterinarian is asked to treat an animal that was hit by a motor vehicle and was brought in by the driver of the vehicle or another passer-by. In such cases, the owner of the animal may be unknown or unavailable to make the final treatment decision. When this happens, the veterinarian is forced to make the treatment decisions - including the decision to euthanize a seriously injured animal - without the consent of the animal's owner. Occasionally, owners have sued veterinarians for making these treatment decisions without the owner's consent. It has been suggested that the veterinarians and veterinary technicians who treat seriously injured animals in emergency conditions should not have to face liability for having been a "good Samaritan."

In addition, veterinarians or veterinary technicians who report animal abuse or neglect are not protected from retaliatory civil suits from the people that they report. The threat of civil liability in such instances could cause some vets or vet technicians to refrain from making reports of suspected instances of abuse or neglect.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code to provide immunity from civil damages for veterinarians and veterinary technicians. More specifically, a veterinarian or veterinary technician would not be liable for the injury or death of an animal that resulted from his or her treatment of the animal nor would he or she be liable for euthanizing a seriously injured or seriously ill animal if the animal was brought in by someone other than the owner and the veterinarian or veterinary technician either did not know who owned

the animal or was unable to reach the owner before a treatment decision had to be made. The veterinarian or veterinary technician would be required to notify the county animal control authority of the animal's treatment before the end of the first business day following that treatment. The immunity provided under these circumstances would not apply to an action or omission that amounted to gross negligence or willful and wanton misconduct in providing treatment for the animal.

In addition, a veterinarian or veterinary technician who, in good faith, reported an animal that he or she knew or reasonably believed was abandoned, neglected, or abused to a peace officer, an animal control officer, or an officer of a private organization devoted to the humane treatment of animals would be immune from liability for making the report.

MCL 333.18826 and MCL 333.18827

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the state or local units of government. (1-13-00)

ARGUMENTS:

For:

Veterinarians and veterinary technicians should not have to worry about being sued when they perform an act of kindness. The bill does not grant absolute immunity in cases where the vet is acting as good Samaritan; a vet who is grossly negligent will still face liability.

The bill will also help to eliminate the threat of retaliatory civil actions brought by abusive or neglectful animal owners. Currently, a veterinarian who makes a report of animal cruelty may face a lawsuit from the person he or she reports. The bill

House Bill 4807 (1-13-00)

would prohibit such a retaliatory lawsuit when the report was based on a reasonable belief that abuse or neglect had occurred, and when such a report was made in good faith.

Against:

Gross negligence is a notoriously difficult standard to attempt to prove. The continuing process of lowering the standard of care from ordinary negligence to gross negligence for all sorts of actions diminishes the ability of ordinary citizens to have recourse against those who, by their negligence, have caused injury. While the extension of this sort of immunity may be justified under these limited circumstances, it should not be extended to protect against negligence in more ordinary situations.

POSITIONS:

The Michigan Veterinary Medical Association supports the bill. (1-12-00)

The Michigan Humane Society supports the bill. (1-12-00)

The Department of Agriculture supports the concept of the bill. (1-12-00)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.