

Legislative Analysis



House Bill 5127 as enrolled
Public Act 117 of 2009
Sponsor: Rep. Mike Simpson
House Committee: Agriculture
Senate Committee: Agriculture

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A SUMMARY OF HOUSE BILL 5127 AS ENROLLED

BRIEF SUMMARY: The bill adds a new Section 46 to the Animal Industry Act (MCL 278.746) to prohibit certain farm animals (gestating sows, veal calves, and egg-laying hens) from being confined for the majority of the day in way that prevents them from lying down, standing up, fully extending their limbs, or turning around freely. The ban on veal crates takes effect on October 1, 2012, and the ban on battery cages and gestation crates takes effect 10 years after the bill's enactment.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on the state. The Department of Agriculture has said that the addition of one or two FTEs and a budget of about \$80,000 could be necessary to enforce the bill's provisions adequately.

BACKGROUND INFORMATION:

Methods for raising animals for meat, milk, and eggs have changed dramatically in recent decades—the trend is toward fewer producers raising a larger number of animals confined in enormous operations, instead of having many decentralized, diverse family farms. While some industry analysts praise large confined animal feeding operations or CAFOs as scientifically-sound, efficient, and cost-effective, other industry observers, including the authors of a recent study by the Pew Commission on Industrial Farm Production,¹ say that this trend has negative consequences for animal welfare, the environment, public health, and rural communities. Among the CAFO practices that have come under scrutiny is the practice of raising a large number of egg-laying hens in close confinement in so-called battery cages—stacked metal cages in which each bird is allotted less than the size of a standard 8.5 x 11" sheet of paper. Other controversial animal industry practices (veal crates and gestation crates for sows) are used on farms both large and small.

At the same time, an increasing number of restaurants, retailers, and consumers of meat, milk and eggs want assurance that the food they purchase comes from farms that do not harm the environment and where animals are treated humanely. Consumers want to know that the food they buy can be safely eaten without contracting a food-borne disease

¹ See *Putting Meat on The Table: Industrial Farm Animal Production in America*. The executive summary can be found at <http://www.ncifap.org/bin/s/a/PCIFAPSmry.pdf>. The full report can be found at <http://www.ncifap.org/bin/e/j/PCIFAPFin.pdf>.

or ingesting potentially harmful drug residues. Many meat packers and large retailers now refuse to buy milk, meat, or eggs from producers who aren't certified or verified under specified voluntary industry programs. Many large farms are under contracts that require them to maintain particular certifications.

Before enactment of the bill, Michigan did not have any mandatory minimum standards for livestock care, although it did have, and continues to have, Generally Accepted Agricultural and Management Practices (GAAMPs) for the Care of Farm Animals. Farms that comply with GAAMPs generally are protected from nuisance suits from neighbors under the Right to Farm Act. In addition, although the Penal Code bans some forms of animal cruelty, animals raised for an agricultural purpose are often exempt from those provisions.

As introduced, the bill was aimed at putting voluntary, industry-developed animal-care and quality-assurance programs into statute as a way to reassure the public about the quality of Michigan's meat, milk, and eggs, and of the care received by Michigan's agricultural animals. The original version of the bill proposed putting into statute programs developed by the National Pork Board, the National Milk Producers Federation, the United Egg Producers, the National Chicken Council, the National Turkey Federation, the National Cattleman's Beef Association, and the American Veal Association. Supporters of that version of the bill said that those standards would be a good first step toward better regulating animal agriculture in Michigan, and that an Animal Care Council to be created in a companion bill (HB 5128) could update the voluntary standards as needed. This approach was presented as "proactive," and was designed to head off stricter regulation of animal agriculture, such as Proposal 2 adopted by California voters in November 2008. Proposal 2 banned three of the most controversial practices in animal agriculture—(1) battery cages for laying hens, (2) gestation crates for sows (crates in which sows spend most of their lives, except when nursing piglets); and (3) veal crates, in which young calves are raised in isolation from other animals in small individual crates without room to turn around.

The introduced version of the bill, however, was met with strenuous opposition from environmental groups, animal welfare groups, rural development advocates and others on many different grounds. Opponents argued that both the content and the form of these voluntary programs were inappropriate for adoption wholesale into state law. Among other things, opponents said that bill was an attempt to pretend to improve animal care in Michigan, while in reality preserving the status quo, including some controversial and inhumane practices. Animal welfare advocates pushed instead for adoption of a bill that closely resembled California's Proposal 2—they argued that battery cages, veal crates, and gestation crates should be illegal in Michigan.

After much debate, the bill enacted by the Legislature and signed by the Governor banned battery cages, gestation crates, and veal crates, but allowed farmers ample time—ten years—to transition to compliance with the new law.

DETAILED SUMMARY:

House Bill 5127 adds a new Section 46 to the Animal Industry Act to prohibit a farm owner or operator from tethering or confining a covered animal (gestating sow, veal calf, or egg-laying hen) on a farm all day or for the majority of the day in a manner that prevents the animal from lying down, standing up, fully extending its limbs, or turning around freely.

["Fully extending its limbs" means "fully extending all limbs without touching the side of an enclosure. In the case of egg-laying hens, fully extending its limbs means fully spreading both wings without touching the side of an enclosure or other egg-laying hens and having access to at least 1.0 square feet of usable floor space per hen."]

"Turning around freely" means "turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure or another animal."]

Exceptions. The bill's prohibitions do not apply during any of the following:

- Scientific or agricultural research.
- Examination, testing, individual treatment, or operation for veterinary purposes, by a licensed veterinarian.
- Transportation, unless otherwise in violation of Section 51 of the Michigan Penal Code (MCL 750.51) relating to transportation of animals on railroad cars.
- Rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions.
- Slaughter of a covered animal in accordance with Public Act 163 of 1962 (MCL 287.551 to 287.556) and other applicable law and rules.
- As to gestating sows, the period beginning seven days before the expected date of giving birth.

Civil enforcement. The Michigan Department of Agriculture or the Attorney General may bring a civil action to restrain, by temporary or permanent injunction, violations of the bill in the circuit court for the county where the defendant resides or conducts business. The court may issue a temporary or permanent injunction and may issue other equitable orders or judgments. Criminal penalties under Section 44 of the Animal Agriculture Act do not apply to violations of the new section 46.

Defenses. Some cases brought under the Penal Code can be defended on the grounds that a practice or action did not violate the Penal Code because it is a customary animal husbandry practice or farming practice involving livestock. These defenses and similar ones are not available to persons defending themselves against civil actions brought under this section.

Effect on other laws. New Section 46's provisions are in addition to, and not in lieu of, any other laws protecting animal welfare. The section is not to be construed to limit any other state law or rules protecting animal welfare.

Effective dates. The bill's prohibitions would not apply to veal calves until October 1, 2012, and to gestating sows and egg-laying hens until ten years after the bill's date of enactment.

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■ 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.