

Legislative Analysis



ANIMAL CARE STANDARDS

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House Bill 5127 (Proposed Substitute H-4)

Sponsor: Rep. Mike Simpson

Committee: Agriculture

Complete to 9-16-09

A SUMMARY OF HOUSE BILL 5127 (Proposed Floor Substitute H-4)

House Bill 5127 (Proposed Substitute H-4) would add a new Section 46 to the Animal Industry Act to prohibit farm owners and operators from tethering or confining specified farm animals (pigs during pregnancy, veal calves, and egg-laying hens) on a farm all day or the majority of the day in a manner that prevents them from lying down, standing up, fully extending their limbs, or turning around freely. This section would apply notwithstanding any other provision of law. (MCL 287.746)

Enactment dates. New Section 46 would apply to veal calves **one year** after the bill's effective date and to pregnant pigs and laying hens **ten years** after the bill's date of enactment.

Exceptions. The bill's ban on certain tethering and confinement practices that restrict movement all or most of the day would not apply in the following situations:

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

Civil, not criminal, enforcement. The Michigan Department of Agriculture or Attorney General could bring a civil action to restrain, temporarily or permanently, violations of new Section 46. The case would be brought in the circuit court for the county where the defendant resides or conducts business. The court could issue a temporary or permanent injunction and issue other equitable orders or judgments. The criminal penalties provided in Section 44 of the Animal Industry Act would 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 would not be available to persons defending themselves against civil actions brought under this section.

New section would not limit other laws. New Section 46's provisions would be 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.

Definitions.

"Calf raised for veal" would mean "any calf of the bovine species kept for the purpose of producing the food product described as veal."

"Covered animal" would mean "any pig during pregnancy, calf raised for veal, or egg-laying hen that is kept on a farm."

"Egg-laying hen" would mean "any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of egg production."

"Enclosure" would mean "any cage, crate, or other structure used to confine a covered animal," including what is commonly referred to as a "gestation crate or stall" for pigs, a "veal crate" for calves, or a "battery cage" for egg-laying hens.

"Farm" would mean "the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animal or animal products used for food or fiber. Farm does not include live animal markets."

"Farm owner or operator" would mean "any person who owns or controls the operation of a farm."

"Fully extending its limbs" would mean "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."

"Person" would mean "any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate."

"Pig during pregnancy" would mean "any confirmed pregnant pig of the porcine species kept for the primary purpose of breeding."

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

FISCAL IMPACT:

We are unable to determine a fiscal impact at this time.

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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.