



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5127 (Substitute H-4 as passed by the House)
Sponsor: Representative Mike Simpson
House Committee: Agriculture
Senate Committee: Agriculture and Bioeconomy

Date Completed: 9-23-09

CONTENT

The bill would amend the Animal Industry Act to prohibit a farm owner or operator from tethering or confining any "covered animal" for all or the majority of any day in a manner that prevented the animal from lying down, standing up, fully extending its limbs, or turning around freely.

("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.)

The prohibition would not apply to a covered animal during any of the following:

- Scientific or agricultural research.
- Examination, testing, individual treatment, or operation for veterinary purposes by a licensed veterinarian.
- Transportation, unless it otherwise would violate Section 51 of the Michigan Penal Code (which generally prohibits animals from being confined on railroad cars for longer than 36 hours without being unloaded for rest, water, and feeding).
- Rodeo exhibitions, State or county fair exhibitions, 4-H programs, and similar exhibitions.
- The slaughter of a covered animal in accordance with the humane slaughtering provisions of Public Act 163 of 1962 and other applicable State law and rules.
- In the case of a pig, the period beginning seven days before the pig's expected date of giving birth.

The bill would not apply to veal calves until one year after its enactment date, and would not apply to egg-laying hens or pigs during pregnancy until 10 years after the enactment date.

The Department of Agriculture or the Attorney General could bring a civil action to restrain, by temporary or permanent injunction, any act or practice in violation of the bill. The action could be brought in the circuit court for the county where the defendant resided or conducted business. The court could issue a temporary or permanent injunction and issue other equitable orders or judgments.

A defense relating to customary animal husbandry or farming practices involving livestock, made available under Sections 50(11)(f) and 50b(8) of the Michigan Penal Code, or similar provisions, would not be considered a defense to an action brought for a violation of the bill

involving a covered animal. (Section 50 prohibits a person from knowingly killing, torturing, mutilating, maiming, disfiguring, or poisoning an animal. Section 50b prohibits an owner, possessor, or person in charge or custody of an animal from failing to provide it with adequate care; cruelly driving, working, or beating the animal; or carrying it in a specified manner. Under Sections 50(11)(f) and 50b(8), these prohibitions do not prohibit the lawful killing of livestock or a customary animal husbandry or farming practice involving livestock.)

The criminal penalties in Section 44 of the Animal Industry Act would not apply to a violation of the bill. (Under that section, certain violations involving diseased animals are felonies punishable by a fine of not less than \$1,000 or more than \$50,000, imprisonment for up to five years, or both. Otherwise, a violation of the Act is a misdemeanor punishable by a minimum fine of \$300, imprisonment for at least 30 days, or both.)

The provisions of the bill would be in addition to any other laws protecting animal welfare, and the bill could not be construed to limit any other State law or rules protecting the welfare of animals.

Proposed MCL 287.746

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Departments of Agriculture and Attorney General. The Attorney General could have existing staff sufficient to police the animal care standards set by the bill, but according to the Department of Agriculture, the addition of one or two FTEs and a budget of \$80,000 or so could be necessary to enforce the bill's provisions adequately.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.