

# SENATE BILL No. 413

May 30, 2017, Introduced by Senators O'BRIEN, JONES, BIEDA, HERTEL, ROCCA,  
BRANDENBURG and KNOLLENBERG and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 49 (MCL 750.49), as amended by 2006 PA 129.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 49. (1) As used in this section, "animal" means a  
2       vertebrate other than a human **BEING**.

3       (2) A person shall not knowingly do any of the following:

4       (a) Own, possess, use, buy, sell, offer to buy or sell,  
5       import, or export an animal for fighting or baiting, or as a target  
6       to be shot at as a test of skill in marksmanship.

7       (b) Be a party to or cause the fighting, baiting, or shooting  
8       of an animal as described in subdivision (a).

9       (c) Rent or otherwise obtain the use of a building, shed,  
10      room, yard, ground, or premises for fighting, baiting, or shooting

1 an animal as described in subdivision (a).

2 (d) Permit the use of a building, shed, room, yard, ground, or  
3 premises belonging to him or her or under his or her control for  
4 any of the purposes described in this section.

5 (e) Organize, promote, or collect money for the fighting,  
6 baiting, or shooting of an animal as described in subdivisions (a)  
7 to (d).

8 (f) Be present at a building, shed, room, yard, ground, or  
9 premises where preparations are being made for an exhibition  
10 described in subdivisions (a) to (d), or be present at the  
11 exhibition, knowing that an exhibition is taking place or about to  
12 take place.

13 (g) Breed, buy, sell, offer to buy or sell, exchange, import,  
14 or export an animal the person knows has been trained or used for  
15 fighting as described in subdivisions (a) to (d), or breed, buy,  
16 sell, offer to buy or sell, exchange, import, or export the  
17 offspring of an animal the person knows has been trained or used  
18 for fighting as described in subdivisions (a) to (d). This  
19 subdivision does not prohibit owning, breeding, buying, selling,  
20 offering to buy or sell, exchanging, importing, or exporting an  
21 animal for agricultural or agricultural exposition purposes.

22 (h) Own, possess, use, buy, sell, offer to buy or sell,  
23 transport, or deliver any device or equipment intended for use in  
24 the fighting, baiting, or shooting of an animal as described in  
25 subdivisions (a) to (d).

26 (3) A person who violates subsection (2)(a) to (e) is guilty  
27 of a felony punishable by ~~1 or more of the following:~~ **CRIME AS**

1   FOLLOWS:

2           (A) EXCEPT AS PROVIDED UNDER SUBDIVISION (B), THE PERSON IS  
3   GUILTY OF A FELONY PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

4           (i) ~~(a)~~ Imprisonment for not more than 4 years.

5           (ii) ~~(b)~~ A fine of not less than \$5,000.00 or more than  
6   \$50,000.00.

7           (iii) ~~(c)~~ Not less than 500 or more than 1,000 hours of  
8   community service.

9           (B) IF THE PERSON HAD 1 OR MORE PRIOR CONVICTIONS UNDER  
10   SUBSECTION (2), THE PERSON IS GUILTY OF A FELONY AND SHALL BE  
11   PUNISHED BY IMPRISONMENT FOR NOT LESS THAN 18 MONTHS OR MORE THAN 4  
12   YEARS AND MAY BE PUNISHED BY 1 OR MORE OF THE FOLLOWING:

13           (i) A FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN \$50,000.00.

14           (ii) NOT LESS THAN 500 OR MORE THAN 1,000 HOURS OF COMMUNITY  
15   SERVICE.

16           (4) A person who violates subsection (2)(f) to (h) is guilty  
17   of a ~~felony punishable by 1 or more of the following~~. CRIME AS

18   FOLLOWS:

19           (A) EXCEPT AS PROVIDED UNDER SUBDIVISION (B), THE PERSON IS  
20   GUILTY OF A FELONY PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

21           (i) ~~(a)~~ Imprisonment for not more than 4 years.

22           (ii) ~~(b)~~ A fine of not less than \$1,000.00 or more than  
23   \$5,000.00.

24           (iii) ~~(c)~~ Not less than 250 or more than 500 hours of  
25   community service.

26           (B) IF THE PERSON HAD 1 OR MORE PRIOR CONVICTIONS UNDER  
27   SUBSECTION (2), THE PERSON IS GUILTY OF A FELONY AND SHALL BE

1 PUNISHED BY IMPRISONMENT FOR NOT LESS THAN 9 MONTHS OR MORE THAN 4  
2 YEARS AND MAY BE PUNISHED BY 1 OR MORE OF THE FOLLOWING:

3 (i) A FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN \$5,000.00.

4 (ii) NOT LESS THAN 250 OR MORE THAN 500 HOURS OF COMMUNITY  
5 SERVICE.

6 (5) The court may order a person convicted of violating this  
7 section to pay the costs of prosecution.

8 (6) The court may order a person convicted of violating this  
9 section to pay the costs for housing and caring for the animal,  
10 including, but not limited to, providing veterinary medical  
11 treatment.

12 (7) As part of the sentence for a violation of subsection (2),  
13 the court shall order the person convicted not to own or possess an  
14 animal of the same species involved in the violation of this  
15 section for 5 years after the date of sentencing. ~~Failure~~ **A PERSON**  
16 **WHO FAILS** to comply with the order of the court pursuant to this  
17 subsection is **GUILTY OF A MISDEMEANOR** punishable ~~as contempt of~~  
18 ~~court.~~ **BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT**  
19 **LESS THAN \$1,000.00 OR MORE THAN \$2,500.00. EACH ANIMAL THAT A**  
20 **PERSON OWNS OR POSSESSES IN VIOLATION OF THIS SUBSECTION**  
21 **CONSTITUTES A SEPARATE OFFENSE.**

22 (8) If a person incites an animal trained or used for fighting  
23 or an animal that is the ~~first~~ **FIRST-** or ~~second~~ **SECOND-** generation  
24 offspring of an animal trained or used for fighting to attack a  
25 person and ~~thereby~~ **THE ATTACK** causes the death of that person, the  
26 owner is guilty of a felony punishable by imprisonment for life or  
27 for a term of years greater than 15 years.

1           (9) If a person incites an animal trained or used for fighting  
2 or an animal that is the ~~first~~**FIRST**- or ~~second~~**SECOND**-generation  
3 offspring of an animal trained or used for fighting to attack a  
4 person, but the attack does not result in the death of the person,  
5 the owner is guilty of a felony punishable by imprisonment for not  
6 more than 4 years or a fine of not more than \$2,000.00, or both.

7           (10) If an animal trained or used for fighting or an animal  
8 that is the ~~first~~**FIRST**- or ~~second~~**SECOND**-generation offspring of  
9 an animal trained or used for fighting attacks a person without  
10 provocation and causes the death of that person, the owner of the  
11 animal is guilty of a felony punishable by imprisonment for not  
12 more than 15 years.

13           (11) If an animal trained or used for fighting or an animal  
14 that is the ~~first~~**FIRST**- or ~~second~~**SECOND**-generation offspring of  
15 an animal trained or used for fighting attacks a person without  
16 provocation, but the attack does not cause the death of the person,  
17 the owner is guilty of a misdemeanor punishable by imprisonment for  
18 not more than 1 year or a fine of not more than \$1,000.00, or both.

19           (12) Subsections (8) to (11) do not apply if the person  
20 attacked was committing or attempting to commit an unlawful act on  
21 the property of the owner of the animal.

22           (13) If an animal trained or used for fighting or an animal  
23 that is the ~~first~~**FIRST**- or ~~second~~**SECOND**-generation offspring of a  
24 dog trained or used for fighting goes beyond the property limits of  
25 its owner without being securely restrained, the owner is guilty of  
26 a misdemeanor punishable by imprisonment for not more than 90 days  
27 or a fine of not less than \$50.00 nor more than \$500.00, or both.

1 (14) If an animal trained or used for fighting or an animal  
2 that is the ~~first~~**FIRST**- or ~~second~~**SECOND**-generation offspring of a  
3 dog trained or used for fighting is not securely enclosed or  
4 restrained on the owner's property, the owner is guilty of a  
5 misdemeanor punishable by imprisonment for not more than 90 days or  
6 a fine of not more than \$500.00, or both.

7 (15) Subsections (8) to (14) do not apply to any of the  
8 following:

9 (a) A dog trained or used for fighting, or the ~~first~~**FIRST**- or  
10 ~~second~~**SECOND**-generation offspring of a dog trained or used for  
11 fighting, that is used by a law enforcement agency of ~~the~~**THIS**  
12 state or a county, city, village, or township.

13 (b) A certified leader dog recognized and trained by a  
14 national guide dog association for the blind or for persons with  
15 disabilities.

16 (c) A corporation licensed under the private security business  
17 and security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083,~~  
18 **338.1092**, when a dog trained or used for fighting, or the ~~first~~  
19 **FIRST**- or ~~second~~**SECOND**-generation offspring of a dog trained or  
20 used for fighting, is used in accordance with the private security  
21 business and security alarm act, 1968 PA 330, MCL 338.1051 to  
22 ~~338.1083~~**338.1092**.

23 (16) An animal that has been used to fight in violation of  
24 this section or that is involved in a violation of subsections (8)  
25 to (14) ~~shall~~**MUST** be confiscated as contraband by a law  
26 enforcement officer and ~~shall~~**MUST** not be returned to the owner,  
27 trainer, or possessor of the animal. The animal ~~shall~~**MUST** be taken

1 to a local humane society or other animal welfare agency. If an  
2 animal owner, trainer, or possessor is convicted of violating  
3 subsection (2) or subsections (8) to (14), the court shall award  
4 the animal involved in the violation to the local humane society or  
5 other animal welfare agency.

6 (17) Upon receiving an animal confiscated under this section,  
7 or at any time thereafter, an appointed veterinarian, the humane  
8 society, or other animal welfare agency may humanely euthanize the  
9 animal if, in the opinion of that veterinarian, humane society, or  
10 other animal welfare agency, the animal is injured or diseased past  
11 recovery or the animal's continued existence is inhumane so that  
12 euthanasia is necessary to relieve pain and suffering.

13 (18) A humane society or other animal welfare agency that  
14 receives an animal under this section ~~shall~~**MAY** apply to the  
15 district court or municipal court for a hearing to determine  
16 whether the animal ~~shall~~**MUST** be humanely euthanized because of its  
17 lack of any useful purpose and the public safety threat it poses.  
18 The court shall hold a hearing not more than 30 days after the  
19 filing of the application and shall give notice of the hearing to  
20 the owner of the animal. Upon a finding by the court that the  
21 animal lacks any useful purpose and poses a threat to public  
22 safety, the humane society or other animal welfare agency shall  
23 humanely euthanize the animal. Expenses incurred in connection with  
24 the housing, care, upkeep, or euthanasia of the animal by a humane  
25 society or other animal welfare agency, or by a person, firm,  
26 partnership, corporation, or other entity, ~~shall~~**MUST** be assessed  
27 against the owner of the animal.

1           (19) Subject to subsections (16) to (18), all animals being  
2 used or to be used in fighting, equipment, devices and money  
3 involved in a violation of subsection (2) ~~shall~~**MUST** be forfeited  
4 to ~~the~~**THIS** state. All other instrumentalities, proceeds, and  
5 substituted proceeds of a violation of subsection (2) are subject  
6 to forfeiture under chapter 47 of the revised judicature act of  
7 1961, 1961 PA 236, MCL 600.4701 to ~~600.4709~~**600.4710**.

8           (20) The seizing agency may deposit money seized under  
9 subsection (19) into an interest-bearing account in a financial  
10 institution. As used in this subsection, "financial institution"  
11 means a state or nationally chartered bank or a state or federally  
12 chartered savings and loan association, savings bank, or credit  
13 union whose deposits are insured by an agency of the United States  
14 government and that maintains a principal office or branch office  
15 located in this state under the laws of this state or the United  
16 States.

17           (21) An attorney for a person who is charged with a violation  
18 of subsection (2) involving or related to money seized under  
19 subsection (19) ~~shall~~**MUST** be afforded a period of 60 days within  
20 which to examine that money. This 60-day period ~~shall begin~~**BEGINS**  
21 to run after notice of forfeiture is given but before the money is  
22 deposited into a financial institution under subsection (20). If  
23 the attorney general, prosecuting attorney, or city or township  
24 attorney fails to sustain his or her burden of proof in forfeiture  
25 proceedings under subsection (19), the court shall order the return  
26 of the money, including any interest earned on money deposited into  
27 a financial institution under subsection (20).



1           (22) This section does not apply to conduct that is permitted  
2 by and is in compliance with any of the following:

3           (a) Part 401 of the natural resources and environmental  
4 protection act, 1994 PA 451, MCL 324.40101 to ~~324.40119~~**324.40120**.

5           (b) Part 435 of the natural resources and environmental  
6 protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

7           (c) Part 427 of the natural resources and environmental  
8 protection act, 1994 PA 451, MCL 324.42701 to 324.42714.

9           (d) Part 417 of the natural resources and environmental  
10 protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

11           (23) This section does not prohibit a person from being  
12 charged with, convicted of, or punished for any other violation of  
13 law that is committed by that person while violating this section.

14           Enacting section 1. This amendatory act takes effect 90 days  
15 after the date it is enacted into law.