

SENATE BILL NO. 761

December 01, 2021, Introduced by Senators SCHMIDT and MCBROOM and referred to the Committee on Agriculture.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 50 (MCL 750.50), as amended by 2019 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 50. (1) As used in this section and section 50b:
2 (a) "Adequate care" means the provision of sufficient food,
3 water, shelter, sanitary conditions, exercise, and veterinary
4 medical attention in order to maintain an animal in a state of good
5 health.
6 (b) "Animal" means a vertebrate other than a human being.
7 (c) "Animal control shelter" means a facility operated by a

1 county, city, village, or township to impound and care for animals
 2 found in streets or otherwise at large contrary to an ordinance of
 3 the county, city, village, or township or state law.

4 (d) "Animal protection shelter" means a facility operated by a
 5 person, humane society, society for the prevention of cruelty to
 6 animals, or any other nonprofit organization, for the care of
 7 homeless animals.

8 (e) "Breeder" means a person that breeds animals other than
 9 livestock or dogs for remuneration, or that is a large-scale dog
 10 breeding kennel as that term is defined in section 1 of 1969 PA
 11 287, MCL 287.331.

12 (f) "Licensed veterinarian" means ~~a person~~ **an individual**
 13 licensed or otherwise authorized to practice veterinary medicine
 14 under ~~article 15~~ **part 188** of the public health code, 1978 PA 368,
 15 MCL ~~333.16101~~ **333.18801** to 333.18838.

16 (g) "Livestock" means that term as defined in section 3 of the
 17 animal industry act, 1988 PA 466, MCL 287.703.

18 (h) "Neglect" means to fail to sufficiently and properly care
 19 for an animal to the extent that the animal's health is
 20 jeopardized.

21 (i) "Person" means an individual, partnership, limited
 22 liability company, corporation, association, governmental entity,
 23 or other legal entity.

24 (j) "Pet shop" means that term as defined in section 1 of 1969
 25 PA 287, MCL 287.331.

26 (k) "Sanitary conditions" means space free from health hazards
 27 including excessive animal waste, overcrowding of animals, or other
 28 conditions that endanger the animal's health. ~~This definition does~~
 29 **Sanitary conditions do** not include ~~any a condition resulting that~~

results from a customary and reasonable **farming or animal husbandry** practice. ~~pursuant to farming or animal husbandry.~~

(l) "Shelter" means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:

(i) The residence of the dog's owner or other individual.

(ii) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse must have dry bedding when the outdoor temperature is or is predicted to drop below freezing.

(iii) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

(m) "State of good health" means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

(n) "Tethering" means the restraint and confinement of a dog by use of a chain, rope, or similar device.

(o) "Water" means potable water that is suitable for the age and species of animal and that is made regularly available unless otherwise directed by a licensed veterinarian.

(2) An owner, possessor, breeder, operator of a pet shop, or person having the charge or custody of an animal shall not do any

1 of the following:

2 (a) Fail to provide an animal with adequate care.

3 (b) Cruelly drive, work, or beat an animal, or cause an animal
4 to be cruelly driven, worked, or beaten.

5 (c) Carry or cause to be carried in or upon a vehicle or
6 otherwise ~~any a~~ live animal having the feet or legs tied together,
7 other than an animal being transported for medical care or a horse
8 whose feet are hobbled to protect the horse during transport, or in
9 any other cruel and inhumane manner.

10 (d) Carry or cause to be carried a live animal in or upon a
11 vehicle or otherwise without providing a secure space, rack, car,
12 crate, or cage in which livestock may stand and in which all other
13 animals may stand, turn around, and lie down during transportation,
14 or while awaiting slaughter. As used in this subdivision, for
15 purposes of ~~transportation of~~ **transporting** sled dogs, "stand" means
16 sufficient vertical distance to allow the ~~animal~~ **sled dog** to stand
17 without its shoulders touching the top of the crate or
18 transportation vehicle.

19 (e) Abandon an animal or cause an animal to be abandoned, in
20 any place, without making provisions for the animal's adequate
21 care, unless premises are vacated for the protection of human life
22 or the prevention of injury to a human. An animal that is lost by
23 an owner or custodian while traveling, walking, hiking, or hunting
24 is not abandoned under this section when the owner or custodian has
25 made a reasonable effort to locate the animal.

26 (f) Negligently allow ~~any an~~ animal, including ~~one who~~ **an**
27 **animal that** is aged, diseased, maimed, hopelessly sick, disabled,
28 or nonambulatory to suffer unnecessary neglect, torture, or pain.

29 (g) Tether a dog unless the tether is at least 3 times the

length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or nonchoke collar designed for tethering. This subdivision does not apply ~~if the tethering of the dog occurs while the dog is being groomed, trained, transported, or used in a hunt or to a dog that is~~ **tethered for grooming, training, transportation, or use during sled dog racing, hunting, or a similar** event where a shorter tether is necessary for the safety and well-being of the dog and others.

(3) If an animal is impounded and ~~is~~ being held by an animal control shelter or its designee, ~~or an animal protection shelter or its designee, or a~~ licensed veterinarian pending the outcome of a criminal action charging a violation of this section or section 50b, before final disposition of the criminal charge, the prosecuting attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the animal control shelter, ~~or animal protection shelter, or to a~~ licensed veterinarian before final disposition of the criminal charge. The prosecuting attorney shall serve a true copy of the summons and complaint ~~upon~~ **on** the defendant and ~~upon a~~ **any other** person with a known ownership interest or ~~known~~ security interest in the animal or a person who has filed a lien with the secretary of state on the animal. The forfeiture of an animal under this section encumbered by a security interest is subject to the interest of the holder of the security interest if he or she did not have prior knowledge of or did not consent to the commission of the crime. Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing must be conducted within 14 days of the filing of the civil action, or as soon as practicable. The hearing must be before a

1 judge without a jury. At the hearing, the prosecuting attorney has
2 the burden of establishing by a preponderance of the evidence that
3 a violation of this section or section 50b occurred. If the court
4 finds that the prosecuting attorney has met this burden, the court
5 shall order immediate forfeiture of the animal to the animal
6 control shelter, ~~or~~ animal protection shelter, or ~~the~~ licensed
7 veterinarian unless the defendant, within 72 hours of the hearing,
8 submits to the court clerk cash or other ~~form of~~ security in an
9 amount determined by the court to be sufficient to repay all
10 reasonable costs incurred, and anticipated to be incurred, by the
11 animal control shelter, ~~or~~ animal protection shelter, or ~~the~~
12 licensed veterinarian in caring for the animal from the date of
13 initial impoundment to the date of trial. If cash or other security
14 has been submitted, and the trial in the action is continued at a
15 later date, any order of continuance must require the defendant to
16 submit additional cash or security in an amount determined by the
17 court to be sufficient to repay all additional reasonable costs
18 anticipated to be incurred by the animal control shelter, ~~or~~ animal
19 protection shelter, or ~~the~~ licensed veterinarian in caring for the
20 animal until the new date of trial. If the defendant submits cash
21 or other security to the court under this subsection the court may
22 enter an order authorizing the use of that cash or other security
23 before final disposition of the criminal charges to pay the
24 reasonable costs incurred by the animal control shelter, ~~or~~ animal
25 protection shelter, or ~~the~~ licensed veterinarian in caring for the
26 animal from the date of impoundment to the date of final
27 disposition of the criminal charges. The testimony of a person at a
28 hearing held under this subsection is not admissible against him or
29 her in any criminal proceeding except in a criminal prosecution for

perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination. An animal seized under this section or section 50b is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

(4) A person who violates subsection (2) is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (c) to (f), if the violation involved 1 animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 93 days.

(ii) A fine of not more than \$1,000.00.

(iii) Community service for not more than 200 hours.

(b) Except as otherwise provided in subdivisions (c) to (f), if the violation involved 2 or 3 animals or the death of any animal, the person is guilty of a misdemeanor punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 1 year.

(ii) A fine of not more than \$2,000.00.

(iii) Community service for not more than 300 hours.

(c) If the violation involved 4 or more animals but fewer than 10 animals or the person ~~had~~**has** 1 prior conviction under subsection (2), the person is guilty of a felony punishable by 1 or more of the following and may be ordered to pay the costs of prosecution:

(i) Imprisonment for not more than 2 years.

(ii) A fine of not more than \$2,000.00.

1 (iii) Community service for not more than 300 hours.

2 (d) If the violation involved 10 or more animals but fewer
3 than 25 animals or the person ~~had~~**has** 2 prior convictions for
4 violating subsection (2), the person is guilty of a felony
5 punishable by 1 or more of the following and may be ordered to pay
6 the costs of prosecution:

7 (i) Imprisonment for not more than 4 years.

8 (ii) A fine of not more than \$5,000.00.

9 (iii) Community service for not more than 500 hours.

10 (e) If the violation involved 25 or more animals or the person
11 has ~~had~~ 3 or more prior convictions for violating subsection (2),
12 the person is guilty of a felony punishable by 1 or more of the
13 following and may be ordered to pay the costs of prosecution:

14 (i) Imprisonment for not more than 7 years.

15 (ii) A fine of not more than \$10,000.00.

16 (iii) Community service for not more than 500 hours.

17 (f) If the person is a breeder, or if the person is an
18 operator of a pet shop and he or she has ~~had~~ 5 or more prior
19 convictions for violating 1969 PA 287, MCL 287.331 to 287.340, the
20 person is guilty of a felony punishable by imprisonment for not
21 more than 2 years or a fine of not more than \$5,000.00, or both.

22 (5) The court may order a person convicted of violating
23 subsection (2) to be evaluated to determine the need for
24 psychiatric or psychological counseling and, if determined
25 appropriate by the court, to receive psychiatric or psychological
26 counseling. The evaluation and counseling ~~shall~~**must** be at the
27 defendant's own expense.

28 (6) This section does not prohibit a person from being charged
29 with, convicted of, or punished for any other violation of law

1 arising out of the same transaction as the violation of this
2 section.

3 (7) The court may order a term of imprisonment imposed for a
4 violation of this section to be served consecutively to a term of
5 imprisonment imposed for any other crime including any other
6 violation of law arising out of the same transaction as the
7 violation of this section.

8 (8) As a part of the sentence for a violation of subsection
9 (2), the court may order the defendant to pay the costs of the
10 care, housing, and veterinary medical care for the animal, as
11 applicable. If the court does not order a defendant to pay all of
12 the applicable costs ~~listed~~ in this subsection, or orders only
13 partial payment of these costs, the court shall state on the record
14 the reason for that action.

15 (9) As a part of the sentence for a violation of subsection
16 (2), the court may, as a condition of probation, order the
17 defendant not to own or possess an animal for a period of time not
18 to exceed the period of probation. If a person is convicted of a
19 second or subsequent violation of subsection (2), the court may
20 order the defendant not to own or possess an animal for any period
21 of time, including permanent relinquishment of animal ownership.

22 (10) A person who owns or possesses an animal in violation of
23 an order issued under subsection (9) is subject to revocation of
24 probation if the order is issued as a condition of probation. A
25 person who owns or possesses an animal in violation of an order
26 issued under subsection (9) is also subject to the civil and
27 criminal contempt power of the court, and if found guilty of
28 criminal contempt, may be punished by imprisonment for not more
29 than 90 days or a fine of not more than \$500.00, or both.

1 (11) As part of the sentence imposed under subsection (4)(e),
2 the court may place the defendant on probation for any term of
3 years, but not less than 5 years.

4 (12) This section does not prohibit the lawful killing or
5 other use of an animal, including **all of** the following:

6 (a) Fishing.

7 (b) Hunting, trapping, or wildlife control regulated under the
8 natural resources and environmental protection act, 1994 PA 451,
9 MCL 324.101 to 324.90106.

10 (c) Horse racing.

11 (d) The operation of a zoological park or aquarium.

12 (e) Pest or rodent control regulated under part 83 of the
13 natural resources and environmental protection act, 1994 PA 451,
14 MCL 324.8301 to 324.8336.

15 (f) Farming or a generally accepted animal husbandry or
16 farming practice involving livestock.

17 (g) Scientific research under 1969 PA 224, MCL 287.381 to
18 287.395.

19 (h) Scientific research or the lawful killing of an animal
20 under sections 2226, 2671, 2676, and 7333 of the public health
21 code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

22 (i) The lawful killing or use of an animal under the animal
23 industry act, 1988 PA 466, MCL 287.701 to 287.746.

24 **(j) Sled dog racing, sled dog training, and sled dog camping.**

25 (13) This section does not apply to a veterinarian or a
26 veterinary technician lawfully engaging in the practice of
27 veterinary medicine under part 188 of the public health code, 1978
28 PA 368, MCL 333.18801 to 333.18838.