

# HOUSE BILL No. 5946

April 8, 2008, Introduced by Reps. Warren, Bieda, Meadows, Valentine, Rocca, Byrnes, Alma Smith, Bauer, Robert Jones, Kathleen Law, Accavitti and Condino and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 50 (MCL 750.50), as amended by 1998 PA 405.

**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 **AND TO MINIMIZE PAIN AND SUFFERING AS DETERMINED BY A**
- 6       **LICENSED VETERINARIAN.**
- 7           (b) "Animal" means ~~1 or more vertebrates~~ **ANY VERTEBRATE** other
- 8       than a human being.
- 9           (c) **"ANIMAL CONTROL SHELTER" MEANS A FACILITY OPERATED BY A**
- 10       **COUNTY, CITY, VILLAGE, OR TOWNSHIP TO IMPOUND AND CARE FOR ANIMALS**

1 FOUND IN STREETS OR OTHERWISE AT LARGE CONTRARY TO AN ORDINANCE OF  
2 THE COUNTY, CITY, VILLAGE, OR TOWNSHIP OR STATE LAW.

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

7 ~~(d) "Animal control shelter" means a facility operated by a  
8 county, city, village, or township to impound and care for animals  
9 found in streets or otherwise at large contrary to any ordinance of  
10 the county, city, village, or township or state law.~~

11 (E) "HOARD ANIMALS" MEANS TO POSSESS A LARGE NUMBER OF 10 OR  
12 MORE ANIMALS IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:

13 (i) THE ANIMALS' LIVING CONDITIONS NEGATIVELY IMPACT THEIR  
14 HEALTH AND WELL-BEING.

15 (ii) THE POSSESSOR OF THE ANIMALS DISPLAYS AN INABILITY TO  
16 RECOGNIZE OR UNDERSTAND THE NATURE OF, OR HAS A RECKLESS DISREGARD  
17 FOR, THE HARMFUL NATURE OF THE ANIMALS' LIVING CONDITIONS AND THE  
18 DELETERIOUS IMPACT OF THOSE LIVING CONDITIONS ON THE HEALTH AND  
19 WELL-BEING OF THE ANIMALS OR HUMAN BEINGS.

20 (F) ~~(e)~~-"Licensed veterinarian" means a person licensed to  
21 practice veterinary medicine under article 15 of the public health  
22 code, 1978 PA 368, MCL 333.16101 to 333.18838.

23 (G) ~~(f)~~-"Livestock" means that term as defined in the animal  
24 industry act, ~~of 1987,~~ 1988 PA 466, MCL 287.701 to ~~287.747~~ 287.745.

25 (H) ~~(g)~~-"Person" means an individual, partnership, limited  
26 liability company, corporation, association, governmental entity,  
27 or other legal entity.

1           (I) ~~(h)~~—"Neglect" means to fail to sufficiently and properly  
2 care for an animal to the extent that the animal's **LIFE OR** health  
3 is jeopardized **OR THE ANIMAL DIES**.

4           (J) ~~(i)~~—"Sanitary conditions" means space free from health  
5 hazards including excessive animal waste, overcrowding of animals,  
6 or other conditions that endanger the animal's **OR A HUMAN BEING'S**  
7 health. ~~This definition does~~ **SANITARY CONDITIONS DO** not include a  
8 condition resulting from a customary and reasonable practice  
9 ~~pursuant to~~ **OF** farming or animal husbandry.

10           (K) ~~(j)~~—"Shelter" means adequate protection from the elements  
11 and weather conditions suitable for the age, species, and physical  
12 condition of the animal so as to maintain the animal in a state of  
13 good health. Shelter, for livestock, ~~includes~~ **MAY INCLUDE**  
14 **PROTECTION PROVIDED BY** structures or natural features such as trees  
15 or topography. Shelter for a dog ~~shall include~~ **IS NOT ADEQUATE**  
16 **UNLESS IT INCLUDES** 1 or more of the following:

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

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

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

27           (L) ~~(k)~~—"State of good health" means freedom from disease and

1 illness, and in a condition of proper body weight and temperature  
2 for the age and species of the animal, unless the animal is  
3 undergoing appropriate **VETERINARY MEDICAL** treatment.

4 (M) ~~(l) "Tethering"~~ **"TETHER"** means ~~the restraint and~~  
5 ~~confinement of a dog~~ **TO RESTRAIN OR CONFINE AN ANIMAL** by use of a  
6 chain, rope, or similar device **OR THE CHAIN, ROPE, OR SIMILAR**  
7 **DEVICE USED TO RESTRAIN AN ANIMAL.**

8 (N) ~~(m)~~ "Water" means potable water that is suitable for the  
9 age and species of animal, made regularly available unless  
10 otherwise directed by a **LICENSED** veterinarian. ~~licensed to practice~~  
11 ~~veterinary medicine.~~

12 (2) **AN OWNER, POSSESSOR, OR PERSON HAVING THE CHARGE OR**  
13 **CUSTODY OF AN ANIMAL SHALL NOT DO ANY OF THE FOLLOWING:**

14 (A) **NEGLECT THE ANIMAL.**

15 (B) **FAIL TO PROVIDE THE ANIMAL WITH ADEQUATE CARE. THIS**  
16 **SUBDIVISION DOES NOT PROHIBIT ELECTIVE SURGERY PERFORMED BY A**  
17 **LICENSED VETERINARIAN. IT IS NOT A DEFENSE TO THE CRIME OF FAILING**  
18 **TO PROVIDE ADEQUATE CARE THAT THE PERSON COMPLIED WITH A NOTICE OF**  
19 **VIOLATION.**

20 (C) **ABANDON THE ANIMAL OR CAUSE THE ANIMAL TO BE ABANDONED IN**  
21 **ANY PLACE WITHOUT MAKING REASONABLE PROVISIONS FOR THE ANIMAL'S**  
22 **ADEQUATE CARE. AN ANIMAL THAT IS LOST WHILE TRAVELING, WALKING,**  
23 **HIKING, OR HUNTING SHALL NOT BE REGARDED AS ABANDONED UNDER THIS**  
24 **SUBDIVISION IF A REASONABLE EFFORT HAS BEEN MADE TO LOCATE THE**  
25 **ANIMAL.**

26 (D) **ALLOW THE ANIMAL TO SUFFER UNNECESSARY PAIN.**

27 (3) ~~(2) An owner, possessor, or person having the charge or~~

1 ~~eustody of an animal~~ **A PERSON** shall not do any of the following:

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

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

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

10 (C) ~~(d)~~ Carry or cause to be carried a live animal in or upon  
11 a vehicle ~~or otherwise~~ without providing a secure ~~space, rack, car,~~  
12 ~~crate, or cage~~, **OR OTHER MEANS OF RESTRAINT SO THAT THE ANIMAL**  
13 **CANNOT FALL, JUMP, OR BE THROWN FROM THE VEHICLE; SPACE** in which  
14 ~~livestock may stand, and in which all other animals~~ **THE ANIMAL** may  
15 stand, turn around, and lie down during transportation, ~~or~~ or while  
16 awaiting slaughter; **AND PROTECTION FROM THE ELEMENTS**. As used in  
17 this subdivision, for purposes of transportation of sled dogs,  
18 "stand" means sufficient vertical distance to allow the animal to  
19 stand without its shoulders touching the top of the crate or  
20 transportation vehicle.

21 ~~—— (e) Abandon an animal or cause an animal to be abandoned, in~~  
22 ~~any place, without making provisions for the animal's adequate~~  
23 ~~care, unless premises are temporarily vacated for the protection of~~  
24 ~~human life during a disaster. An animal that is lost by an owner or~~  
25 ~~eustodian while traveling, walking, hiking or hunting shall not be~~  
26 ~~regarded as abandoned under this section when the owner or~~  
27 ~~eustodian has made a reasonable effort to locate the animal.~~

1 ~~\_\_\_\_\_ (f) Willfully or negligently allow any animal, including one~~  
2 ~~who is aged, diseased, maimed, hopelessly sick, disabled, or~~  
3 ~~nonambulatory to suffer unnecessary neglect, torture, or pain.~~

4 (D) ~~(g) Tether a dog unless the tether is at least 3 times the~~  
5 ~~length of the dog as measured from the tip of its nose to the base~~  
6 ~~of its tail and is attached to a harness or nonchoke collar~~  
7 ~~designed for tethering. HAS A MINIMUM LENGTH THAT IS THE GREATER OF~~  
8 ~~3 TIMES THE DISTANCE FROM THE TIP OF THE DOG'S NOSE TO THE BASE OF~~  
9 ~~ITS TAIL OR 5 FEET, IS ATTACHED TO A HARNESS OR NONCHOKE COLLAR~~  
10 ~~DESIGNED FOR TETHERING, AND HAS A SWIVEL AT BOTH ENDS. THE TETHER~~  
11 ~~SHALL NOT BE USED AS A COLLAR.~~

12 (E) HOARD ANIMALS. A PERSON'S AFFECTION FOR OR HUMANITARIAN  
13 PURPOSE IN ACQUIRING THE ANIMALS IS NOT A DEFENSE TO A VIOLATION OF  
14 THIS SUBDIVISION.

15 (4) ~~(3)~~ If an animal is impounded and is being held by an  
16 animal control shelter or its designee or an animal protection  
17 shelter or its designee or a licensed veterinarian pending the  
18 outcome of a criminal action charging a violation of this section  
19 or section 50b, before final disposition of the criminal charge,  
20 the prosecuting attorney may file a civil action in the court that  
21 has jurisdiction of the criminal action, requesting that the court  
22 issue an order forfeiting the animal to the animal control shelter  
23 or animal protection shelter or to a licensed veterinarian before  
24 final disposition of the criminal charge. The prosecuting attorney  
25 shall serve a true copy of the summons and complaint upon the  
26 defendant and upon a person with a known ownership interest or  
27 known security interest in the animal or a person who has filed a

1 lien with the secretary of state ~~in~~ **AGAINST** an animal involved in  
2 the pending action. The forfeiture of an animal under this section  
3 encumbered by a security interest is subject to the interest of the  
4 holder of the security interest who did not have prior knowledge  
5 of, or consent to the commission of the crime. Upon the filing of  
6 the civil action, the court shall set a hearing on the complaint.  
7 The hearing shall be conducted within 14 days of the filing of the  
8 civil action, or as soon as practicable. The hearing shall be  
9 before a judge without a jury. At the hearing, the prosecuting  
10 attorney has the burden of establishing by a preponderance of the  
11 evidence that a violation of this section or section 50b occurred.  
12 If the court finds that the prosecuting attorney has met this  
13 burden, the court shall order immediate forfeiture of the animal to  
14 the animal control shelter or animal protection shelter or the  
15 licensed veterinarian unless the defendant, within 72 hours of the  
16 hearing, submits to the court clerk cash or other form of security  
17 in an amount determined by the court to be sufficient to repay all  
18 reasonable costs incurred, and anticipated to be incurred, by the  
19 animal control shelter or animal protection shelter or the licensed  
20 veterinarian in caring for the animal from the date of initial  
21 impoundment to the date of trial. If cash or other security has  
22 been submitted, and the trial in the action is continued at a later  
23 date, any order of continuance shall require the defendant to  
24 submit additional cash or security in an amount determined by the  
25 court to be sufficient to repay all additional reasonable costs  
26 anticipated to be incurred by the animal control shelter or animal  
27 protection shelter or the licensed veterinarian in caring for the

1 animal until the new date of trial. If the defendant submits cash  
2 or other security to the court under this subsection the court may  
3 enter an order authorizing the use of that money or other security  
4 before final disposition of the criminal charges to pay the  
5 reasonable costs incurred by the animal control shelter or animal  
6 protection shelter or the licensed veterinarian in caring for the  
7 animal from the date of impoundment to the date of final  
8 disposition of the criminal charges. The testimony of a person at a  
9 hearing held under this subsection is not admissible against him or  
10 her in any criminal proceeding except in a criminal prosecution for  
11 perjury. The testimony of a person at a hearing held under this  
12 subsection does not waive the person's constitutional right against  
13 self-incrimination. An animal seized under this section or section  
14 50b is not subject to any other civil action pending the final  
15 judgment of the forfeiture action under this subsection.

16 (5) ~~(4)~~—A person who violates subsection (2) **OR (3)** is guilty  
17 of a misdemeanor punishable by imprisonment for not more than 93  
18 days or a fine of not more than \$1,000.00 or community service for  
19 not more than 200 hours, or any combination of these penalties and  
20 the cost of prosecution. A person who violates subsection (2) **OR**  
21 **(3)** on a second occasion is guilty of a felony punishable by  
22 imprisonment for not more than 2 years or a fine of not more than  
23 \$2,000.00 or community service for not more than 300 hours, or any  
24 combination of these penalties and the cost of prosecution. A  
25 person who violates subsection (2) **OR (3)** on a third or subsequent  
26 occasion is guilty of a felony punishable by imprisonment for not  
27 more than 4 years or a fine of not more than \$5,000.00 or community

1 service for not more than 500 hours, or any combination of these  
2 penalties and the cost of prosecution.

3 (6) ~~(5)~~—If forfeiture is not ordered pursuant to ~~UNDER~~  
4 subsection ~~(3)~~ **(4)**, as a part of the sentence for a violation of  
5 subsection (2) **OR (3)**, the court may order the defendant to pay the  
6 costs of the care, housing, and veterinary medical care for the  
7 animal, as applicable. If the court does not order a defendant to  
8 pay all of the applicable costs listed in this subsection, or  
9 orders only partial payment of these costs, the court shall state  
10 on the record the reason for that action.

11 (7) ~~(6)~~—As a part of the sentence for a violation of  
12 subsection (2) **OR (3)**, the court may, as a condition of probation,  
13 order the defendant not to own or possess an animal for a period of  
14 time not to exceed the period of probation. If a person is  
15 convicted of a second or subsequent violation of subsection (2) **OR**  
16 **(3)**, a court order under this subsection may order the defendant  
17 not to own or possess an animal for any period of time, which may  
18 include permanent relinquishment of animal ownership.

19 (8) ~~(7)~~—A person who owns or possesses an animal in violation  
20 of an order issued under subsection ~~(6)~~ **(7)** is subject to  
21 revocation of probation if the order is issued as a condition of  
22 probation. A person who owns or possesses an animal in violation of  
23 an order issued under subsection ~~(6)~~ **(7)** is also subject to the  
24 civil and criminal contempt power of the court, and if found guilty  
25 of criminal contempt, may be punished by imprisonment for not more  
26 than 90 days, or by a fine of not more than \$500.00, or both.

27 (9) ~~(8)~~—This section does not prohibit the lawful killing or

1 other use of an animal, including, but not limited to, the  
2 following:

3 (a) Fishing.

4 (b) Hunting, trapping, or wildlife control regulated pursuant  
5 ~~to~~**UNDER** the natural resources and environmental protection act,  
6 1994 PA 451, MCL 324.101 to 324.90106.

7 (c) Horse racing.

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

9 (e) Pest or rodent control.

10 (f) Farming or a generally accepted animal husbandry or  
11 farming practice involving livestock.

12 (g) Activities authorized ~~pursuant to~~**BY** rules promulgated  
13 under ~~section 9 of the executive organization act of 1965, 1965 PA~~  
14 ~~380, MCL 16.109~~**THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA**  
15 **306, MCL 24.201 TO 24.328.**

16 (h) Scientific research ~~pursuant to~~**UNDER** 1969 PA 224, MCL  
17 287.381 to 287.395.

18 (i) Scientific research ~~pursuant to~~**UNDER** sections 2226, 2671,  
19 2676, and 7333 of the public health code, 1978 PA 368, MCL  
20 333.2226, 333.2671, 333.2676, and 333.7333.