

HOUSE BILL NO. 4784

May 04, 2021, Introduced by Reps. Brann, Whitsett, Aiyash, Marino, Wozniak, Rogers, Sowerby and Mueller 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 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.

(b) "Animal" means a vertebrate other than a human being.

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

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

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

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

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

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

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

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

(k) "Sanitary conditions" means space free from health hazards including excessive animal waste, overcrowding of animals, or other

1 conditions that endanger the animal's health. ~~This definition does~~
2 **Sanitary conditions do** not include ~~any a~~ condition ~~resulting that~~
3 **results** from a customary and reasonable **farming or animal husbandry**
4 practice. ~~pursuant to farming or animal husbandry.~~

5 (l) "Shelter" means adequate protection from the elements and
6 weather conditions suitable for the age, species, and physical
7 condition of the animal, **including the thickness and length of the**
8 **animal's fur or hair**, so as to maintain the animal in a state of
9 good health. **If the elements and weather conditions pose an extreme**
10 **risk to the health or safety of an animal, adequate protection must**
11 **include protection or shade at all times necessary to maintain the**
12 **animal in a state of good health.** Shelter, for livestock, includes
13 structures or natural features such as trees or topography.
14 Shelter, for a dog, includes 1 or more of the following:

15 (i) The residence of the dog's owner or other individual **where**
16 **the dog is kept in a space with appropriate light, ventilation, and**
17 **temperature control.**

18 (ii) A doghouse that is an enclosed structure with a roof **and**
19 **floor** and of appropriate dimensions for the breed and size of the
20 dog. The doghouse must have dry bedding **to provide insulation and**
21 **protection from the cold and damp** when the outdoor temperature is
22 or is predicted to drop below freezing. **As used in this**
23 **subparagraph, "dry bedding" includes materials like straw or cedar**
24 **shavings but does not include a blanket, rag, or other material**
25 **that retains moisture.**

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

(ii) that is accessible to the dog. Unless modified to create shelter that provides adequate protection from the elements and weather conditions suitable for the age, breed, and physical condition of the dog, including the thickness and length of the dog's fur or hair, so as to maintain the dog in a state of good health, a structure under this subparagraph does not include a crawl space under a building or under steps, a deck, or a stoop, metal or plastic barrels, animal carriers, transport crates, or wire crates that are designed to provide temporary housing. A structure under this subparagraph does not include the space under a vehicle, inside a vehicle that is not running appropriate climate controls while under adult supervision, shelters made from cardboard or other materials easily degraded by the elements, or shelters with wire or chain-link floors.

(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 of the following:

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

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

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

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

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

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

(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 to~~ the tethering of the dog ~~occurs~~ while the dog is being groomed,

1 trained, transported, or used in a hunt or event ~~where~~**-if** a shorter
2 tether is necessary for the safety and well-being of the dog and
3 others.

4 (3) If an animal is impounded and ~~is~~-being held by an animal
5 control shelter or its designee, ~~or~~-an animal protection shelter or
6 its designee, or a licensed veterinarian pending the outcome of a
7 criminal action charging a violation of this section or section
8 50b, before final disposition of the criminal charge, the
9 prosecuting attorney may file a civil action in the court that has
10 jurisdiction of the criminal action, requesting that the court
11 issue an order forfeiting the animal to the animal control shelter,
12 ~~or~~-animal protection shelter, or ~~to~~**a**-licensed veterinarian before
13 final disposition of the criminal charge. The prosecuting attorney
14 shall serve a true copy of the summons and complaint ~~upon~~**on** the
15 defendant and ~~upon~~**a** **any other** person with a known ownership
16 interest or known security interest in the animal or a person who
17 has filed a lien with the secretary of state on the animal. The
18 forfeiture of an animal under this section encumbered by a security
19 interest is subject to the interest of the holder of the security
20 interest if he or she did not have prior knowledge of or did not
21 consent to the commission of the crime. Upon the filing of the
22 civil action, the court shall set a hearing on the complaint. The
23 hearing must be conducted within 14 days of the filing of the civil
24 action, or as soon as practicable. The hearing must be before a
25 judge without a jury. At the hearing, the prosecuting attorney has
26 the burden of establishing by a preponderance of the evidence that
27 a violation of this section or section 50b occurred. If the court
28 finds that the prosecuting attorney has met this burden, the court
29 shall order immediate forfeiture of the animal to the animal

1 control shelter, ~~or~~ animal protection shelter, or ~~the~~ licensed
2 veterinarian unless the defendant, within 72 hours of the hearing,
3 submits to the court clerk cash or other form of security in an
4 amount determined by the court to be sufficient to repay all
5 reasonable costs incurred, and anticipated to be incurred, by the
6 animal control shelter, ~~or~~ animal protection shelter, or ~~the~~
7 licensed veterinarian in caring for the animal from the date of
8 initial impoundment to the date of trial. If cash or other security
9 has been submitted, and the trial in the action is continued at a
10 later date, any order of continuance must require the defendant to
11 submit additional cash or security in an amount determined by the
12 court to be sufficient to repay all additional reasonable costs
13 anticipated to be incurred by the animal control shelter, ~~or~~ animal
14 protection shelter, or ~~the~~ licensed veterinarian in caring for the
15 animal until the new date of trial. If the defendant submits cash
16 or other security to the court under this subsection the court may
17 enter an order authorizing the use of that cash or other security
18 before final disposition of the criminal charges to pay the
19 reasonable costs incurred by the animal control shelter, ~~or~~ animal
20 protection shelter, or ~~the~~ licensed veterinarian in caring for the
21 animal from the date of impoundment to the date of final
22 disposition of the criminal charges. The testimony of a person at a
23 hearing held under this subsection is not admissible against him or
24 her in any criminal proceeding except in a criminal prosecution for
25 perjury. The testimony of a person at a hearing held under this
26 subsection does not waive the person's constitutional right against
27 self-incrimination. An animal seized under this section or section
28 50b is not subject to any other civil action pending the final
29 judgment of the forfeiture action under this subsection.

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

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

7 (i) Imprisonment for not more than 93 days.

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

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

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

15 (i) Imprisonment for not more than 1 year.

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

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

18 (c) If the violation involved 4 or more animals but fewer than
19 10 animals or the person ~~had~~**has** 1 prior conviction under
20 subsection (2), the person is guilty of a felony punishable by 1 or
21 more of the following and may be ordered to pay the costs of
22 prosecution:

23 (i) Imprisonment for not more than 2 years.

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

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

26 (d) If the violation involved 10 or more animals but fewer
27 than 25 animals or the person ~~had~~**has** 2 prior convictions for
28 violating subsection (2), the person is guilty of a felony
29 punishable by 1 or more of the following and may be ordered to pay

1 the costs of prosecution:

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

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

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

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

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

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

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

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

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

23 (6) This section does not prohibit a person from being charged
24 with, convicted of, or punished for any other violation of law
25 arising out of the same transaction as the violation of this
26 section.

27 (7) The court may order a term of imprisonment imposed for a
28 violation of this section to be served consecutively to a term of
29 imprisonment imposed for any other crime including any other

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

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

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

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

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

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

1 (a) Fishing.

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

5 (c) Horse racing.

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

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

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

12 (g) Scientific research under 1969 PA 224, MCL 287.381 to
13 287.395.

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

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

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

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