

HOUSE BILL No. 6209

June 12, 2018, Introduced by Reps. Vaupel, Lauwers, Victory, Alexander, Howell,
Wentworth and Calley and referred to the Committee on Agriculture.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 50 and 50b (MCL 750.50 and 750.50b), section
50 as amended by 2007 PA 152 and section 50b as amended by 2008 PA
339.

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 any vertebrate other than a human being.
- 7 (c) "Animal protection shelter" means a facility operated by a

1 person, humane society, society for the prevention of cruelty to
2 animals, or any other nonprofit organization, for the care of
3 homeless animals.

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

8 (e) "Licensed veterinarian" means a person licensed to
9 practice veterinary medicine under article 15 of the public health
10 code, 1978 PA 368, MCL 333.16101 to 333.18838.

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

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

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

19 (i) "Sanitary conditions" means space free from health hazards
20 including excessive animal waste, overcrowding of animals, or other
21 conditions that endanger the animal's health. This definition does
22 not include any condition resulting from a customary and reasonable
23 practice pursuant to farming or animal husbandry.

24 (j) "Shelter" means adequate protection from the elements and
25 weather conditions suitable for the age, species, and physical
26 condition of the animal so as to maintain the animal in a state of
27 good health. Shelter, for livestock, includes structures or natural

1 features such as trees or topography. Shelter, for a dog, includes
2 1 or more of the following:

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

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

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

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

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

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

22 (2) An owner, possessor, or person having the charge or
23 custody of an animal shall not do any of the following:

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

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

27 (c) Carry or cause to be carried in or upon a vehicle or

1 otherwise any live animal having the feet or legs tied together,
2 other than an animal being transported for medical care, or a horse
3 whose feet are hobbled to protect the horse during transport or in
4 any other cruel and inhumane manner.

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

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

21 (f) Negligently allow any animal, including one who is aged,
22 diseased, maimed, hopelessly sick, disabled, or nonambulatory to
23 suffer unnecessary neglect, torture, or pain.

24 (g) Tether a dog unless the tether is at least 3 times the
25 length of the dog as measured from the tip of its nose to the base
26 of its tail and is attached to a harness or nonchoke collar
27 designed for tethering.

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

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

1 judgment of the forfeiture action under this subsection.

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

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

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

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

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

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

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

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

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

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

1 person is guilty of a felony punishable by 1 or more of the
2 following and may be ordered to pay the costs of prosecution:

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

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

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

6 (5) The court may order a person convicted of violating
7 subsection (2) to be evaluated to determine the need for
8 psychiatric or psychological counseling and, if determined
9 appropriate by the court, to receive psychiatric or psychological
10 counseling. The evaluation and counseling shall be at the
11 defendant's own expense.

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

16 (7) The court may order a term of imprisonment imposed for a
17 violation of this section to be served consecutively to a term of
18 imprisonment imposed for any other crime including any other
19 violation of law arising out of the same transaction as the
20 violation of this section.

21 (8) As a part of the sentence for a violation of subsection
22 (2), the court may order the defendant to pay the costs of the
23 care, housing, and veterinary medical care for the animal, as
24 applicable. If the court does not order a defendant to pay all of
25 the applicable costs listed in this subsection, or orders only
26 partial payment of these costs, the court shall state on the record
27 the reason for that action.

1 (9) As a part of the sentence for a violation of subsection
2 (2), the court may, as a condition of probation, order the
3 defendant not to own or possess an animal for a period of time not
4 to exceed the period of probation. If a person is convicted of a
5 second or subsequent violation of subsection (2), the court may
6 order the defendant not to own or possess an animal for any period
7 of time, including permanent relinquishment of animal ownership.

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

16 (11) This section does not prohibit the lawful killing or
17 other use of an animal, including the following:

18 (a) Fishing.

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

22 (c) Horse racing.

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

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

27 (f) Farming or a generally accepted animal husbandry or

1 farming practice involving livestock.

2 (g) Activities authorized under rules promulgated under
3 section 9 of the executive organization act of 1965, 1965 PA 380,
4 MCL 16.109.

5 (h) Scientific research under 1969 PA 224, MCL 287.381 to
6 287.395.

7 (i) Scientific research under sections 2226, 2671, 2676, and
8 7333 of the public health code, 1978 PA 368, MCL 333.2226,
9 333.2671, 333.2676, and 333.7333.

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

14 Sec. 50b. (1) As used in this section, "animal" means any
15 vertebrate other than a human being.

16 (2) Except as otherwise provided in this section, a person
17 shall not do any of the following without just cause:

18 (a) Knowingly kill, torture, mutilate, maim, or disfigure an
19 animal.

20 (b) Commit a reckless act knowing or having reason to know
21 that the act will cause an animal to be killed, tortured,
22 mutilated, maimed, or disfigured.

23 (c) Knowingly administer poison to an animal, or knowingly
24 expose an animal to any poisonous substance, with the intent that
25 the substance be taken or swallowed by the animal.

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

1 (a) Imprisonment for not more than 4 years.

2 (b) A fine of not more than \$5,000.00 for a single animal and
3 \$2,500.00 for each additional animal involved in the violation, but
4 not to exceed a total of \$20,000.00.

5 (c) Community service for not more than 500 hours.

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

14 (5) If a term of probation is ordered for a violation of
15 subsection (2), the court may include as a condition of that
16 probation that the defendant be evaluated to determine the need for
17 psychiatric or psychological counseling and, if determined
18 appropriate by the court, to receive psychiatric or psychological
19 counseling at his or her own expense.

20 (6) As a part of the sentence for a violation of subsection
21 (2), the court may order the defendant not to own or possess an
22 animal for any period of time determined by the court, which may
23 include permanent relinquishment.

24 (7) A person who owns or possesses an animal in violation of
25 an order issued under subsection (6) is subject to revocation of
26 probation if the order is issued as a condition of probation. A
27 person who owns or possesses an animal in violation of an order

1 issued under subsection (6) is also subject to the civil and
2 criminal contempt power of the court and, if found guilty of
3 criminal contempt, may be punished by imprisonment for not more
4 than 90 days or a fine of not more than \$500.00, or both.

5 (8) This section does not prohibit the lawful killing of
6 livestock or a customary animal husbandry or farming practice
7 involving livestock. As used in this subsection, "livestock" means
8 that term as defined in section ~~5-3~~ of the animal industry act,
9 1988 PA 466, MCL ~~287.705-287.703~~.

10 (9) This section does not prohibit the lawful killing of an
11 animal pursuant to any of the following:

12 (a) Fishing.

13 (b) Hunting, trapping, or wildlife control regulated under the
14 natural resources and environmental protection act, 1994 PA 451,
15 MCL 324.101 to 324.90106, and orders issued under that act.

16 (c) Pest or rodent control regulated under part 83 of the
17 natural resources and environmental protection act, 1994 PA 451,
18 MCL 324.8301 to 324.8336.

19 (d) Activities authorized under rules promulgated under
20 section 9 of the executive organization act of 1965, 1965 PA 380,
21 MCL 16.109.

22 (e) Section 19 of the dog law of 1919, 1919 PA 339, MCL
23 287.279.

24 (10) This section does not prohibit the lawful killing or use
25 of an animal for scientific research under any of the following or
26 a rule promulgated under any of the following:

27 (a) 1969 PA 224, MCL 287.381 to 287.395.

1 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
2 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
3 333.7109, and 333.7333.

4 (11) This section does not apply to a veterinarian or a
5 veterinary technician lawfully engaging in the practice of
6 veterinary medicine under part 188 of the public health code, 1978
7 PA 368, MCL 333.18801 to 333.18838.

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

10 Enacting section 2. This amendatory act does not take effect
11 unless Senate Bill No. ____ or House Bill No. 6205 (request no.
12 04193'17) of the 99th Legislature is enacted into law.