

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 6209

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~~ **A** 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~~**AN** ordinance
 7 of the county, city, village, or township or state law.

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) ~~(e)~~"Licensed veterinarian" means a person licensed **OR**
 13 **OTHERWISE AUTHORIZED** to practice veterinary medicine under article
 14 15 of the public health code, 1978 PA 368, MCL 333.16101 to
 15 333.18838.

16 (G) ~~(f)~~"Livestock" means that term as defined in **SECTION 3**
 17 the animal industry act of 1987, 1988 PA 466, MCL ~~287.701 to~~
 18 ~~287.747-287.703.~~

19 (H) ~~(g)~~"Person" means an individual, partnership, limited
 20 liability company, corporation, association, governmental entity,
 21 or other legal entity.

22 (I) **"PET SHOP" MEANS THAT TERM AS DEFINED IN SECTION 1 OF 1969**
 23 **PA 287, MCL 287.331.**

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

27 (K) ~~(i)~~"Sanitary conditions" means space free from health

1 hazards including excessive animal waste, overcrowding of animals,
2 or other conditions that endanger the animal's health. This
3 definition does not include any condition resulting from a
4 customary and reasonable practice pursuant to farming or animal
5 husbandry.

6 (I) ~~(j)~~—"Shelter" means adequate protection from the elements
7 and weather conditions suitable for the age, species, and physical
8 condition of the animal so as to maintain the animal in a state of
9 good health. Shelter, for livestock, includes structures or natural
10 features such as trees or topography. Shelter, for a dog, includes
11 1 or more of the following:

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

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

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

22 (M) ~~(k)~~—"State of good health" means freedom from disease and
23 illness, and in a condition of proper body weight and temperature
24 for the age and species of the animal, unless the animal is
25 undergoing appropriate treatment.

26 (N) ~~(l)~~—"Tethering" means the restraint and confinement of a
27 dog by use of a chain, rope, or similar device.

1 (O) ~~(m)~~—"Water" means potable water that is suitable for the
2 age and species of animal **AND** that is made regularly available
3 unless otherwise directed by a licensed veterinarian.

4 (2) An owner, possessor, **BREEDER, OPERATOR OF A PET SHOP,** or
5 person having the charge or custody of an animal shall not do any
6 of the following:

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

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

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

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

24 (e) Abandon an animal or cause an animal to be abandoned, in
25 any place, without making provisions for the animal's adequate
26 care, unless premises are vacated for the protection of human life
27 or the prevention of injury to a human. An animal that is lost by

1 an owner or custodian while traveling, walking, hiking, or hunting
2 is not abandoned under this section when the owner or custodian has
3 made a reasonable effort to locate the animal.

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

7 (g) Tether a dog unless the tether is at least 3 times the
8 length of the dog as measured from the tip of its nose to the base
9 of its tail and is attached to a harness or nonchoke collar
10 designed for tethering. **THIS SUBDIVISION DOES NOT APPLY IF THE**
11 **TETHERING OF THE DOG OCCURS WHILE THE DOG IS BEING GROOMED,**
12 **TRAINED, TRANSPORTED, OR USED IN A HUNT OR EVENT WHERE A SHORTER**
13 **TETHER IS NECESSARY FOR THE SAFETY AND WELL-BEING OF THE DOG AND**
14 **OTHERS.**

15 (3) If an animal is impounded and is being held by an animal
16 control shelter or its designee or an animal protection shelter or
17 its designee or a licensed veterinarian pending the outcome of a
18 criminal action charging a violation of this section or section
19 50b, before final disposition of the criminal charge, the
20 prosecuting attorney may file a civil action in the court that has
21 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 an~~ **ON THE** 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~~ **IF HE OR SHE** did not have prior
5 knowledge of ~~,~~ or **DID NOT** consent to the commission of the crime.
6 Upon the filing of the civil action, the court shall set a hearing
7 on the complaint. The hearing ~~shall~~ **MUST** be conducted within 14
8 days of the filing of the civil action, or as soon as practicable.
9 The hearing ~~shall~~ **MUST** be before a judge without a jury. At the
10 hearing, the prosecuting attorney has the burden of establishing by
11 a preponderance of the evidence that a violation of this section or
12 section 50b occurred. If the court finds that the prosecuting
13 attorney has met this burden, the court shall order immediate
14 forfeiture of the animal to the animal control shelter or animal
15 protection shelter or the licensed veterinarian unless the
16 defendant, within 72 hours of the hearing, submits to the court
17 clerk cash or other form of security in an amount determined by the
18 court to be sufficient to repay all reasonable costs incurred, and
19 anticipated to be 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 initial impoundment to the date of trial.
22 If cash or other security has been submitted, and the trial in the
23 action is continued at a later date, any order of continuance ~~shall~~
24 **MUST** require the defendant to submit additional cash or security in
25 an amount determined by the court to be sufficient to repay all
26 additional reasonable costs anticipated to be incurred by the
27 animal control shelter or animal protection shelter or the licensed

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

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

19 (a) Except as otherwise provided in subdivisions (c) ~~and (d)~~,
20 **TO (F)**, if the violation involved 1 animal, the person is guilty of
21 a misdemeanor punishable by 1 or more of the following and may be
22 ordered to pay the costs of prosecution:

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

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

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

26 (b) Except as otherwise provided in subdivisions (c) ~~and (d)~~,
27 **TO (F)**, if the violation involved 2 or 3 animals or the death of

1 any animal, the person is guilty of a misdemeanor punishable by 1
 2 or more of the following and may be ordered to pay the costs of
 3 prosecution:

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

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

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

7 (c) If the violation involved 4 or more animals but fewer than
 8 10 animals or the person had 1 prior conviction under subsection
 9 (2), the person is guilty of a felony punishable by 1 or more of
 10 the following and may be ordered to pay the costs of prosecution:

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

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

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

14 (d) If the violation involved 10 or more animals **BUT FEWER**
 15 **THAN 25 ANIMALS** or the person had 2 ~~or more~~ prior convictions for
 16 violating subsection (2), the person is guilty of a felony
 17 punishable by 1 or more of the following and may be ordered to pay
 18 the costs of prosecution:

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

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

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

22 **(E) IF THE VIOLATION INVOLVED 25 OR MORE ANIMALS OR THE PERSON**
 23 **HAS HAD 3 OR MORE PRIOR CONVICTIONS FOR VIOLATING SUBSECTION (2),**
 24 **THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY 1 OR MORE OF THE**
 25 **FOLLOWING AND MAY BE ORDERED TO PAY THE COSTS OF PROSECUTION:**

26 (i) **IMPRISONMENT FOR NOT MORE THAN 7 YEARS.**

27 (ii) **A FINE OF NOT MORE THAN \$10,000.00.**

1 (iii) COMMUNITY SERVICE FOR NOT MORE THAN 500 HOURS.

2 (F) IF THE PERSON IS A BREEDER, OR IF THE PERSON IS AN
3 OPERATOR OF A PET SHOP AND HE OR SHE HAS HAD 5 OR MORE PRIOR
4 CONVICTIONS FOR VIOLATING 1969 PA 287, MCL 287.331 TO 287.340, THE
5 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
6 MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

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

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

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

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

1 the reason for that action.

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

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

17 **(11) AS PART OF THE SENTENCE IMPOSED UNDER SUBSECTION (4) (E),**
18 **THE COURT MAY PLACE THE DEFENDANT ON PROBATION FOR ANY TERM OF**
19 **YEARS, BUT NOT LESS THAN 5 YEARS.**

20 (12) ~~(11)~~—This section does not prohibit the lawful killing or
21 other use of an animal, including the following:

22 (a) Fishing.

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

26 (c) Horse racing.

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

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

4 (f) Farming or a generally accepted animal husbandry or
 5 farming practice involving livestock.

6 ~~—(g) Activities authorized under rules promulgated under~~
 7 ~~section 9 of the executive organization act of 1965, 1965 PA 380,~~
 8 ~~MCL 16.109.~~

9 (G) ~~(h)~~—Scientific research under 1969 PA 224, MCL 287.381 to
 10 287.395.

11 (H) ~~(i)~~—Scientific research **OR THE LAWFUL KILLING OF AN ANIMAL**
 12 under sections 2226, 2671, 2676, and 7333 of the public health
 13 code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

14 **(I) THE LAWFUL KILLING OR USE OF AN ANIMAL UNDER THE ANIMAL**
 15 **INDUSTRY ACT, 1988 PA 466, MCL 287.701 TO 287.747.**

16 (13) ~~(12)~~—This section does not apply to a veterinarian or a
 17 veterinary technician lawfully engaging in the practice of
 18 veterinary medicine under part 188 of the public health code, 1978
 19 PA 368, MCL 333.18801 to 333.18838.

20 Sec. 50b. (1) As used in this section: ~~,"animal"~~

21 (A) **"ANIMAL"** means ~~any~~ **A** vertebrate other than a human being.

22 (B) **"COMPANION ANIMAL" MEANS AN ANIMAL THAT IS COMMONLY**
 23 **CONSIDERED TO BE, OR IS CONSIDERED BY ITS OWNER TO BE, A PET, OR**
 24 **THAT IS A SERVICE ANIMAL AS THAT TERM IS DEFINED IN SECTION 50A.**
 25 **COMPANION ANIMAL INCLUDES, BUT IS NOT LIMITED TO, DOGS AND CATS.**

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

1 (a) Knowingly kill, torture, mutilate, maim, or disfigure an
2 animal.

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

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

9 (D) VIOLATE OR THREATEN TO VIOLATE SUBDIVISION (A) OR (C) WITH
10 THE INTENT TO CAUSE MENTAL SUFFERING OR DISTRESS TO A PERSON OR TO
11 EXERT CONTROL OVER A PERSON.

12 (3) ~~A person who~~ IF THE ANIMAL IS A COMPANION ANIMAL AND IF A
13 PERSON VIOLATES SUBSECTION (2) (D) AND INTENTIONALLY violates
14 subsection ~~(2)~~ (2) (A) OR (C), THE PERSON IS GUILTY OF KILLING OR
15 TORTURING ANIMALS IN THE FIRST DEGREE.

16 (4) IF THE ANIMAL IS A COMPANION ANIMAL AND A PERSON VIOLATES
17 SUBSECTION (2) (D), OR IF A PERSON INTENTIONALLY VIOLATES SUBSECTION
18 (2) (A) OR (C), THE PERSON IS GUILTY OF KILLING OR TORTURING ANIMALS
19 IN THE SECOND DEGREE.

20 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (3) AND (4), A
21 PERSON WHO VIOLATES SUBSECTION (2) IS GUILTY OF KILLING OR
22 TORTURING ANIMALS IN THE THIRD DEGREE.

23 (6) KILLING OR TORTURING ANIMALS IN THE FIRST DEGREE is guilty
24 ~~of~~ a felony punishable by 1 or more of the following:

25 (a) Imprisonment for not more than ~~4~~ 10 years.

26 (b) A fine of not more than \$5,000.00. ~~for a single animal and~~
27 ~~\$2,500.00 for each additional animal involved in the violation, but~~

1 ~~not to exceed a total of \$20,000.00.~~

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

3 (7) KILLING OR TORTURING ANIMALS IN THE SECOND DEGREE IS A
4 FELONY PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

5 (A) IMPRISONMENT FOR NOT MORE THAN 7 YEARS.

6 (B) A FINE OF NOT MORE THAN \$5,000.00.

7 (C) COMMUNITY SERVICE FOR NOT MORE THAN 500 HOURS.

8 (8) KILLING OR TORTURING ANIMALS IN THE THIRD DEGREE IS A
9 FELONY PUNISHABLE BY 1 OR MORE OF THE FOLLOWING:

10 (A) IMPRISONMENT FOR NOT MORE THAN 4 YEARS.

11 (B) A FINE OF NOT MORE THAN \$5,000.00.

12 (C) COMMUNITY SERVICE FOR NOT MORE THAN 500 HOURS.

13 (9) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR A
14 VIOLATION OF THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF
15 IMPRISONMENT IMPOSED FOR ANY OTHER CRIME INCLUDING ANY OTHER
16 VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE
17 VIOLATION OF THIS SECTION.

18 (10) ~~(4)~~As a part of the sentence for a violation of
19 subsection (2), the court may order the defendant to pay the costs
20 of the prosecution and the costs of the care, housing, and
21 veterinary medical care for the ~~impacted~~ animal victim, as
22 applicable. If the court does not order a defendant to pay all of
23 the applicable costs listed in this subsection, or orders only
24 partial payment of these costs, the court shall state on the record
25 the reasons for that action.

26 (11) ~~(5)~~If a term of probation is ordered for a violation of
27 subsection (2), the court may include as a condition of that

1 probation that the defendant be evaluated to determine the need for
2 psychiatric or psychological counseling and, if determined
3 appropriate by the court, to receive psychiatric or psychological
4 counseling at his or her own expense.

5 (12) ~~(6)~~—As a part of the sentence for a violation of
6 subsection (2), the court may order the defendant not to own or
7 possess an animal for any period of time determined by the court,
8 which may include permanent relinquishment.

9 (13) ~~(7)~~—A person who owns or possesses an animal in violation
10 of an order issued under subsection ~~(6)~~—(12) is subject to
11 revocation of probation if the order is issued as a condition of
12 probation. A person who owns or possesses an animal in violation of
13 an order issued under subsection ~~(6)~~—(12) is also subject to the
14 civil and criminal contempt power of the court and, if found guilty
15 of criminal contempt, may be punished by imprisonment for not more
16 than 90 days or a fine of not more than \$500.00, or both.

17 (14) ~~(8)~~—This section does not prohibit the lawful killing of
18 livestock or a customary animal husbandry or farming practice
19 involving livestock. ~~As used in this subsection, "livestock" means~~
20 ~~that term as defined in section 5 of the animal industry act, 1988~~
21 ~~PA 466, MCL 287.705.~~

22 (15) ~~(9)~~—This section does not prohibit the lawful killing of
23 an animal pursuant to any of the following:

24 (a) Fishing.

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

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

4 ~~— (d) Activities authorized under rules promulgated under~~
5 ~~section 9 of the executive organization act of 1965, 1965 PA 380,~~
6 ~~MCL 16.109.~~

7 (D) ~~(e)~~ Section 19 of the dog law of 1919, 1919 PA 339, MCL
8 287.279.

9 (16) ~~(10)~~ This section does not prohibit the lawful killing or
10 use of an animal for scientific research under any of the following
11 or a rule promulgated under any of the following:

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

13 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
14 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
15 333.7109, and 333.7333.

16 (17) ~~(11)~~ This section does not apply to a veterinarian or a
17 veterinary technician lawfully engaging in the practice of
18 veterinary medicine under part 188 of the public health code, 1978
19 PA 368, MCL 333.18801 to 333.18838.

20 (18) THIS SECTION DOES NOT PROHIBIT THE LAWFUL KILLING OR USE
21 OF AN ANIMAL UNDER THE ANIMAL INDUSTRY ACT, 1988 PA 466, MCL
22 287.701 TO 287.747.

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

25 Enacting section 2. This amendatory act does not take effect
26 unless House Bill No. 6205 of the 99th Legislature is enacted into
27 law.