

DOGS AND CATS USED IN RESEARCH

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Senate Bill 148 as enacted
Public Act 314 of 2023
Sponsor: Sen. Dayna Polehanki

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 149 as enacted
Public Act 315 of 2023
Sponsor: Sen. Kevin Hertel

House Committee: Agriculture
Senate Committee: Natural Resources and Agriculture
Complete to 1-10-24

SUMMARY:

Senate Bills 148 and 149 each amend 1969 PA 224, which licenses and regulates research facilities that use dogs and cats for research purposes and dealers in those animals, to do the following:

- Require a research facility to offer a dog or cat no longer needed for research to an animal protection shelter before euthanizing it. (SB 149)
- Allow for written agreements that could waive the right of an animal protection shelter or an individual adopting a laboratory animal to hold the research facility or the animal protection shelter, respectively, responsible for any behavioral or health issues of a laboratory animal subject to an adoption. (SB 149)
- Establish administrative fines for a violation of SB 149, with fine revenue to be deposited in the proposed Laboratory Animal Fund. (SB 148)
- Require a research facility to submit an annual report that includes an attestation of compliance with the requirements of the act. (SB 148)

Senate Bill 149 requires a *research facility* to offer a *laboratory animal* that is no longer needed for *laboratory research* for adoption, first to its employees if it so chooses, and then to an *animal protection shelter*, before euthanizing the animal. However, if an *attending veterinarian* determines that euthanasia is required for health or safety reasons, then that animal does not need to be offered to a shelter.

Research facility means a school, hospital, laboratory, institution, organization, or person that is licensed under the act or otherwise registered with the U.S. Department of Agriculture, that uses or intends to use a laboratory animal in laboratory research, and that does either or both of the following:

- Purchases or transports laboratory animals.
- Receives funds from the state, a local government, or an agency or instrumentality of the state or a local government to finance its operations through grants, loans, or other funds.

Laboratory animal means a dog or cat (of any age) that is used or intended to be used for laboratory research at a research facility.

Laboratory research means research, tests, or experiments conducted for education, scientific, medical, or experimental purposes.

Animal protection shelter means a facility registered under 1969 PA 287 that is operated by any of the following:

- A **person**.
- A humane society.
- A society for the prevention of cruelty to animals.
- Any other nonprofit organization for the care of homeless animals.

Person means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

Attending veterinarian means (as defined in 9 CFR 1.1) a person who has graduated from a veterinary school accredited by the American Veterinary Medical Association's Council on Education, has a certificate issued by the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates, or has received equivalent formal education as determined by the administrator of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture; who has received training or experience in the care and management of the species being attended; and who has direct or delegated authority for activities involving animals at a facility subject to the jurisdiction of the U.S. Secretary of Agriculture.

A research facility may enter into a written agreement with a shelter to carry out the purposes of these provisions. The agreement may include the following:

- An acknowledgment that the animal protection shelter accepts responsibility for all risks that may be associated with a laboratory animal that is the subject of an adoption.
- A waiver of the right to hold the research facility liable for the behavioral or health issues of a laboratory animal that is the subject of an adoption.

An animal protection shelter that offers a laboratory animal for adoption must enter into a written agreement with the individual who adopts the animal that includes an acknowledgment that the individual understands that the animal subject to adoption is a former laboratory animal and may have unique needs as a result of that experience. The agreement also may include the following:

- An acknowledgment that the individual accepts responsibility for all risks that may be associated with the laboratory animal that is the subject of the adoption.
- A waiver of the right to hold the animal protection shelter liable for the behavioral or health issues of the laboratory animal that is the subject of the adoption.

The provisions described above may be known as "Teddy's Law."

The bill also requires the Michigan Department of Agriculture and Rural Development (MDARD) to maintain a list of all research facilities operating in Michigan and make the list available on its website.

MCL 287.381 and 287.387 and proposed MCL 287.388a

Senate Bill 148 allows MDARD to impose an administrative fine, after notice and opportunity for a hearing, on a research facility that violates the Teddy's Law provisions of Senate Bill 149. The fine must be deposited into the Laboratory Animal Fund (see below). The amount of the fine is based on the number of laboratory animals involved in the violation, as well as any prior violations of those provisions, as follows:

- One laboratory animal and no prior violation: up to \$1,000.
- Two or three laboratory animals and no prior violation: up to \$2,000.
- Four to nine laboratory animals and no prior violation, or any number of animals and one prior violation: up to \$3,000.
- Ten to 24 laboratory animals and no prior violation, or any number of animals and two prior violations: up to \$5,000.
- More than 24 laboratory animals and no prior violation, or any number of animals and three or more prior violations: up to \$10,000.

Beginning February 13, 2025 (one year after the bill's effective date), MDARD may issue a warning for a violation of the Teddy's Law provisions of Senate Bill 149 instead of imposing an administrative fine as described above.

Attorney general

If a person fails to pay an administrative fine imposed as described above, MDARD must advise the attorney general. The attorney general must bring an action to enforce compliance with the Teddy's Law provisions of Senate Bill 149, enforce compliance with the reporting requirements described below, recover an administrative fine described above, recover a civil fine for failure to comply with the reporting requirements described below, recover actual costs and fees, and recover attorney fees. The court must triple the administrative fine described above as part of any monetary judgment, as applicable.

Laboratory Animal Fund

The bill creates the Laboratory Animal Fund in the state treasury. The state treasurer may receive the administrative fines described above for deposit into the fund, as well as money or other assets from any other source, and must credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund. MDARD is the administrator of the fund for auditing purposes and must spend money from the fund to administer the Teddy's Law provisions of Senate Bill 149, the applicable fines for violations, and the reporting requirements described below.

Report

The bill requires a research facility that uses laboratory animals to submit a report to MDARD by March 31 of each year that includes an attestation of compliance with the requirements of the act. MDARD must use the information provided in the report to determine compliance with the Teddy's Law provisions of Senate Bill 149 and is prohibited from making any information provided in the report available on its website. A research facility that fails to submit a report is subject to a civil fine of up to \$2,500.

MCL 287.391a, 287.392, and 287.392a

BRIEF DISCUSSION:

As the result of a January 2023 federal law change,¹ pharmaceuticals are no longer required to undertake animal laboratory testing prior to trials involving humans, although under Food and Drug Administration (FDA) rules, certain products and substances must be tested on animals. The testing of products and substances on animals has long been a subject of debate between animal rights activists, who say testing constitutes animal abuse, and those in the research industry, who contend that, while unpleasant at times, the data gained from animal testing justifies the practice because it ultimately improves human lives.

As many of the tests on dogs and cats are required under federal law, the bills are not intended to stop testing, but to ensure that animals are able to be adopted out. According to the Humane Society, 600 dogs and 100 cats in Michigan are euthanized after lab testing each year. Some FDA requirements and federal laws require euthanizing animals for pathology testing. Some facilities do have employee adoption programs, but they are not mandatory. The bills' sponsors and supporters say that, of the hundreds of animals euthanized each year following clinical trials in Michigan, many were healthy enough to have been adopted if given the chance.

FISCAL IMPACT:

The Michigan Department of Agriculture and Rural Development has authority over administration of 1969 PA 224, the act that provides for the licensing and regulation of research facilities using dogs and cats for research purposes. As described above, the bills would establish new authorities and responsibilities for MDARD under that act. MDARD has estimated that administering the new program responsibilities would require one full-time equated position and funding of \$200,000. Although the bill establishes a restricted fund in support of those regulatory activities, the only fund source appears to be administrative fines assessed for violations of the "Teddy's Law" provisions. Identification of violations appears to be complaint-based. The amount of fine revenue each year would likely be variable and cannot be readily estimated. Note that the enacted FY 2023-24 MDARD budget included a \$500,000 one-time general fund appropriation and \$200,000 in ongoing general fund support for the program, as well as authorization for one full-time equated position.

The Department of Attorney General (AG) may experience an increase of cases related to the bills to the extent that it takes civil action against individuals who are reported to the department for failing to pay a civil or administrative fine. In addition to recovering the fine, the bills would require the AG to collect an amount for actual costs and attorney fees, which would offset direct costs of the case for the AG. The AG would likely be able to absorb any increased caseload resulting from the bills with ongoing staff and funding. If existing AG staff is insufficient to comply with the bills, additional state costs of approximately \$120,000 annually for any additional administrative FTE position and \$185,000 for any additional attorney FTE position may be required.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

¹ <https://www.npr.org/2023/01/12/1148529799/fda-animal-testing-pharmaceuticals-drug-development>