

HOUSE BILL No. 4332

March 8, 2017, Introduced by Reps. Brann, LaSata, Lucido, Marino, Green and Jones and referred to the Committee on Law and Justice.

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
8 person, humane society, society for the prevention of cruelty to
9 animals, or any other nonprofit organization, for the care of

1 homeless animals.

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

6 **(E) "BREEDER" MEANS A PERSON WHO BREEDS ANIMALS OTHER THAN**
7 **LIVESTOCK FOR THE PURPOSE OF MAKING A PROFIT.**

8 **(F)** ~~(e)~~-"Licensed veterinarian" means a person licensed **OR**
9 **OTHERWISE AUTHORIZED** to practice veterinary medicine under article
10 15 of the public health code, 1978 PA 368, MCL 333.16101 to
11 333.18838.

12 **(G)** ~~(f)~~-"Livestock" means that term as defined in **SECTION 5 OF**
13 the animal industry act, ~~of 1987,~~ 1988 PA 466, MCL ~~287.701 to~~
14 ~~287.747.~~**287.705.**

15 **(H)** ~~(g)~~-"Person" means an individual, partnership, limited
16 liability company, corporation, association, governmental entity,
17 or other legal entity.

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

20 **(J)** ~~(h)~~-"Neglect" means to fail to sufficiently and properly
21 care for an animal to the extent that the animal's health is
22 jeopardized.

23 **(K)** ~~(i)~~-"Sanitary conditions" means space free from health
24 hazards including excessive animal waste, overcrowding of animals,
25 or other conditions that endanger the animal's health. This
26 definition does not include any condition resulting from a
27 customary and reasonable practice pursuant to farming or animal

1 husbandry.

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

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

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

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

18 (m) ~~(k)~~—"State of good health" means freedom from disease and
19 illness, and in a condition of proper body weight and temperature
20 for the age and species of the animal, unless the animal is
21 undergoing appropriate treatment.

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

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

27 (2) An owner, possessor, **BREEDER, OPERATOR OF A PET SHOP,** or

1 person having the charge or custody of an animal shall not do any
2 of the following:

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

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

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

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

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

27 (f) Negligently allow any animal, including one who is aged,

1 diseased, maimed, hopelessly sick, disabled, or nonambulatory to
2 suffer unnecessary neglect, torture, or pain.

3 (g) Tether a dog unless the tether is at least 3 times the
4 length of the dog as measured from the tip of its nose to the base
5 of its tail and is attached to a harness or nonchoke collar
6 designed for tethering. **THIS SUBDIVISION DOES NOT APPLY TO THE**
7 **OPERATOR OF A PET SHOP IF THE TETHERING OF THE DOG OCCURS WHILE THE**
8 **DOG IS BEING GROOMED ON THE PREMISES OF THE PET SHOP.**

9 (3) If an animal is impounded and is being held by an animal
10 control shelter or its designee or an animal protection shelter or
11 its designee or a licensed veterinarian pending the outcome of a
12 criminal action charging a violation of this section or section
13 50b, before final disposition of the criminal charge, the
14 prosecuting attorney may file a civil action in the court that has
15 jurisdiction of the criminal action, requesting that the court
16 issue an order forfeiting the animal to the animal control shelter
17 or animal protection shelter or to a licensed veterinarian before
18 final disposition of the criminal charge. The prosecuting attorney
19 shall serve a true copy of the summons and complaint upon the
20 defendant and upon a person with a known ownership interest or
21 known security interest in the animal or a person who has filed a
22 lien with the secretary of state ~~in an~~ **ON THE** animal. ~~involved in~~
23 ~~the pending action.~~ The forfeiture of an animal under this section
24 encumbered by a security interest is subject to the interest of the
25 holder of the security interest ~~who~~ **IF HE OR SHE** did not have prior
26 knowledge of ~~—~~ or **DID NOT** consent to the commission of the crime.
27 Upon the filing of the civil action, the court shall set a hearing

1 on the complaint. The hearing ~~shall~~**MUST** be conducted within 14
2 days of the filing of the civil action, or as soon as practicable.
3 The hearing ~~shall~~**MUST** be before a judge without a jury. At the
4 hearing, the prosecuting attorney has the burden of establishing by
5 a preponderance of the evidence that a violation of this section or
6 section 50b occurred. If the court finds that the prosecuting
7 attorney has met this burden, the court shall order immediate
8 forfeiture of the animal to the animal control shelter or animal
9 protection shelter or the licensed veterinarian unless the
10 defendant, within 72 hours of the hearing, submits to the court
11 clerk cash or other form of security in an amount determined by the
12 court to be sufficient to repay all reasonable costs incurred, and
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 from the date of initial impoundment to the date of trial.
16 If cash or other security has been submitted, and the trial in the
17 action is continued at a later date, any order of continuance ~~shall~~
18 **MUST** require the defendant to submit additional cash or security in
19 an amount determined by the court to be sufficient to repay all
20 additional reasonable costs anticipated to be incurred by the
21 animal control shelter or animal protection shelter or the licensed
22 veterinarian in caring for the animal until the new date of trial.
23 If the defendant submits cash or other security to the court under
24 this subsection the court may enter an order authorizing the use of
25 that ~~money~~**CASH** or other security before final disposition of the
26 criminal charges to pay the reasonable costs incurred by the animal
27 control shelter or animal protection shelter or the licensed

1 veterinarian in caring for the animal from the date of impoundment
2 to the date of final disposition of the criminal charges. The
3 testimony of a person at a hearing held under this subsection is
4 not admissible against him or her in any criminal proceeding except
5 in a criminal prosecution for perjury. The testimony of a person at
6 a hearing held under this subsection does not waive the person's
7 constitutional right against self-incrimination. An animal seized
8 under this section or section 50b is not subject to any other civil
9 action pending the final judgment of the forfeiture action under
10 this subsection.

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

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

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

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

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

20 (b) Except as otherwise provided in subdivisions (c) ~~and (d)~~,
21 **TO (F)**, if the violation involved 2 or 3 animals or the death of
22 any animal, the person is guilty of a misdemeanor punishable by 1
23 or more of the following and may be ordered to pay the costs of
24 prosecution:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (7) The court may order a term of imprisonment imposed for a
12 violation of this section to be served consecutively to a term of
13 imprisonment imposed for any other crime including any other
14 violation of law arising out of the same transaction as the
15 violation of this section.

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

23 (9) As a part of the sentence for a violation of subsection
24 (2), the court may, as a condition of probation, order the
25 defendant not to own or possess an animal for a period of time not
26 to exceed the period of probation. If a person is convicted of a
27 second or subsequent violation of subsection (2), the court may

1 order the defendant not to own or possess an animal for any period
2 of time, including permanent relinquishment of animal ownership.

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

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

14 (12) ~~(11)~~ This section does not prohibit the lawful killing or
15 other use of an animal, including the following:

16 (a) Fishing.

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

20 (c) Horse racing.

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

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

25 (f) Farming or a generally accepted animal husbandry or
26 farming practice involving livestock.

27 ~~(g) Activities authorized under rules promulgated under~~

1 ~~section 9 of the executive organization act of 1965, 1965 PA 380,~~
 2 ~~MCL 16.109.~~

3 (G) ~~(h)~~ Scientific research under 1969 PA 224, MCL 287.381 to
 4 287.395.

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

8 (13) ~~(12)~~ This section does not apply to a veterinarian or a
 9 veterinary technician lawfully engaging in the practice of
 10 veterinary medicine under part 188 of the public health code, 1978
 11 PA 368, MCL 333.18801 to 333.18838.

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

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

14 (B) "COMPANION ANIMAL" **MEANS AN ANIMAL THAT IS COMMONLY**
 15 **CONSIDERED TO BE, OR IS CONSIDERED BY ITS OWNER TO BE, A PET.**

16 **COMPANION ANIMAL INCLUDES, BUT IS NOT LIMITED TO, DOGS AND CATS.**

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

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

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

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

27 (D) **VIOLATE OR THREATEN TO VIOLATE SUBDIVISION (A) OR (C) WITH**

1 THE INTENT TO CAUSE MENTAL SUFFERING OR DISTRESS TO A PERSON OR TO
2 EXERT CONTROL OVER A PERSON.

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

7 (4) IF THE ANIMAL IS A COMPANION ANIMAL AND A PERSON VIOLATES
8 SUBSECTION (2) (D), OR IF A PERSON INTENTIONALLY VIOLATES SUBSECTION
9 (2) (A) OR (C), THE PERSON IS GUILTY OF KILLING OR TORTURING ANIMALS
10 IN THE SECOND DEGREE.

11 (5) A PERSON WHO VIOLATES SUBSECTION (2) IS GUILTY OF KILLING
12 OR TORTURING ANIMALS IN THE THIRD DEGREE.

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

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

16 (b) A fine of not more than \$5,000.00. ~~for a single animal and~~
17 ~~\$2,500.00 for each additional animal involved in the violation, but~~
18 ~~not to exceed a total of \$20,000.00.~~

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

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

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

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

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

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

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

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

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

3 (9) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR A
4 VIOLATION OF THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF
5 IMPRISONMENT IMPOSED FOR ANY OTHER CRIME INCLUDING ANY OTHER
6 VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE
7 VIOLATION OF THIS SECTION.

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

16 (11) ~~(5)~~—If a term of probation is ordered for a violation of
17 subsection (2), the court may include as a condition of that
18 probation that the defendant 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 at his or her own expense.

22 (12) ~~(6)~~—As a part of the sentence for a violation of
23 subsection (2), the court may order the defendant not to own or
24 possess an animal for any period of time determined by the court,
25 which may include permanent relinquishment.

26 (13) ~~(7)~~—A person who owns or possesses an animal in violation
27 of an order issued under subsection ~~(6)~~—(12) is subject to

1 revocation of probation if the order is issued as a condition of
2 probation. A person who owns or possesses an animal in violation of
3 an order issued under subsection ~~(6)~~ **(12)** is also subject to the
4 civil and criminal contempt power of the court and, if found guilty
5 of criminal contempt, may be punished by imprisonment for not more
6 than 90 days or a fine of not more than \$500.00, or both.

7 **(14)** ~~(8)~~ This section does not prohibit the lawful killing of
8 livestock or a customary animal husbandry or farming practice
9 involving livestock. ~~As used in this subsection, "livestock" means~~
10 ~~that term as defined in section 5 of the animal industry act, 1988~~
11 ~~PA 466, MCL 287.705.~~

12 **(15)** ~~(9)~~ This section does not prohibit the lawful killing of
13 an animal pursuant to any of the following:

14 (a) Fishing.

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

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

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

24 **(D)** ~~(e)~~ Section 19 of the dog law of 1919, 1919 PA 339, MCL
25 287.279.

26 **(16)** ~~(10)~~ This section does not prohibit the lawful killing or
27 use of an animal for scientific research under any of the following

1 or a rule promulgated under any of the following:

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

3 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
4 health code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676,
5 333.7109, and 333.7333.

6 **(17)** ~~(11)~~—This section does not apply to a veterinarian or a
7 veterinary technician lawfully engaging in the practice of
8 veterinary medicine under part 188 of the public health code, 1978
9 PA 368, MCL 333.18801 to 333.18838.

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