



HOUSE BILL No. 5561

February 7, 1996, Introduced by Reps. Jellema, Bush, Hammerstrom, Agee, Rocca, Byl, Jaye, Brewer, Hill, Gire, Green and Dalman and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 50 of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

as amended by Act No. 334 of the Public Acts of 1994, being section 750.50 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 50 of Act No. 328 of the Public Acts of
2 1931, as amended by Act No. 334 of the Public Acts of 1994, being
3 section 750.50 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 50. (1) As used in this section and section 50b:

6 (a) "Adequate care" means the provision of sufficient food,
7 water, shelter, sanitary conditions, and veterinary medical
8 attention in order to maintain an animal in a state of good
9 health.

1 (b) "Animal" means ~~any vertebrate~~ 1 OR MORE VERTEBRATES
2 other than a human being.

3 (C) "ANIMAL SHELTER" MEANS A FACILITY OPERATED BY A PERSON,
4 HUMANE SOCIETY, SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS,
5 OR ANY OTHER NONPROFIT ORGANIZATION FOR THE CARE OF HOMELESS
6 ANIMALS.

7 (D) "DOG POUND" MEANS A FACILITY OPERATED BY A COUNTY, CITY,
8 VILLAGE, OR TOWNSHIP TO IMPOUND AND CARE FOR ANIMALS FOUND IN
9 STREETS OR OTHERWISE AT LARGE CONTRARY TO ANY ORDINANCE OF THE
10 COUNTY, CITY, VILLAGE, OR TOWNSHIP OR STATE LAW.

11 (E) "LICENSED VETERINARIAN" MEANS A PERSON LICENSED TO PRAC-
12 TICE VETERINARY MEDICINE UNDER ARTICLE 15 OF THE PUBLIC HEALTH
13 CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
14 SECTIONS 333.16101 TO 333.18838 OF THE MICHIGAN COMPILED LAWS.

15 (F) ~~(e)~~ "Livestock" has the meaning attributed to the term
16 in the animal industry act of 1987, Act No. 466 of the Public
17 Acts of 1988, being sections 287.701 to 287.747 of the Michigan
18 Compiled Laws.

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

22 (H) ~~(e)~~ "Neglect" means to fail to sufficiently and prop-
23 erly care for an animal to the extent that the animal's health is
24 jeopardized.

25 (I) ~~(f)~~ "Sanitary conditions" means space free from health
26 hazards including excessive animal waste, overcrowding of
27 animals, or other conditions that endanger the animal's health.

1 This definition does not include a condition resulting from a
2 customary and reasonable practice pursuant to farming or animal
3 husbandry.

4 (J) ~~(g)~~ "Shelter" means adequate protection from the ele-
5 ments suitable for the age and species of animal and weather con-
6 ditions to maintain the animal in a state of good health, includ-
7 ing structures or natural features such as trees and topography.

8 (K) ~~(h)~~ "State of good health" means freedom from disease
9 and illness, and in a condition of proper body weight and temper-
10 ature for the age and species of the animal, unless the animal is
11 undergoing appropriate treatment.

12 (L) ~~(i)~~ "Water" means potable water that is suitable for
13 the age and species of animal, made regularly available unless
14 otherwise directed by a veterinarian licensed to practice veteri-
15 nary medicine.

16 (2) An owner, possessor, or person having the charge or cus-
17 tody of an animal shall not do any of the following:

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

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

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

26 (d) Carry or cause to be carried a live animal in or upon a
27 vehicle or otherwise without providing a secure space, rack, car,

1 crate, or cage, in which livestock may stand, and in which all
2 other animals may stand, turn around, and lie down during trans-
3 portation, or while awaiting slaughter. As used in this subdivi-
4 sion, for purposes of transportation of sled dogs, "stand" means
5 sufficient vertical distance to allow the animal to stand without
6 its shoulders touching the top of the crate or transportation
7 vehicle.

8 (e) Abandon an animal or cause an animal to be abandoned, in
9 any place, without making provisions for the animal's adequate
10 care, unless premises are temporarily vacated for the protection
11 of human life during a disaster. An animal that is lost by an
12 owner or custodian while traveling, walking, hiking or hunting
13 shall not be regarded as abandoned under this section when the
14 owner or custodian has made a reasonable effort to locate the
15 animal.

16 (f) Willfully or negligently allow any animal, including one
17 who is aged, diseased, maimed, hopelessly sick, disabled, or non-
18 ambulatory to suffer unnecessary neglect, torture, or pain.

19 (3) IF AN ANIMAL IS IMPOUNDED AND IS BEING HELD BY AN ANIMAL
20 CONTROL OR PROTECTION SHELTER OR A LICENSED VETERINARIAN PENDING
21 OUTCOME OF CRIMINAL ACTION CHARGING A VIOLATION OF THIS SECTION
22 OR SECTION 50B PRIOR TO FINAL DISPOSITION OF THE CRIMINAL CHARGE,
23 THE ANIMAL CONTROL OR PROTECTION SHELTER OR A LICENSED VETERINAR-
24 IAN MAY FILE A PETITION IN THE CRIMINAL ACTION REQUESTING THAT
25 THE COURT ISSUE AN ORDER FORFEITING THE ANIMAL TO THE ANIMAL CON-
26 TROL OR PROTECTION SHELTER OR A LICENSED VETERINARIAN PRIOR TO
27 FINAL DISPOSITION OF THE CRIMINAL CHARGE. THE PETITIONER SHALL

1 SERVE A TRUE COPY OF THE PETITION UPON THE DEFENDANT AND THE
2 PROSECUTING ATTORNEY. UPON RECEIPT OF A PETITION, THE COURT
3 SHALL SET A HEARING ON THE PETITION. THE HEARING SHALL BE CON-
4 DUCTED WITHIN 14 DAYS OF THE FILING OF THE PETITION, OR AS SOON
5 AS PRACTICABLE. AT THE HEARING, THE PETITIONER HAS THE BURDEN OF
6 ESTABLISHING PROBABLE CAUSE TO BELIEVE THAT A VIOLATION OF THIS
7 SECTION OR SECTION 50B OCCURRED. IF THE COURT FINDS THAT PROBA-
8 BLE CAUSE EXISTS, THE COURT SHALL ORDER IMMEDIATE FORFEITURE OF
9 THE ANIMAL TO THE PETITIONER, UNLESS THE DEFENDANT, WITHIN 72
10 HOURS OF THE HEARING, POSTS A SECURITY DEPOSIT OR BOND WITH THE
11 COURT CLERK IN AN AMOUNT DETERMINED BY THE COURT TO BE SUFFICIENT
12 TO REPAY ALL REASONABLE COSTS INCURRED, AND ANTICIPATED TO BE
13 INCURRED, BY THE PETITIONER IN CARING FOR THE ANIMAL FROM THE
14 DATE OF INITIAL IMPOUNDMENT TO THE DATE OF TRIAL. IF A SECURITY
15 DEPOSIT OR BOND HAS BEEN POSTED, AND THE TRIAL IN THE ACTION IS
16 CONTINUED AT A LATER DATE, ANY ORDER OF CONTINUANCE SHALL REQUIRE
17 THE DEFENDANT TO POST AN ADDITIONAL SECURITY DEPOSIT OR BOND IN
18 AN AMOUNT DETERMINED BY THE COURT THAT SHALL BE SUFFICIENT TO
19 REPAY ALL ADDITIONAL REASONABLE COSTS ANTICIPATED TO BE INCURRED
20 BY THE PETITIONER IN CARING FOR THE ANIMAL UNTIL THE NEW DATE OF
21 TRIAL.

22 (4) ~~(3)~~ A person who violates subsection (2) is guilty of
23 a misdemeanor, punishable by imprisonment for not more than 93
24 days, or by a fine of not more than \$1,000.00, or community serv-
25 ice not to exceed 200 hours, or any combination of these
26 penalties. A PERSON WHO VIOLATES SUBSECTION (2) ON A SECOND OR
27 SUBSEQUENT OCCASION IS GUILTY OF A FELONY PUNISHABLE BY

1 IMPRISONMENT FOR NOT MORE THAN 4 YEARS, OR BY A FINE OF NOT MORE
2 THAN \$5,000.00, OR COMMUNITY SERVICE FOR NOT MORE THAN 500 HOURS,
3 OR ANY COMBINATION OF THESE PENALTIES.

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

13 (6) ~~(5)~~ As a part of the sentence for a violation of
14 subsection (2), the court may ~~, as a condition of probation,~~
15 order the defendant not to own or possess an animal for ~~a~~ ANY
16 period of time ~~not to exceed the period of probation~~ AS AUTHO-
17 RIZED BY LAW AND DETERMINED TO BE APPROPRIATE BY THE COURT BASED
18 ON THE PERTINENT FACTS. IF A PERSON IS CONVICTED OF A SECOND OR
19 SUBSEQUENT VIOLATION OF SUBSECTION (2), A COURT ORDER UNDER THIS
20 SUBSECTION MAY INCLUDE PERMANENT RELINQUISHMENT OF ANIMAL
21 OWNERSHIP.

22 (7) ~~(6)~~ A person who owns or possesses an animal in viola-
23 tion of an order issued under subsection ~~(5)~~ (6) is subject to
24 revocation of probation IF THE ORDER IS ISSUED AS A CONDITION OF
25 PROBATION. A person who owns or possesses an animal in violation
26 of an order issued under subsection ~~(5)~~ (6) is also subject to
27 the civil and criminal contempt power of the court, and if found

1 guilty of criminal contempt, may be punished by imprisonment for
2 not more than 90 days, or by a fine of not more than \$500.00, or
3 both.

4 (8) ~~(7)~~ This section does not prohibit the lawful KILLING
5 OR OTHER use of an animal, including, but not limited to, the
6 following:

7 (a) Fishing.

8 (b) Hunting, trapping, or wildlife control REGULATED PURSU-
9 ANT TO THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
10 ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 324.101 TO
11 324.90106 OF THE MICHIGAN COMPILED LAWS.

12 (c) Horse racing.

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

14 (e) Pest or rodent control.

15 ~~(f) Scientific research.~~

16 (F) ~~(g)~~ Farming or ~~animal husbandry~~ A GENERALLY ACCEPTED
17 ANIMAL HUSBANDRY OR FARMING PRACTICE INVOLVING LIVESTOCK. AS
18 USED IN THIS SUBSECTION, "LIVESTOCK" HAS THE MEANING ATTRIBUTED
19 TO THE TERM IN ACT NO. 466 OF THE PUBLIC ACTS OF 1988.

20 (G) ACTIVITIES AUTHORIZED PURSUANT TO RULES PROMULGATED
21 UNDER SECTION 9 OF THE EXECUTIVE ORGANIZATION ACT OF 1965, ACT
22 NO. 380 OF THE PUBLIC ACTS OF 1965, BEING SECTION 16.109 OF THE
23 MICHIGAN COMPILED LAWS.

24 (H) SCIENTIFIC RESEARCH PURSUANT TO ACT NO. 224 OF THE
25 PUBLIC ACTS OF 1969, BEING SECTIONS 287.381 TO 287.395 OF THE
26 MICHIGAN COMPILED LAWS.

1 (I) SCIENTIFIC RESEARCH PURSUANT TO SECTIONS 2226, 2671,
2 2676, AND 7333 OF ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
3 SECTIONS 333.2226, 333.2671, 333.2676, AND 333.7333 OF THE
4 MICHIGAN COMPILED LAWS.