

SUBSTITUTE FOR
HOUSE BILL NO. 4551

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 50 (MCL 750.50), as amended by 1998 PA 405.

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 ~~1 or more vertebrates~~ **ANY VERTEBRATE** other
7 than a human being.

8 (c) "Animal protection shelter" means a facility operated by a
9 person, humane society, society for the prevention of cruelty to
10 animals, or any other nonprofit organization, for the care of
11 homeless animals.

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

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

8 (f) "Livestock" means that term as defined in the animal
9 industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747.

10 (g) "Person" means an individual, partnership, limited
11 liability company, corporation, association, governmental entity,
12 or other legal entity.

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

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

21 (j) "Shelter" means adequate protection from the elements and
22 weather conditions suitable for the age, species, and physical
23 condition of the animal so as to maintain the animal in a state of
24 good health. Shelter, for livestock, includes structures or natural
25 features such as trees or topography. Shelter, for a dog, ~~shall~~
26 ~~include~~ **INCLUDES** 1 or more of the following:

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

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

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

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

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

16 (m) "Water" means potable water that is suitable for the age
17 and species of animal ~~,—THAT IS~~ made regularly available unless
18 otherwise directed by a **LICENSED** veterinarian. ~~licensed to practice~~
19 ~~veterinary medicine.~~

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

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

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

25 (c) Carry or cause to be carried in or upon a vehicle or
26 otherwise any live animal having the feet or legs tied together,
27 other than an animal being transported for medical care, or a horse

1 whose feet are hobbled to protect the horse during transport or in
2 any other cruel and inhumane manner.

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

12 (e) Abandon an animal or cause an animal to be abandoned, in
13 any place, without making provisions for the animal's adequate
14 care, unless premises are ~~temporarily~~ vacated for the protection of
15 human life ~~during a disaster~~ **OR THE PREVENTION OF INJURY TO A**
16 **HUMAN**. An animal that is lost by an owner or custodian while
17 traveling, walking, hiking, or hunting ~~shall not be regarded as~~ **IS**
18 **NOT** abandoned under this section when the owner or custodian has
19 made a reasonable effort to locate the animal.

20 (f) ~~Willfully or negligently~~ **NEGLIGENTLY** allow any animal,
21 including one who is aged, diseased, maimed, hopelessly sick,
22 disabled, or nonambulatory to suffer unnecessary neglect, torture,
23 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~~
3 ~~misdemeanor punishable by imprisonment for not more than 93 days or~~
4 ~~a fine of not more than \$1,000.00 or community service for not more~~
5 ~~than 200 hours, or any combination of these penalties and the cost~~
6 ~~of prosecution. A person who violates subsection (2) on a second~~
7 ~~occasion is guilty of a felony punishable by imprisonment for not~~
8 ~~more than 2 years or a fine of not more than \$2,000.00 or community~~
9 ~~service for not more than 300 hours, or any combination of these~~
10 ~~penalties and the cost of prosecution. A person who violates~~
11 ~~subsection (2) on a third or subsequent occasion is guilty of a~~
12 ~~felony punishable by imprisonment for not more than 4 years or a~~
13 ~~fine of not more than \$5,000.00 or community service for not more~~
14 ~~than 500 hours, or any combination of these penalties and the cost~~
15 ~~of prosecution.~~

16 (4) A PERSON WHO VIOLATES SUBSECTION (2) IS GUILTY OF A CRIME
17 AS FOLLOWS:

18 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (C) AND (D),
19 IF THE VIOLATION INVOLVED 1 ANIMAL, THE PERSON IS GUILTY OF A
20 MISDEMEANOR PUNISHABLE BY 1 OR MORE OF THE FOLLOWING AND MAY BE
21 ORDERED TO PAY THE COSTS OF PROSECUTION:

22 (i) IMPRISONMENT FOR NOT MORE THAN 93 DAYS.

23 (ii) A FINE OF NOT MORE THAN \$1,000.00.

24 (iii) COMMUNITY SERVICE FOR NOT MORE THAN 200 HOURS.

25 (B) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (C) AND (D),
26 IF THE VIOLATION INVOLVED 2 OR 3 ANIMALS OR THE DEATH OF ANY
27 ANIMAL, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY 1 OR

1 MORE OF THE FOLLOWING AND MAY BE ORDERED TO PAY THE COSTS OF
2 PROSECUTION:

3 (i) IMPRISONMENT FOR NOT MORE THAN 1 YEAR.

4 (ii) A FINE OF NOT MORE THAN \$2,000.00.

5 (iii) COMMUNITY SERVICE FOR NOT MORE THAN 300 HOURS.

6 (C) IF THE VIOLATION INVOLVED 4 OR MORE ANIMALS BUT FEWER THAN
7 10 ANIMALS OR THE PERSON HAD 1 PRIOR CONVICTION UNDER SUBSECTION
8 (2), THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY 1 OR MORE OF
9 THE FOLLOWING AND MAY BE ORDERED TO PAY THE COSTS OF PROSECUTION:

10 (i) IMPRISONMENT FOR NOT MORE THAN 2 YEARS.

11 (ii) A FINE OF NOT MORE THAN \$2,000.00.

12 (iii) COMMUNITY SERVICE FOR NOT MORE THAN 300 HOURS.

13 (D) IF THE VIOLATION INVOLVED 10 OR MORE ANIMALS OR THE PERSON
14 HAD 2 OR MORE PRIOR CONVICTIONS FOR VIOLATING SUBSECTION (2), THE
15 PERSON IS GUILTY OF A FELONY PUNISHABLE BY 1 OR MORE OF THE
16 FOLLOWING AND MAY BE ORDERED TO PAY THE COSTS OF PROSECUTION:

17 (i) IMPRISONMENT FOR NOT MORE THAN 4 YEARS.

18 (ii) A FINE OF NOT MORE THAN \$5,000.00.

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

20 (5) THE COURT MAY ORDER A PERSON CONVICTED OF VIOLATING
21 SUBSECTION (2) TO BE EVALUATED TO DETERMINE THE NEED FOR
22 PSYCHIATRIC OR PSYCHOLOGICAL COUNSELING AND, IF DETERMINED
23 APPROPRIATE BY THE COURT, TO RECEIVE PSYCHIATRIC OR PSYCHOLOGICAL
24 COUNSELING. THE EVALUATION AND COUNSELING SHALL BE AT THE
25 DEFENDANT'S OWN EXPENSE.

26 (6) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED
27 WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF LAW

1 ARISING OUT OF THE SAME TRANSACTION AS THE VIOLATION OF THIS
2 SECTION.

3 (7) 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 (8) ~~(5) If forfeiture is not ordered pursuant to subsection~~
9 ~~(3), as~~ **AS** a part of the sentence for a violation of subsection
10 (2), the court may order the defendant to pay the costs of the
11 care, housing, and veterinary medical care for the animal, 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 reason for that action.

16 (9) ~~(6)~~ As a part of the sentence for a violation of
17 subsection (2), the court may, as a condition of probation, order
18 the defendant not to own or possess an animal for a period of time
19 not to exceed the period of probation. If a person is convicted of
20 a second or subsequent violation of subsection (2), a ~~THE~~ **THE** court
21 ~~order under this subsection~~ may order the defendant not to own or
22 possess an animal for any period of time, ~~which may include~~
23 **INCLUDING** permanent relinquishment of animal ownership.

24 (10) ~~(7)~~ A person who owns or possesses an animal in violation
25 of an order issued under subsection ~~(6)~~ **(9)** is subject to
26 revocation of probation if the order is issued as a condition of
27 probation. A person who owns or possesses an animal in violation of

1 an order issued under subsection ~~(6)~~ **(9)** is also subject to the
2 civil and criminal contempt power of the court, and if found guilty
3 of criminal contempt, may be punished by imprisonment for not more
4 than 90 days, or by a fine of not more than \$500.00, or both.

5 **(11)** ~~(8)~~—This section does not prohibit the lawful killing or
6 other use of an animal, including, but not limited to, the
7 following:

8 (a) Fishing.

9 (b) Hunting, trapping, or wildlife control regulated pursuant
10 ~~to~~ **UNDER** the natural resources and environmental protection act,
11 1994 PA 451, MCL 324.101 to 324.90106.

12 (c) Horse racing.

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

14 (e) Pest or rodent control **REGULATED UNDER PART 83 OF THE**
15 **NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,**
16 **MCL 324.8301 TO 324.8336.**

17 (f) Farming or a generally accepted animal husbandry or
18 farming practice involving livestock.

19 (g) Activities authorized ~~pursuant to~~ **UNDER** rules promulgated
20 under section 9 of the executive organization act of 1965, 1965 PA
21 380, MCL 16.109.

22 (h) Scientific research ~~pursuant to~~ **UNDER** 1969 PA 224, MCL
23 287.381 to 287.395.

24 (i) Scientific research ~~pursuant to~~ **UNDER** sections 2226, 2671,
25 2676, and 7333 of the public health code, 1978 PA 368, MCL
26 333.2226, 333.2671, 333.2676, and 333.7333.

27 **(12) THIS SECTION DOES NOT APPLY TO A VETERINARIAN OR A**

1 VETERINARY TECHNICIAN LAWFULLY ENGAGING IN THE PRACTICE OF
2 VETERINARY MEDICINE UNDER PART 188 OF THE PUBLIC HEALTH CODE, 1978
3 PA 368, MCL 333.18801 TO 333.18838.

4 Enacting section 1. This amendatory act takes effect January
5 1, 2008.