

HOUSE BILL No. 6255

June 12, 2018, Introduced by Rep. Marino and referred to the Committee on Law and Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 49 (MCL 750.49), as amended by 2006 PA 129.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 49. (1) As used in this section, "animal" means a
2 vertebrate other than a human.
- 3 (2) A person shall not knowingly do any of the following:
- 4 (a) Own, possess, use, buy, sell, offer to buy or sell,
5 import, or export an animal for fighting or baiting, or as a target
6 to be shot at as a test of skill in marksmanship.
- 7 (b) Be a party to or cause the fighting, baiting, or shooting
8 of an animal as described in subdivision (a).
- 9 (c) Rent or otherwise obtain the use of a building, shed,

1 room, yard, ground, or premises for fighting, baiting, or shooting
2 an animal as described in subdivision (a).

3 (d) Permit the use of a building, shed, room, yard, ground, or
4 premises belonging to him or her or under his or her control for
5 any of the purposes described in this section.

6 (e) Organize, promote, or collect money, **PROPERTY, OR ANY**
7 **OTHER THING OF VALUE** for the fighting, baiting, or shooting of an
8 animal as described in subdivisions (a) to (d).

9 (f) Be present at a building, shed, room, yard, ground, or
10 premises where preparations are being made for an exhibition
11 described in subdivisions (a) to (d), or be present at the
12 exhibition, knowing that an exhibition is taking place or about to
13 take place.

14 (g) Breed, buy, sell, offer to buy or sell, exchange, import,
15 or export an animal the person knows has been trained or used for
16 fighting as described in subdivisions (a) to (d), or breed, buy,
17 sell, offer to buy or sell, exchange, import, or export the
18 offspring of an animal the person knows has been trained or used
19 for fighting as described in subdivisions (a) to (d). This
20 subdivision does not prohibit owning, breeding, buying, selling,
21 offering to buy or sell, exchanging, importing, or exporting an
22 animal for agricultural or agricultural exposition purposes.

23 (h) Own, possess, use, buy, sell, offer to buy or sell,
24 transport, or deliver any device or equipment intended for use in
25 the fighting, baiting, or shooting of an animal as described in
26 subdivisions (a) to (d).

27 (3) A person who violates subsection (2)(a) to (e) is guilty

1 of a felony punishable by 1 or more of the following:

2 (a) Imprisonment for not more than 4 years.

3 (b) A fine of not less than \$5,000.00 or more than \$50,000.00.

4 (c) Not less than 500 or more than 1,000 hours of community
5 service.

6 (4) A person who violates subsection (2)(f) to (h) is guilty
7 of a felony punishable by 1 or more of the following:

8 (a) Imprisonment for not more than 4 years.

9 (b) A fine of not less than \$1,000.00 or more than \$5,000.00.

10 (c) Not less than 250 or more than 500 hours of community
11 service.

12 (5) The court may order a person convicted of violating this
13 section to pay the costs of prosecution.

14 (6) The court may order a person convicted of violating this
15 section to pay the costs for housing and caring for the animal,
16 including, but not limited to, providing veterinary medical
17 treatment.

18 (7) As part of the sentence for a violation of subsection (2),
19 the court shall order the person convicted not to own or possess an
20 animal of the same species involved in the violation of this
21 section for 5 years after the date of sentencing. Failure to comply
22 with the order of the court pursuant to this subsection is
23 punishable as contempt of court.

24 (8) If a person incites an animal trained or used for fighting
25 or an animal that is the first or second generation offspring of an
26 animal trained or used for fighting to attack a person and thereby
27 causes the death of that person, the owner is guilty of a felony

1 punishable by imprisonment for life or for a term of years greater
2 than 15 years.

3 (9) If a person incites an animal trained or used for fighting
4 or an animal that is the first or second generation offspring of an
5 animal trained or used for fighting to attack a person, but the
6 attack does not result in the death of the person, the owner is
7 guilty of a felony punishable by imprisonment for not more than 4
8 years or a fine of not more than \$2,000.00, or both.

9 (10) If an animal trained or used for fighting or an animal
10 that is the first or second generation offspring of an animal
11 trained or used for fighting attacks a person without provocation
12 and causes the death of that person, the owner of the animal is
13 guilty of a felony punishable by imprisonment for not more than 15
14 years.

15 (11) If an animal trained or used for fighting or an animal
16 that is the first or second generation offspring of an animal
17 trained or used for fighting attacks a person without provocation,
18 but the attack does not cause the death of the person, the owner is
19 guilty of a misdemeanor punishable by imprisonment for not more
20 than 1 year or a fine of not more than \$1,000.00, or both.

21 (12) Subsections (8) to (11) do not apply if the person
22 attacked was committing or attempting to commit an unlawful act on
23 the property of the owner of the animal.

24 (13) If an animal trained or used for fighting or an animal
25 that is the first or second generation offspring of a dog trained
26 or used for fighting goes beyond the property limits of its owner
27 without being securely restrained, the owner is guilty of a

1 misdemeanor punishable by imprisonment for not more than 90 days or
2 a fine of not less than \$50.00 nor more than \$500.00, or both.

3 (14) If an animal trained or used for fighting or an animal
4 that is the first or second generation offspring of a dog trained
5 or used for fighting is not securely enclosed or restrained on the
6 owner's property, the owner is guilty of a misdemeanor punishable
7 by imprisonment for not more than 90 days or a fine of not more
8 than \$500.00, or both.

9 (15) Subsections (8) to (14) do not apply to any of the
10 following:

11 (a) A dog trained or used for fighting, or the first or second
12 generation offspring of a dog trained or used for fighting, that is
13 used by a law enforcement agency of the state or a county, city,
14 village, or township.

15 (b) A certified leader dog recognized and trained by a
16 national guide dog association for the blind or for persons with
17 disabilities.

18 (c) A corporation licensed under the private security business
19 and security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083,~~
20 **338.1092**, when a dog trained or used for fighting, or the first or
21 second generation offspring of a dog trained or used for fighting,
22 is used in accordance with the private security business and
23 security alarm act, 1968 PA 330, MCL 338.1051 to ~~338.1083.~~**338.1092.**

24 (16) An animal that has been used to fight in violation of
25 this section or that is involved in a violation of subsections (8)
26 to (14) ~~shall~~**MUST** be confiscated as contraband by a law
27 enforcement officer and ~~shall~~**MUST** not be returned to the owner,

1 trainer, or possessor of the animal. The animal ~~shall~~**MUST** be taken
2 to a local humane society or other animal welfare agency. If an
3 animal owner, trainer, or possessor is convicted of violating
4 subsection (2) or subsections (8) to (14), the court shall award
5 the animal involved in the violation to the local humane society or
6 other animal welfare agency.

7 (17) Upon receiving an animal confiscated under this section,
8 or at any time thereafter, an appointed veterinarian, the humane
9 society, or other animal welfare agency may humanely euthanize the
10 animal if, in the opinion of that veterinarian, humane society, or
11 other animal welfare agency, the animal is injured or diseased past
12 recovery or the animal's continued existence is inhumane so that
13 euthanasia is necessary to relieve pain and suffering.

14 (18) A humane society or other animal welfare agency that
15 receives an animal under this section shall apply to the district
16 court or municipal court for a hearing to determine whether the
17 animal ~~shall~~**MUST** be humanely euthanized because of its lack of any
18 useful purpose and the public safety threat it poses. The court
19 shall hold a hearing not more than 30 days after the filing of the
20 application and shall give notice of the hearing to the owner of
21 the animal. Upon a finding by the court that the animal lacks any
22 useful purpose and poses a threat to public safety, the humane
23 society or other animal welfare agency shall humanely euthanize the
24 animal. Expenses incurred in connection with the housing, care,
25 upkeep, or euthanasia of the animal by a humane society or other
26 animal welfare agency, or by a person, firm, partnership,
27 corporation, or other entity, ~~shall~~**MUST** be assessed against the

1 owner of the animal.

2 (19) Subject to subsections (16) to (18), all animals being
3 used or to be used in fighting, equipment, devices, and money
4 involved in a violation of subsection (2) ~~shall~~**MUST** be forfeited
5 to the state. All other instrumentalities, proceeds, and
6 substituted proceeds of a violation of subsection (2) are subject
7 to forfeiture under chapter 47 of the revised judicature act of
8 1961, 1961 PA 236, MCL 600.4701 to ~~600.4709~~**.600.4710**.

9 (20) The seizing agency may deposit money seized under
10 subsection (19) into an interest-bearing account in a financial
11 institution. As used in this subsection, "financial institution"
12 means a state or nationally chartered bank or a state or federally
13 chartered savings and loan association, savings bank, or credit
14 union whose deposits are insured by an agency of the United States
15 government and that maintains a principal office or branch office
16 located in this state under the laws of this state or the United
17 States.

18 (21) An attorney for a person who is charged with a violation
19 of subsection (2) involving or related to money seized under
20 subsection (19) ~~shall~~**MUST** be afforded a period of 60 days within
21 which to examine that money. This 60-day period ~~shall begin~~**BEGINS**
22 to run after notice of forfeiture is given but before the money is
23 deposited into a financial institution under subsection (20). If
24 the attorney general, prosecuting attorney, or city or township
25 attorney fails to sustain his or her burden of proof in forfeiture
26 proceedings under subsection (19), the court shall order the return
27 of the money, including any interest earned on money deposited into

1 a financial institution under subsection (20).

2 (22) This section does not apply to conduct that is permitted
3 by and is in compliance with any of the following:

4 (a) Part 401 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.40101 to ~~324.40119~~-**324.40120**.

6 (b) Part 435 of the natural resources and environmental
7 protection act, 1994 PA 451, MCL 324.43501 to 324.43561.

8 (c) Part 427 of the natural resources and environmental
9 protection act, 1994 PA 451, MCL 324.42701 to 324.42714.

10 (d) Part 417 of the natural resources and environmental
11 protection act, 1994 PA 451, MCL 324.41701 to 324.41712.

12 (23) This section does not prohibit a person from being
13 charged with, convicted of, or punished for any other violation of
14 law that is committed by that person while violating this section.

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