

HOUSE BILL No. 4551

March 29, 2007, Introduced by Reps. Espinoza, Polidori, Byrum, Byrnes, Brown, LeBlanc, Kathleen Law, Wojno, Lemmons, Jackson, Young, Mayes, Ebli, Gonzales, Hammel, Hammon, Hopgood, Bieda and Rick Jones and referred to the Committee on Judiciary.

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 1998 PA 405 and section 50b as amended by 1996 PA 80.

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

1 person, humane society, society for the prevention of cruelty to
2 animals, or any other nonprofit organization, for the care of
3 homeless animals.

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

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

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

13 (g) "Person" means an individual, partnership, limited
14 liability company, corporation, association, governmental entity,
15 or other legal entity.

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

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

24 (j) "Shelter" means adequate protection from the elements and
25 weather conditions suitable for the age, species, and physical
26 condition of the animal so as to maintain the animal in a state of
27 good health. Shelter, for livestock, includes structures or natural

1 features such as trees or topography. Shelter, for a dog, shall
2 ~~include 1 or more~~ **INCLUDES ANY** of the following:

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

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

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

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

17 (l) "Tethering" means the restraint and confinement of ~~a dog~~ **AN**
18 **ANIMAL** by use of a chain, rope, or similar device.

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

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

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

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

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

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

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

22 (f) ~~Willfully or negligently~~ **NEGLIGENTLY** allow any animal,
23 including one who is aged, diseased, maimed, hopelessly sick,
24 disabled, or nonambulatory to suffer unnecessary neglect, torture,
25 or pain.

26 (g) Tether a dog unless the tether is at least 3 times the
27 length of the dog as measured from the tip of its nose to the base

1 of its tail and is attached to a harness or nonchoke collar
2 designed for tethering.

3 (3) If an animal is impounded and is being held by an animal
4 control shelter or its designee or an animal protection shelter or
5 its designee or a licensed veterinarian pending the outcome of a
6 criminal action charging a violation of this section or section
7 50b, before final disposition of the criminal charge, the
8 prosecuting attorney may file a civil action in the court that has
9 jurisdiction of the criminal action, requesting that the court
10 issue an order forfeiting the animal to the animal control shelter
11 or animal protection shelter or to a licensed veterinarian before
12 final disposition of the criminal charge. The prosecuting attorney
13 shall serve a true copy of the summons and complaint upon the
14 defendant and upon a person with a known ownership interest or
15 known security interest in the animal or a person who has filed a
16 lien with the secretary of state in an animal involved in the
17 pending action. The forfeiture of an animal under this section
18 encumbered by a security interest is subject to the interest of the
19 holder of the security interest who did not have prior knowledge
20 of, or consent to the commission of the crime. Upon the filing of
21 the civil action, the court shall set a hearing on the complaint.
22 The hearing shall be conducted within 14 days of the filing of the
23 civil action, or as soon as practicable. The hearing shall be
24 before a judge without a jury. At the hearing, the prosecuting
25 attorney has the burden of establishing by a preponderance of the
26 evidence that a violation of this section or section 50b occurred.
27 If the court finds that the prosecuting attorney has met this

1 burden, the court shall order immediate forfeiture of the animal to
2 the animal control shelter or animal protection shelter or the
3 licensed veterinarian unless the defendant, within 72 hours of the
4 hearing, submits to the court clerk cash or other form of security
5 in an amount determined by the court to be sufficient to repay all
6 reasonable costs incurred, and anticipated to be incurred, by the
7 animal control shelter or animal protection shelter or the licensed
8 veterinarian in caring for the animal from the date of initial
9 impoundment to the date of trial. If cash or other security has
10 been submitted, and the trial in the action is continued at a later
11 date, any order of continuance shall require the defendant to
12 submit additional cash or security in an amount determined by the
13 court to be sufficient to repay all additional reasonable costs
14 anticipated to be incurred by the animal control shelter or animal
15 protection shelter or the licensed veterinarian in caring for the
16 animal until the new date of trial. If the defendant submits cash
17 or other security to the court under this subsection the court may
18 enter an order authorizing the use of that money or other security
19 before final disposition of the criminal charges to pay the
20 reasonable costs incurred by the animal control shelter or animal
21 protection shelter or the licensed veterinarian in caring for the
22 animal from the date of impoundment to the date of final
23 disposition of the criminal charges. The testimony of a person at a
24 hearing held under this subsection is not admissible against him or
25 her in any criminal proceeding except in a criminal prosecution for
26 perjury. The testimony of a person at a hearing held under this
27 subsection does not waive the person's constitutional right against

1 self-incrimination. An animal seized under this section or section
2 50b is not subject to any other civil action pending the final
3 judgment of the forfeiture action under this subsection.

4 ~~—— (4) A person who violates subsection (2) is guilty of a~~
5 ~~misdemeanor punishable by imprisonment for not more than 93 days or~~
6 ~~a fine of not more than \$1,000.00 or community service for not more~~
7 ~~than 200 hours, or any combination of these penalties and the cost~~
8 ~~of prosecution. A person who violates subsection (2) on a second~~
9 ~~occasion is guilty of a felony punishable by imprisonment for not~~
10 ~~more than 2 years or a fine of not more than \$2,000.00 or community~~
11 ~~service for not more than 300 hours, or any combination of these~~
12 ~~penalties and the cost of prosecution. A person who violates~~
13 ~~subsection (2) on a third or subsequent occasion is guilty of a~~
14 ~~felony punishable by imprisonment for not more than 4 years or a~~
15 ~~fine of not more than \$5,000.00 or community service for not more~~
16 ~~than 500 hours, or any combination of these penalties and the cost~~
17 ~~of prosecution.~~

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

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

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

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

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

27 (B) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISIONS (C) AND (D),

1 IF THE VIOLATION INVOLVED 2 OR 3 ANIMALS OR THE DEATH OF ANY
2 ANIMAL, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY 1 OR
3 MORE OF THE FOLLOWING AND MAY BE ORDERED TO PAY THE COSTS OF
4 PROSECUTION:

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

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

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

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

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

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

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

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

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

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

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

22 (5) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED
23 WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF LAW
24 ARISING OUT OF THE SAME TRANSACTION AS THE VIOLATION OF THIS
25 SECTION.

26 (6) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR A
27 VIOLATION OF THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF

1 IMPRISONMENT IMPOSED FOR ANY OTHER CRIME INCLUDING ANY OTHER
2 VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE
3 VIOLATION OF THIS SECTION.

4 (7) ~~(5)~~—If forfeiture is not ordered pursuant to ~~UNDER~~
5 subsection (3) ~~—~~as a part of the sentence for a violation of
6 subsection (2), the court may order the defendant to pay the costs
7 of the care, housing, and veterinary medical care for the animal,
8 as applicable. If the court does not order a defendant to pay all
9 of the applicable costs listed in this subsection, or orders only
10 partial payment of these costs, the court shall state on the record
11 the reason for that action.

12 (8) ~~(6)~~—As a part of the sentence for a violation of
13 subsection (2), the court may, as a condition of probation, order
14 the defendant not to own or possess an animal for a period of time
15 not to exceed the period of probation. If a person is convicted of
16 a second or subsequent violation of subsection (2), a ~~THE~~ court
17 ~~order under this subsection~~ may order the defendant not to own or
18 possess an animal for any period of time, ~~which may include~~
19 **INCLUDING** permanent relinquishment of animal ownership.

20 (9) ~~(7)~~—A person who owns or possesses an animal in violation
21 of an order issued under subsection ~~(6)~~ **(8)** is subject to
22 revocation of probation if the order is issued as a condition of
23 probation. A person who owns or possesses an animal in violation of
24 an order issued under subsection ~~(6)~~ **(8)** is also subject to the
25 civil and criminal contempt power of the court, and if found guilty
26 of criminal contempt, may be punished by imprisonment for not more
27 than 90 days, or by a fine of not more than \$500.00, or both.

1 (10) ~~(8)~~ This section does not prohibit the lawful killing or
2 other use of an animal, including, but not limited to, the
3 following:

4 (a) Fishing.

5 (b) Hunting, trapping, or wildlife control regulated ~~pursuant~~
6 ~~to~~ **UNDER** the natural resources and environmental protection act,
7 1994 PA 451, MCL 324.101 to 324.90106.

8 (c) Horse racing.

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

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

13 (f) Farming or a generally accepted animal husbandry or
14 farming practice involving livestock.

15 (g) Activities authorized ~~pursuant to~~ **UNDER** rules promulgated
16 under section 9 of the executive organization act of 1965, 1965 PA
17 380, MCL 16.109.

18 (h) Scientific research ~~pursuant to~~ **UNDER** 1969 PA 224, MCL
19 287.381 to 287.395.

20 (i) Scientific research ~~pursuant to~~ **UNDER** sections 2226, 2671,
21 2676, and 7333 of the public health code, 1978 PA 368, MCL
22 333.2226, 333.2671, 333.2676, and 333.7333.

23 Sec. 50b. (1) As used in this section, "animal" means any
24 vertebrate other than a human being.

25 (2) A person ~~who willfully, maliciously and without just cause~~
26 ~~or excuse kills, tortures, mutilates, maims, or disfigures~~ **SHALL**
27 **NOT DO ANY OF THE FOLLOWING:**

1 (A) INTENTIONALLY KILL, TORTURE, MUTILATE, MAIM OR DISFIGURE
2 an animal ~~or who willfully and maliciously and without just cause~~
3 ~~or excuse administers~~ WITHOUT JUST CAUSE.

4 (B) INTENTIONALLY ADMINISTER poison to an animal WITHOUT JUST
5 CAUSE, or ~~exposes~~ EXPOSE an animal to any poisonous substance
6 WITHOUT JUST CAUSE, other than a substance that is used for
7 therapeutic veterinary medical purposes, with the intent that the
8 substance be taken or swallowed by the animal. 7

9 (C) INTENTIONALLY ALLOW AN ANIMAL, INCLUDING ONE WHO IS AGED,
10 DISEASED, MAIMED, HOPELESSLY SICK, DISABLED, OR NONAMBULATORY TO
11 SUFFER UNNECESSARY NEGLECT, TORTURE, OR PAIN.

12 (3) A PERSON WHO VIOLATES SUBSECTION (2) is guilty of a felony
13 ~~7-punishable by imprisonment~~ 1 OR MORE OF THE FOLLOWING:

14 (A) IMPRISONMENT for not more than 4 years. ~~7-or by a~~

15 (B) A fine of not more than \$5,000.00. ~~7-or community~~

16 (C) COMMUNITY service for not more than 500 hours. ~~or any~~
17 ~~combination of these penalties.~~

18 (4) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED
19 WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF LAW
20 ARISING OUT OF THE SAME TRANSACTION AS THE VIOLATION OF THIS
21 SECTION.

22 (5) THE COURT MAY ORDER A TERM OF IMPRISONMENT IMPOSED FOR A
23 VIOLATION OF THIS SECTION TO BE SERVED CONSECUTIVELY TO A TERM OF
24 IMPRISONMENT IMPOSED FOR ANY OTHER CRIME INCLUDING ANY OTHER
25 VIOLATION OF LAW ARISING OUT OF THE SAME TRANSACTION AS THE
26 VIOLATION OF THIS SECTION.

27 (6) ~~(3)~~ As a part of the sentence for a violation of

1 subsection (2), the court may order the defendant to pay the costs
2 of the prosecution and the costs of the care, housing, and
3 veterinary medical care for the impacted animal victim, as
4 applicable. If the court does not order a defendant to pay all of
5 the applicable costs listed in this subsection, or orders only
6 partial payment of these costs, the court shall state on the record
7 the reasons for that action.

8 (7) ~~(4)~~—If a term of probation is ordered for a violation of
9 subsection (2), the court may order, as a condition of probation,
10 that the defendant be evaluated to determine the need for
11 psychiatric or psychological counseling, and, if determined
12 appropriate by the court, to receive psychiatric or psychological
13 counseling at his or her own expense.

14 (8) ~~(5)~~—As a part of the sentence for a violation of
15 subsection (2), the court may order the defendant not to own or
16 possess an animal for any period of time determined by the court,
17 which may include permanent relinquishment.

18 (9) ~~(6)~~—A person who owns or possesses an animal in violation
19 of an order issued under subsection ~~(5)~~—(8) is subject to
20 revocation of probation if the order is issued as a condition of
21 probation. A person who owns or possesses an animal in violation of
22 an order issued under subsection ~~(5)~~—(8) is also subject to the
23 civil and criminal contempt power of the court, and if found guilty
24 of criminal contempt, may be punished by imprisonment for not more
25 than 90 days, or by a fine of not more than \$500.00, or both.

26 (10) ~~(7)~~—This section does not prohibit the lawful killing of
27 livestock or a customary animal husbandry or farming practice

1 involving livestock. As used in this subsection, "livestock" has
2 ~~the meaning attributed to the~~ **MEANS THAT** term **AS DEFINED** in the
3 animal industry act of 1987, ~~Act No. 466 of the Public Acts of~~
4 ~~1988, being sections 287.701 to 287.747 of the Michigan Compiled~~
5 ~~Laws~~ **1988 PA 466, MCL 287.701 TO 287.745.**

6 (11) ~~(8)~~ This section does not prohibit the lawful killing of
7 an animal pursuant to any of the following:

8 (a) Fishing.

9 (b) Hunting, trapping, or wildlife control regulated pursuant
10 ~~to part 401 (wildlife conservation) of~~ **UNDER** the natural resources
11 and environmental protection act, ~~Act No. 451 of the Public Acts of~~
12 ~~1994, being sections 324.40101 to 324.40119 of the Michigan~~
13 ~~Compiled Laws~~ **1994 PA 451, MCL 324.101 TO 324.90106**, and orders
14 issued under that act.

15 (c) Pest or rodent control regulated pursuant to ~~UNDER~~ part 83
16 ~~(pesticide control) of Act No. 451 of the Public Acts of 1994,~~
17 ~~being sections 324.8301 to 324.8336 of the Michigan Compiled Laws~~
18 **OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA**
19 **451, MCL 324.8301 TO 324.8336.**

20 (d) Activities authorized pursuant to ~~UNDER~~ rules promulgated
21 under section 9 of the executive organization act of 1965, ~~Act No.~~
22 ~~380 of the Public Acts of 1965, being section 16.109 of the~~
23 ~~Michigan Compiled Laws~~ **1965 PA 380, MCL 16.109.**

24 (12) ~~(9)~~ This section does not prohibit the lawful killing or
25 use of an animal for scientific research pursuant to ~~UNDER~~ any of
26 the following or a rule promulgated pursuant to ~~UNDER~~ any of the
27 following:

1 (a) ~~Act No. 224 of the Public Acts of 1969, being sections~~
2 ~~287.381 to 287.395 of the Michigan Compiled Laws 1969 PA 224, MCL~~
3 ~~287.381 TO 287.395.~~

4 (b) Sections 2226, 2671, 2676, 7109, and 7333 of the public
5 health code, ~~Act No. 368 of the Public Acts of 1978, being sections~~
6 ~~333.2226, 333.2671, 333.2676, 333.7109, and 333.7333 of the~~
7 ~~Michigan Compiled Laws 1978 PA 368, MCL 333.2226, 333.2671,~~
8 ~~333.2676, 333.7109, AND 333.7333.~~