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June 24, 2009

Rep. Mike Simpson
Chair, House Agriculture Committee
Via email: mikesimpson@house.mi.gov; msadler@house.mi.gov

The Animal Law Section respectfully submits its position on HB 5127 and HB 5128

The Animal Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Animal Law Section and not of the State Bar of Michigan.

The total membership of the Animal Law Section is approximately 170. The process used to adopt this position was via email vote of the Section Council, on June 24, 2009. The number of decision-makers in this body is 15. The position was adopted by a vote of 10 in favor, 0 opposed and 5 not voting.

Dear Rep. Simpson:

This letter is being submitted at the request of the Agriculture Committee, to expand on the letter sent earlier today by the Animal Law Section which expressed concerns about these bills. It is my understanding that the Committee took testimony today, and adjourned until tomorrow, June 25, 2009, at 9 a.m. This letter is being submitted for review by the Committee prior to taking a vote.

The Section urges the Committee to consider the following, and urges a "no" vote on both bills:

- Our major concern is that HB 5127 is a broad abdication of legislative authority to set standards for industrial agriculture. It delegates to the Department of Agriculture sole authority to regulate the health and welfare of farmed animals, and their impact on human health and the environment.

- Section 2 of HB 5127 would codify existing industry-created standards, at least one of which is eight years old, and give farms subject to the act over 10 years to comply. For example, a farm could be considered in compliance with the act on July 2020, (the date established in Section 3) by using standards for raising veal that were widely adopted by the industry in 2001, or 19 years earlier.
- The existing standards are themselves problematic, because they are industry generated, thereby perpetrating and strengthening the ability of the industry to self-regulate. **All of the approved standards in Section 2 come from industry groups.** This Committee has had the benefit of testimony today by other organizations which have pointed out that various experts using scientific methods, have come to different conclusions about the standards of care for farm animals. By allowing the standards developed by the agribusiness industry and trade groups to become law, these other voices are marginalized.
- The "Animal Care Advisory Council" created by HB 5128 is weighted toward the industry, and does not adequately represent the environmental, human health or animal welfare constituencies. The legislative process, by its very nature, is designed to be more responsive to the varying interests surrounding issues of importance. By delegating this responsibility, the Michigan legislature will have greatly diminished its ability to consider the increasingly important issues of food safety, environmental health and the welfare of animals.
- Those farms which comply with the standards are exempt from nuisance and animal cruelty laws (per the Right to Farm Act), so the authority which the legislature would be delegating to the Agriculture Department is broad indeed.
- HR 5127, Section 10 preempts local regulation of animal care standards, which coupled with the legislature's delegation of authority to the Department of Agriculture, further insulates agribusiness interests from public comment and response.

While our mandate and reason for existence is the protection of animals, we would caution the Committee to consider the human health issues associated with intensive animal agriculture, including but not limited to the health hazards associated with pollution of water sources from agricultural waste; spread of disease which has recently come to the Rep.

Rep. Mike Simpson
June 24, 2009
Page 3

forefront with the declaration by the World Health Organization of a pandemic of H1N1 virus which has been associated with intensive animal agriculture; and the threat to human health from eating animals who have ingested quantities of antibiotics and hormones made necessary by their close confinement.

We would further caution the Committee to consider the environmental issues posed by intensive agriculture.

By delegating the authority to regulate this industry to the Department of Agriculture, and by codifying guidelines established by the very industry which is being regulated, the legislature is abdicating its important role in these issues, a role that the citizens of Michigan elects – and expects – its legislators to fulfill.

Thank you for the opportunity to provide information. The Section remains available to assist the Committee in its deliberations.

Very truly yours,

Anna Rose Stern, JD, Chair
Beatrice M. Friedlander, JD, Treasurer
Animal Law Section Council