

**SUBSTITUTE FOR
HOUSE BILL NO. 4704**

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 50 (MCL 750.50), as amended by 2019 PA 135.

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 a vertebrate other than a human being.
7 ~~(c) "Animal control shelter" means a facility operated by a~~
8 ~~county, city, village, or township to impound and care for animals~~
9 ~~found in streets or otherwise at large contrary to an ordinance of~~

1 ~~the county, city, village, or township or state law.~~

2 ~~(d) "Animal protection shelter" means a facility operated by a~~
3 ~~person, humane society, society for the prevention of cruelty to~~
4 ~~animals, or any other nonprofit organization, for the care of~~
5 ~~homeless animals.~~

6 (c) "Animal control agency" means an animal control shelter,
7 an animal protection shelter, or a law enforcement agency.

8 (d) "Animal control shelter" and "animal protection shelter"
9 mean those terms as defined in section 1 of 1969 PA 287, MCL
10 287.331.

11 (e) "Breeder" means a person that breeds animals other than
12 livestock or dogs for remuneration, or that is a large-scale dog
13 breeding kennel as that term is defined in section 1 of 1969 PA
14 287, MCL 287.331.

15 (f) "Licensed veterinarian" means a person licensed or
16 otherwise authorized to practice veterinary medicine under article
17 15 of the public health code, 1978 PA 368, MCL 333.16101 to
18 333.18838.

19 (g) "Livestock" means that term as defined in section 3 of the
20 animal industry act, 1988 PA 466, MCL 287.703.

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

24 (i) "Person" means an individual, partnership, limited
25 liability company, corporation, association, governmental entity,
26 or other legal entity.

27 (j) "Pet shop" means that term as defined in section 1 of 1969
28 PA 287, MCL 287.331.

29 (k) "Sanitary conditions" means space free from health hazards

1 including excessive animal waste, overcrowding of animals, or other
2 conditions that endanger the animal's health. This definition does
3 not include any condition resulting from a customary and reasonable
4 practice pursuant to farming or animal husbandry.

5 **(l) "Service animal" means all of the following:**

6 **(i) That term as defined in 28 CFR 36.104.**

7 **(ii) A miniature horse that has been individually trained to do**
8 **work or perform tasks as described in 28 CFR 36.104 for the benefit**
9 **of a person with a disability.**

10 **(m) ~~(l)~~"Shelter"** means adequate protection from the elements
11 and weather conditions suitable for the age, species, and physical
12 condition of the animal so as to maintain the animal in a state of
13 good health. Shelter, for livestock, includes structures or natural
14 features such as trees or topography. Shelter, for a dog, includes
15 1 or more of the following:

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

17 **(ii)** A doghouse that is an enclosed structure with a roof and
18 of appropriate dimensions for the breed and size of the dog. The
19 doghouse must have dry bedding when the outdoor temperature is or
20 is predicted to drop below freezing.

21 **(iii)** A structure, including a garage, barn, or shed, that is
22 sufficiently insulated and ventilated to protect the dog from
23 exposure to extreme temperatures or, if not sufficiently insulated
24 and ventilated, contains a doghouse as provided under subparagraph
25 **(ii)** that is accessible to the dog.

26 **(n) ~~(m)~~"State of good health"** means freedom from disease and
27 illness, and in a condition of proper body weight and temperature
28 for the age and species of the animal, unless the animal is
29 undergoing appropriate treatment.

1 **(o)** ~~(n)~~ "Tethering" means the restraint and confinement of a
2 dog by use of a chain, rope, or similar device.

3 **(p)** ~~(e)~~ "Water" means potable water that is suitable for the
4 age and species of animal and that is made regularly available
5 unless otherwise directed by a licensed veterinarian.

6 (2) An owner, possessor, breeder, operator of a pet shop, or
7 person having the charge or custody of an animal shall not do any
8 of the following:

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

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

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

17 (d) Carry or cause to be carried a live animal in or upon a
18 vehicle or otherwise without providing a secure space, rack, car,
19 crate, or cage in which livestock may stand and in which all other
20 animals may stand, turn around, and lie down during transportation,
21 or while awaiting slaughter. As used in this subdivision, for
22 purposes of transportation of sled dogs, "stand" means sufficient
23 vertical distance to allow the animal to stand without its
24 shoulders touching the top of the crate or transportation vehicle.

25 (e) Abandon an animal or cause an animal to be abandoned, in
26 any place, without making provisions for the animal's adequate
27 care, unless premises are vacated for the protection of human life
28 or the prevention of injury to a human. An animal that is lost by
29 an owner or custodian while traveling, walking, hiking, or hunting

1 is not abandoned under this section when the owner or custodian has
2 made a reasonable effort to locate the animal.

3 (f) Negligently allow any animal, including one who is aged,
4 diseased, maimed, hopelessly sick, disabled, or nonambulatory to
5 suffer unnecessary neglect, torture, or pain.

6 (g) Tether a dog unless the tether is at least 3 times the
7 length of the dog as measured from the tip of its nose to the base
8 of its tail and is attached to a harness or nonchoke collar
9 designed for tethering. This subdivision does not apply if the
10 tethering of the dog occurs while the dog is being groomed,
11 trained, transported, or used in a hunt or event where a shorter
12 tether is necessary for the safety and well-being of the dog and
13 others.

14 ~~(3) If an animal is impounded and is being held by an animal~~
15 ~~control shelter or its designee or an animal protection shelter or~~
16 ~~its designee or a licensed veterinarian pending the outcome of a~~
17 ~~criminal action charging a violation of this section or section~~
18 ~~50b, before final disposition of the criminal charge, the~~
19 ~~prosecuting attorney may file a civil action in the court that has~~
20 ~~jurisdiction of the criminal action, requesting that the court~~
21 ~~issue an order forfeiting the animal to the animal control shelter~~
22 ~~or animal protection shelter or to a licensed veterinarian before~~
23 ~~final disposition of the criminal charge. The prosecuting attorney~~
24 ~~shall serve a true copy of the summons and complaint upon the~~
25 ~~defendant and upon a person with a known ownership interest or~~
26 ~~known security interest in the animal or a person who has filed a~~
27 ~~lien with the secretary of state on the animal. The forfeiture of~~
28 ~~an animal under this section encumbered by a security interest is~~
29 ~~subject to the interest of the holder of the security interest if~~

~~1 he or she did not have prior knowledge of or did not consent to the
2 commission of the crime. Upon the filing of the civil action, the
3 court shall set a hearing on the complaint. The hearing must be
4 conducted within 14 days of the filing of the civil action, or as
5 soon as practicable. The hearing must be before a judge without a
6 jury. At the hearing, the prosecuting attorney has the burden of
7 establishing by a preponderance of the evidence that a violation of
8 this section or section 50b occurred. If the court finds that the
9 prosecuting attorney has met this burden, the court shall order
10 immediate forfeiture of the animal to the animal control shelter or
11 animal protection shelter or the licensed veterinarian unless the
12 defendant, within 72 hours of the hearing, submits to the court
13 clerk cash or other form of security in an amount determined by the
14 court to be sufficient to repay all reasonable costs incurred, and
15 anticipated to be incurred, by the animal control shelter or animal
16 protection shelter or the licensed veterinarian in caring for the
17 animal from the date of initial impoundment to the date of trial.
18 If cash or other security has been submitted, and the trial in the
19 action is continued at a later date, any order of continuance must
20 require the defendant to submit additional cash or security in an
21 amount determined by the court to be sufficient to repay all
22 additional reasonable costs anticipated to be incurred by the
23 animal control shelter or animal protection shelter or the licensed
24 veterinarian in caring for the animal until the new date of trial.
25 If the defendant submits cash or other security to the court under
26 this subsection the court may enter an order authorizing the use of
27 that cash or other security before final disposition of the
28 criminal charges to pay the reasonable costs incurred by the animal
29 control shelter or animal protection shelter or the licensed~~

1 ~~veterinarian in caring for the animal from the date of impoundment~~
2 ~~to the date of final disposition of the criminal charges. The~~
3 ~~testimony of a person at a hearing held under this subsection is~~
4 ~~not admissible against him or her in any criminal proceeding except~~
5 ~~in a criminal prosecution for perjury. The testimony of a person at~~
6 ~~a hearing held under this subsection does not waive the person's~~
7 ~~constitutional right against self-incrimination. An animal seized~~
8 ~~under this section or section 50b is not subject to any other civil~~
9 ~~action pending the final judgment of the forfeiture action under~~
10 ~~this subsection.~~**Except as provided in this subsection and**
11 **subsection (21), an animal that is a victim of a violation of this**
12 **section and was confiscated by a law enforcement officer must not**
13 **be returned to the owner or possessor of the animal if the owner or**
14 **possessor is alleged to have violated this section. A confiscated**
15 **animal must be taken to a local animal control agency. A service**
16 **animal that is a victim of a violation of this section may be**
17 **seized or confiscated by law enforcement under this section at law**
18 **enforcement's discretion, taking into consideration the totality of**
19 **the circumstances. If an animal owner or possessor is convicted of**
20 **violating subsection (2), the court shall award the animal involved**
21 **in the violation to the animal control agency for evaluation and**
22 **disposition.**

23 (4) A person who violates subsection (2) is guilty of a crime
24 as follows:

25 (a) Except as otherwise provided in subdivisions (c) to (f),
26 if the violation involved 1 animal, the person is guilty of a
27 misdemeanor punishable by 1 or more of the following and may be
28 ordered to pay the costs of prosecution:

29 (i) Imprisonment for not more than 93 days.

1 (ii) A fine of not more than \$1,000.00.

2 (iii) Community service for not more than 200 hours.

3 (b) Except as otherwise provided in subdivisions (c) to (f),
4 if the violation involved 2 or 3 animals or the death of any
5 animal, the person is guilty of a misdemeanor punishable by 1 or
6 more of the following and may be ordered to pay the costs of
7 prosecution:

8 (i) Imprisonment for not more than 1 year.

9 (ii) A fine of not more than \$2,000.00.

10 (iii) Community service for not more than 300 hours.

11 (c) If the violation involved 4 or more animals but fewer than
12 10 animals or the person had 1 prior conviction under subsection
13 (2), the person is guilty of a felony punishable by 1 or more of
14 the following and may be ordered to pay the costs of prosecution:

15 (i) Imprisonment for not more than 2 years.

16 (ii) A fine of not more than \$2,000.00.

17 (iii) Community service for not more than 300 hours.

18 (d) If the violation involved 10 or more animals but fewer
19 than 25 animals or the person had 2 prior convictions for violating
20 subsection (2), the person is guilty of a felony punishable by 1 or
21 more of the following and may be ordered to pay the costs of
22 prosecution:

23 (i) Imprisonment for not more than 4 years.

24 (ii) A fine of not more than \$5,000.00.

25 (iii) Community service for not more than 500 hours.

26 (e) If the violation involved 25 or more animals or the person
27 has had 3 or more prior convictions for violating subsection (2),
28 the person is guilty of a felony punishable by 1 or more of the
29 following and may be ordered to pay the costs of prosecution:

1 (i) Imprisonment for not more than 7 years.

2 (ii) A fine of not more than \$10,000.00.

3 (iii) Community service for not more than 500 hours.

4 (f) If the person is a breeder, or if the person is an
5 operator of a pet shop and he or she has had 5 or more prior
6 convictions for violating 1969 PA 287, MCL 287.331 to 287.340, the
7 person is guilty of a felony punishable by imprisonment for not
8 more than 2 years or a fine of not more than \$5,000.00, or both.

9 (5) The court may order a person convicted of violating
10 subsection (2) to 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. The evaluation and counseling ~~shall~~**must** be at the
14 defendant's own expense.

15 (6) This section does not prohibit a person from being charged
16 with, convicted of, or punished for any other violation of law
17 arising out of the same transaction as the violation of this
18 section.

19 (7) The court may order a term of imprisonment imposed for a
20 violation of this section to be served consecutively to a term of
21 imprisonment imposed for any other crime including any other
22 violation of law arising out of the same transaction as the
23 violation of this section.

24 (8) As a part of the sentence for a violation of subsection
25 (2), the court may order the defendant to pay **restitution**
26 **including, but not limited to, the costs of the investigation of**
27 **the violation of this section, the costs of the prosecution, and**
28 **the costs of the seizure, care, housing, and** veterinary medical
29 care, ~~for~~**and disposition of the animal victim, as applicable. The**

1 **costs of the seizure, care, housing, veterinary medical care, and**
2 **disposition of the animal victim should not be included in the**
3 **sentence if they were previously paid by the defendant with a**
4 **security deposit or bond as described in subsection (15)(d).** If the
5 court does not order a defendant to pay all of the applicable costs
6 listed in this subsection, or orders only partial payment of these
7 costs, the court shall state on the record the reason for that
8 action. **As used in this subsection, "disposition of the animal**
9 **victim" includes, but is not limited to, the transfer, euthanasia,**
10 **or adoption of the animal.**

11 (9) As a part of the sentence for a violation of subsection
12 (2), the court may, as a condition of probation, order the
13 defendant not to own or possess an animal for a period of time not
14 to exceed the period of probation. If a person is convicted of a
15 second or subsequent violation of subsection (2), the court may
16 order the defendant not to own or possess an animal for any period
17 of time, including permanent relinquishment of animal ownership.

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

26 (11) As part of the sentence imposed under subsection (4)(e),
27 the court may place the defendant on probation for any term of
28 years, but not less than 5 years.

29 (12) This section does not prohibit the lawful killing or

1 other use of an animal, including the following:

2 (a) Fishing.

3 (b) Hunting, trapping, or wildlife control regulated under the
4 natural resources and environmental protection act, 1994 PA 451,
5 MCL 324.101 to 324.90106.

6 (c) Horse racing.

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

8 (e) Pest or rodent control regulated under part 83 of the
9 natural resources and environmental protection act, 1994 PA 451,
10 MCL 324.8301 to 324.8336.

11 (f) Farming or a generally accepted animal husbandry or
12 farming practice involving livestock.

13 (g) Scientific research under 1969 PA 224, MCL 287.381 to
14 287.395.

15 (h) Scientific research or the lawful killing of an animal
16 under sections 2226, 2671, 2676, and 7333 of the public health
17 code, 1978 PA 368, MCL 333.2226, 333.2671, 333.2676, and 333.7333.

18 (i) The lawful killing or use of an animal under the animal
19 industry act, 1988 PA 466, MCL 287.701 to 287.746.

20 (13) This section does not apply to a veterinarian or a
21 veterinary technician lawfully engaging in the practice of
22 veterinary medicine under part 188 of the public health code, 1978
23 PA 368, MCL 333.18801 to 333.18838.

24 **(14) An animal control agency taking custody of an animal**
25 **under subsection (3) shall give notice within 72 hours after**
26 **seizure of the animal in person or by registered mail to the last**
27 **known address of the animal's owner, if the owner of the animal is**
28 **known. If the owner of the animal is unknown, an animal control**
29 **agency taking custody of an animal under subsection (3) shall give**

1 notice within 72 hours after seizure of the animal by 1 of the
2 following methods:

3 (a) Posting at the location of the seizure.

4 (b) Delivery to a person residing at the location of the
5 seizure.

6 (c) Registered mail to the location of the seizure.

7 (15) The notice required under subsection (14) must include
8 all of the following:

9 (a) A description of each animal seized.

10 (b) The time, date, location, and description of circumstances
11 under which the animal was seized.

12 (c) The address and telephone number of the location where the
13 animal is being held and contact information for the individual
14 present at that location from whom security deposit or bond
15 information may be obtained.

16 (d) A statement that the owner or possessor of the animal may
17 post a security deposit or bond that may prevent the forfeiture of
18 the animal for the duration of the criminal, forfeiture, or other
19 court proceeding until the court makes a final determination
20 regarding the animal's disposition, that failure to post a security
21 deposit or bond within 14 days after the date on the notice will
22 result in forfeiture of the animal, and that the owner or possessor
23 of the animal may, before the expiration of the 14-day period
24 described in this subdivision, request a hearing from the court
25 with jurisdiction over the alleged violation of subsection (2) on
26 whether the requirement to post a security deposit or bond is
27 justified, whether the cost associated with the security deposit or
28 bond is fair and reasonable for the care of and provision for the
29 seized animal under subsection (8), or both.

1 (e) A statement that the owner or possessor of the animal is
2 responsible for all costs described in subsection (8), unless the
3 court determines that the seizure of the animal was not
4 substantially justified by law.

5 (16) A request for a hearing within 14 days after the date on
6 the notice will prevent forfeiture of the animal until the court
7 makes a determination whether the requirement to post a security
8 deposit or bond is justified, whether the amount of the security
9 deposit or bond is fair and reasonable, or both. The defendant's
10 ability to pay is a consideration. Notice of a request for a
11 hearing under subsection (15) must be served on the animal control
12 agency holding the animal before the expiration of the 14-day
13 period described in subsection (15). A hearing on whether the
14 requirement to post a security deposit or bond is justified,
15 whether the amount of the security deposit or bond is fair and
16 reasonable, or both, must be held within 21 days of the request for
17 the hearing, and the prosecuting attorney has the burden at the
18 hearing to establish by a preponderance of the evidence that a
19 violation of this section occurred. If the court finds that the
20 prosecuting attorney has met its burden, that the security deposit
21 or bond is reasonable, or both, the animal will be forfeited to the
22 animal control agency that seized the animal unless the owner or
23 possessor of the animal posts the required security deposit or
24 bond. An owner or possessor's failure to appear at a scheduled
25 hearing requested under this subsection will result in automatic
26 forfeiture of the animal if the date of the scheduled hearing is
27 more than 14 days after the date on the notice described in
28 subsection (15).

29 (17) An animal control agency that has custody of a seized

1 animal under subsection (3) shall hold the animal for a period of
2 14 consecutive days, including weekends and holidays, beginning on
3 the date notice was given under subsection (14). After the
4 expiration of the 14 days, if the owner or a possessor of the
5 animal has not posted a security deposit or bond as provided in
6 subsections (8) and (18) or requested a hearing as described in
7 subsection (16), the animal is forfeited, and the animal control
8 agency may dispose of the animal by adoption, transfer to another
9 animal control agency, or humane euthanasia.

10 (18) The security deposit or bond described in subsection
11 (15)(d) must be in a sufficient amount to secure payment of all
12 costs described in subsection (8) during a 30-day period of
13 boarding and veterinary treatment of the animal after examination
14 by a licensed veterinarian. The animal control agency shall
15 determine the amount of the security deposit or bond no later than
16 72 hours after the seizure of the animal, and shall make the amount
17 of the security deposit or bond available to the owner or possessor
18 of the animal upon request. Unless the owner or possessor of the
19 animal requests a hearing as described in subsection (16), the
20 owner or possessor of the animal shall provide proof of the
21 security deposit or bond to the animal control agency no later than
22 14 days after the date on the notice described in subsection (15).

23 (19) An animal control agency that is holding or requiring to
24 be held a seized animal as provided in this section may draw on a
25 security deposit or bond posted under subsection (18) or (20) to
26 cover the actual reasonable costs incurred in the seizure, care,
27 keeping, and disposition of the animal as described in subsection
28 (8) from the date of the seizure to the date of the official
29 disposition of the animal in the criminal action.

1 (20) If a security deposit or bond has been posted under
2 subsection (16), and trial in the criminal action does not occur
3 within the initial 30-day bond period or is continued to a later
4 date, the owner or possessor shall post an additional security
5 deposit or bond in an amount determined sufficient to cover the
6 costs described in subsection (8) as anticipated to be incurred by
7 the animal control agency caring for the animal. The additional
8 security deposit or bond must be calculated in 30-day increments
9 and continue until the criminal action is resolved. If the owner or
10 possessor of the animal fails to post a new security deposit or
11 bond with the court before the previous security deposit or bond
12 expires, the animal is forfeited to the animal control agency
13 caring for the animal.

14 (21) If the owner or possessor that posted a security deposit
15 or bond under subsection (18) or (20) is found not guilty in the
16 criminal action, the amount of the security deposit or bond posted
17 to prevent disposition of the animal may be returned to the owner
18 or possessor at the court's discretion, and, subject to subsections
19 (23) and (24), the animal must be returned to the owner.

20 (22) If a security deposit or bond is posted by an owner or
21 possessor of an animal under subsection (18) or (20) and the court
22 determines that the animal lacks any useful purpose or poses a
23 threat to public safety under subsection (24), the posting of the
24 security deposit or bond does not prevent disposition of the
25 animal.

26 (23) Upon receiving an animal seized under this section, or at
27 any time thereafter, an animal control agency may humanely
28 euthanize the animal or have the animal euthanized if, in the
29 opinion of a licensed veterinarian, the animal is injured or

1 diseased past recovery or the animal's continued existence is
2 inhumane so that euthanasia is necessary to relieve pain and
3 suffering. This subsection applies to an animal whether or not a
4 security deposit or bond has been posted under subsection (18) or
5 (20).

6 (24) An animal control agency that receives an animal under
7 this section may apply to the district court or municipal court for
8 a hearing to determine whether the animal must be humanely
9 euthanized because of its lack of any useful purpose or the public
10 safety threat it poses. The court shall hold a hearing not more
11 than 30 days after the filing of the application and shall give
12 notice of the hearing to the owner of the animal. Upon a finding by
13 the court that the animal lacks any useful purpose or poses a
14 threat to public safety, the animal control agency shall humanely
15 euthanize the animal or have the animal euthanized. Expenses
16 incurred in connection with the housing, care, upkeep, or
17 euthanasia of the animal by an animal control agency, or by a
18 person, firm, partnership, corporation, or other entity, may, in
19 the court's discretion, be assessed against the owner of the
20 animal.