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BILL ANALYSIS

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Senate Bill 148 and 149 (as introduced 3-7-23)
Sponsor: Senator Dayna Polehanki (S.B. 148)
Senator Kevin Hertel (S.B. 149)
Committee: Natural Resources and Agriculture

Date Completed: 6-6-23

INTRODUCTION

Taken together, the bills would require a research facility to first offer a dog or cat that would otherwise be euthanized to an animal shelter for adoption and prescribe administrative fines for failing to do so. They would provide research facilities and shelters with civil liability immunity in the transfer of the animals. They would require research facilities to report to the Michigan Department of Agriculture and Rural Development (MDARD) specified information about laboratory animals. Additionally, the bills would create the Laboratory Animal Fund and require MDARD to spend money from the Fund to administer the bills' requirements.

The bills are tie-barred.

BRIEF FISCAL IMPACT

The bills would have a moderate fiscal impact on MDARD and a minor fiscal impact on the Department of Attorney General.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bills 148 and 149 are reintroductions of House Bills 4881 and 4882, respectively, of the 2021-2022 Legislative Session.

MCL 287.392 et al. (S.B. 148)
287.381 et al. (S.B. 149)

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CONTENT

Senate Bill 149 would amend Public Act 224 of 1969, which regulates research facilities that use cats or dogs, to do the following:

- **Require MDARD to maintain and make available on its website a list of all research facilities operating in Michigan.**
- **Require a research facility to offer for adoption a cat or dog that was no longer needed for research and would be euthanized to an animal protection shelter or animal control shelter.**
- **Exempt research facilities and shelters from civil liability in the transfer of a laboratory animal.**
- **Modify certain definitions.**

Senate Bill 148 would amend Public Act 224 of 1969 to do the following:

- **Require a research facility that used cats or dogs to submit a report to MDARD, by March 31 of each year, that included information about laboratory cats and dogs and the release of those animals to animal protection shelter or animal control shelters.**
- **Prescribe administrative fines for a research facility that did not offer the appropriate release of a cat or dog no longer needed for research.**
- **Create the Laboratory Animal Fund and prescribe how money would be spent from or deposited into the Fund.**

Senate Bill 149

Records

The Act requires research facilities and dealers to keep records regarding the purchase, sale transportation, and handling of dogs and cats as MDARD's Director prescribes. Under the bill, research facilities and dealers would have to keep such records *and any other information MDARD requires*. Additionally, MDARD would have to maintain and make available on its website a list of all research facilities operating in the State.

Laboratory Animal Adoption

The bill would add Section 8a and designate it as "Teddy's Law". Under Section 8a, before euthanizing a laboratory cat or dog that was no longer needed for research, a research facility would have to offer the animal to an animal control or animal protection shelter located in the State for adoption. A research facility could enter into a written agreement with an animal control or protection shelter for potential adoption purposes.

The bill specifies that a research facility that provided, and a shelter that received, a cat or dog as provided by the bill would be immune from civil liability for or resulting from the transfer of the laboratory animal, if the facility or shelter acted in good faith concerning the health and physical condition of the laboratory animal.

Definitions

"Animal control shelter" would mean a facility that is registered under Section 6 of Public Act 287 of 1969 and is operated by a municipality for the impoundments or care of an animal for any of the following reasons:

- The animal was found on the streets or at large.
- The animal was otherwise held due to a violation of a municipal order or State law.
- The animal was surrendered to the animal control shelter.

(Section 6 of Public Act 287 of 1969, which regulates pet shops, animal control centers, animal protection shelters, and the adoption of certain animals, prescribes the requirements of operating an animal control center or animal protection shelter.)

"Animal protection shelter" would mean a facility that is registered under Section 6 of Public Act 287 and is operated by any of the following:

- A person.
- A humane society.
- A society for the prevention of cruelty of animals.
- Any other nonprofit organization for the care of homeless animals.

Under the Act, "cat" means any live domestic cat (*felis catus*) for the use or intended to be used for research, tests, or experiments at research facilities. Instead, "cat" would mean a domestic cat of any age of the species *Felis catus*.

Under the Act, "dog" means any live dog of the species *canis familiaris* for use or intended to be used for research tests or experiments at research facilities. Instead, "dog" would mean a domestic dog of any age of the species *Canis lupis familiaris*.

"Laboratory animal" would mean a dog or cat that is used or intended to be used for laboratory research at a laboratory facility. "Laboratory research" would mean research, tests, or experiments, conducted for education, scientific, medical, or experimental purposes.

"Municipality" would mean a county, city, village, or township.

"Person" would mean an individual, estate, business, or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

Under the Act, "research facility" means any school, hospital, laboratory, institution, organization, or person that uses or intends to use dogs or cats in research, tests or experiments, and that purchases or transports such animals or receives any funds from the State or a local government, or any agency or instrumentality thereof to finance its operations by means of grants, loans, or otherwise.

Instead, "research facility" would mean a school, hospital, laboratory, institution, organization, or person that *is licensed or otherwise registered with the United States Department of Agriculture* that uses or intends to use a *laboratory animal* in laboratory research, that does at least one of the following:

- Purchases or transports laboratory animals.
- Receives funds from the State, a local government, or an agency or instrumentality of the State or a local government to finance its operations through grants, loans, or other funds.

Senate Bill 148

Research Facility Animal Report

The bill would require a research facility that used laboratory animals to submit a report to

MDARD, by March 31 of each year, that included the following information regarding the previous calendar year:

- The total number of laboratory animals owned by the research facility.
- The total number of laboratory animals that were used for laboratory research conducted at the research facility.
- The total number of laboratory animals released by the research facility.
- The name and address of each animal control shelter or animal protection shelter to which an animal was released.
- The list of the names and addresses for the animal control shelter and animal protection shelter with which the research facility had entered into an agreement under Senate Bill 149.

Violation of Laboratory Animal Adoption Opportunity

The bill would specify that if a research facility violated Section 8a as proposed by Senate Bill 149, after notice and opportunity for a hearing under the Administrative Procedures Act, MDARD could impose an administrative fine as follows:

Type of Violation	Maximum Fine
A violation involving one laboratory animal.	\$1,000
A violation involving two or three laboratory animals.	\$2,000
A violation involving four or more, but fewer than 10 laboratory animals.	\$3,000
A violation involving 10 or more, but fewer than 25 laboratory animals.	\$5,000
A violation involving 25 or more laboratory animals.	\$10,000
A violation with one prior violation.	\$3,000
A violation with two prior violations.	\$5,000
A violation with three prior violations.	\$10,000

The Department would have to advise the Attorney General of the failure of a person to pay an administrative fine listed above, and the Attorney General would have to bring a civil action to recover the administrative fine and costs and fees.

One year after the bill's effective date, MDARD could issue a warning for a violation instead of imposing a fine.

Laboratory Animal Fund

The bill would create the Laboratory Animal Fund within the Department of Treasury. Under the bill, the fines collected above would be deposited into the Fund by the State Treasurer.

The State Treasurer could also receive money or other assets from any other source for deposit into the Fund. The State Treasurer would have to credit to the Fund interest and earnings from its investments.

Money in the Fund at the close of the fiscal year would not lapse into the General Fund. The Department would be the administrator of the Laboratory Animal Fund for auditing purposes and would spend money from it to administer the potential release cats or dogs no longer needed by research facilities.

FISCAL IMPACT

The bills would require MDARD to perform certain administrative duties, including the establishment of a database of all research facilities using dogs or operating as laboratory animals research facilities in Michigan (and publish this on its website). They would allow MDARD to impose administrative fines on facilities in violation of the bill's provisions and annually gather data related to the operations of research facilities that use laboratory animals. The Department estimates that compliance with the bills' requirements would require an additional 1.0 FTE and \$200,000 in appropriations. The percentage of the estimated appropriation that would have to come from General Fund/general purpose dollars would depend upon the amount of restricted revenue received from potential fines.

Senate Bill 149 would create the Laboratory Animal Fund in the State Treasury, into which the administrative fines (and other sources) proposed under Senate Bill 148 would be deposited for use by MDARD in the administration of the bills' provisions. It cannot be estimated at this time the amount of funds that would be deposited in the Fund annually. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse to the General Fund.

Senate Bill 149 also would add additional costs to the Attorney General by requiring the Attorney General to bring civil action against individuals who failed to pay administrative fines under the bill. The costs would include additional prosecutor and support staff. The costs are likely to be minimal and supported within current appropriations as the number of individuals likely to be prosecuted would be minimal and there is no timeline on whether the Attorney General is required to bring civil action against individuals.

The bills would add costs to the Department of Treasury to create and administer the Laboratory Animal Fund. The costs are likely to be less than \$100 charged to the Department and supported within current appropriations.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.