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ASSOCIATION  
FOR LOCAL  
PUBLIC HEALTH  
www.malph.org

**Senate Agriculture Committee  
Written Testimony  
May 24, 2016**

**Meghan Swain, Michigan Association for Local Public Health**

The Michigan Association for Local Public Health opposes SB 727, which would allow dogs on restaurant patios.

Public health is promotes and protects the health and safety of the population, trying to prevent people from getting sick or injured in the first place. Public health works to track disease outbreaks and prevent injuries/death. Public health seeks to save money, improve our quality of life, helps children thrive, and reduces human suffering.

When this legislation was introduced in 2013, several House committee members, at that time, expressed concerns regarding such a policy including safety, liability, and insurance.

The Centers for Disease Control reports 4.5 million dog bites a year that are reported. Dog bites can carry disease such as Pasteurella, MRSA, Tetanus, and Rabies that can be transmitted to humans, and according to the CDC, this occurs in about 18% of the time. 885,000 seek medical attention; roughly half of those are children. 27,000 require reconstructive surgery usually to the face and neck area. Of those injured, 386,000 require treatment typically through the emergency room. In 2015, there were 34 dog bite fatalities reported. Children, ages 5-9, are the highest victim population.

Michigan's Dog Bite Law is considered a "strict liability", in that owners are responsible for any physical injury caused by the dog. Provocation defense rarely shield dog owners. The statute of limitations is up to three (3) years. Restaurant owners **cannot** be indemnified from liability.

Insurance and financial industries utilize actuarial science that applies mathematical and statistical methods to assess risk, including a number of interrelating subjects such as probability, statistics, and data. In other words, increasing the exposure of people/children to dogs increases the risk of bites/attacks.

According to the Insurance Information Institute, in 2015, nearly \$570 million in dog bite/attacks was paid to victims. In 2014, that number was \$530 million. The average cost of a dog bite claim is \$37,214. Michigan has been in the Top 10 States for dog bite claims the last three years. In 2015, there were 625 claims, with the average payout of \$29,898. California is the highest, with 1684 claims in 2015, with payouts totaling \$75.8 million. Depending on the breed, insurance companies may wholly exclude or encourage additional coverage, but said additional coverage is not required.

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The Michigan Modified Food Code allows for approved departments, local health departments or the Michigan Department of Agriculture and Rural Development to issue site specific variances under the following guidance:

*“Variance” means a written document issued by the regulatory Authority that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.*

The impact on local public health is considered an unfunded mandate, in that, it would require a local health department to provide additional training and education during inspections, new license (standard operating procedures), and license renewal.

Training materials will need to be developed relating to employee hygienic practices, fecal clean up, cleanable surfaces, and chemical storage. It will add a component to a foodborne illness outbreak investigation, during which a dog or its owner will not be present to interview. Tracking the owner will be difficult, if not impossible.

Local health departments will receive complaint/inquiry calls. Complaints will require a visit to the restaurant, meet with owner/manager, and inspect the facility to assure that proper health procedures have been followed or are corrected related to the complaint.

Local units of government may have ordinances that regulate dogs based upon breed, making it a challenge to know which local units of government have specific ordinances.

Specifically, with regard to SB 727, MALPH has these concerns:

1. Page 9 - “(D)(6) A dog that is controlled by a customer in an outdoor dining area of a food service establishment...” (The language does not define “control.”)
2. “(A) A health of safety hazard will not result from the presence or activities of the dog.” (The language does not define the health or safety hazard.)
3. Page 9/10 - “(B)(I) The dog does not pass through the interior of the food establishment...” (For restaurants that hold a liquor license, most patrons are entering the restaurant in order to access the outdoor dining area, which is a Liquor Control requirement.)
4. Page 10 - “(B)(II) The outdoor dining area is maintained free of visible dog hair, dog dander...” (This requirement does not clarify the when and how.)

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5. Page 10 - "(B)(IV) Equipment used to clean and that comes in contact with waste from a dog's bodily functions..." (Requires additional health department time to review their plan and inspect.)
6. Page 10 - "(B)(V) All dog waste is disposed of at least daily outside of the food establishment..." (Requires additional health department time to review their plan and inspect.)
7. Page 10 - "(B)(VI) An employee who touches the dog or cleans waste..." (Requires additional health department time to review their plan and inspect.)
8. Page 10 - "(B)(VII) The dog is not allowed on a seat, chair, or customer's lap..." (This is not enforceable.)
9. Page 10 - "(B)(VIII) The dog is not allowed to contact reusable tableware..." (Requires additional health department time to review their plan and inspect.)
10. Page 10 - "(X) The dog is unattended." (This is not enforceable.)
11. Page 10 - "(XI) The customer is 18 years of age or older." (This is not enforceable unless the restaurant is checking identification.)
12. Page 11 - "(C)(I) Maintains at the food service establishment and makes available to the regulatory authority or a customer upon request written procedures that ensure compliance..." (Requires additional health department time to review their plan and inspect.)
13. Page 11 - "(C)(II) Before allowing a dog within the food establishment, notifies the local health department..." (There should be proper training and review of standard operating procedures, this would eliminate that process; therefore, violations will occur.)
14. Page 11 - "(D) (I, II, III) The food service establishment may do any of the following: determine location...limit on the size/type of the dog...deny entry to or reject from the food establishment... (The food service establishment should have this written in standard operating procedures.)

**Sources:**

Insurance Information Institute: <http://www.iii.org/issue-update/dog-bite-liability>

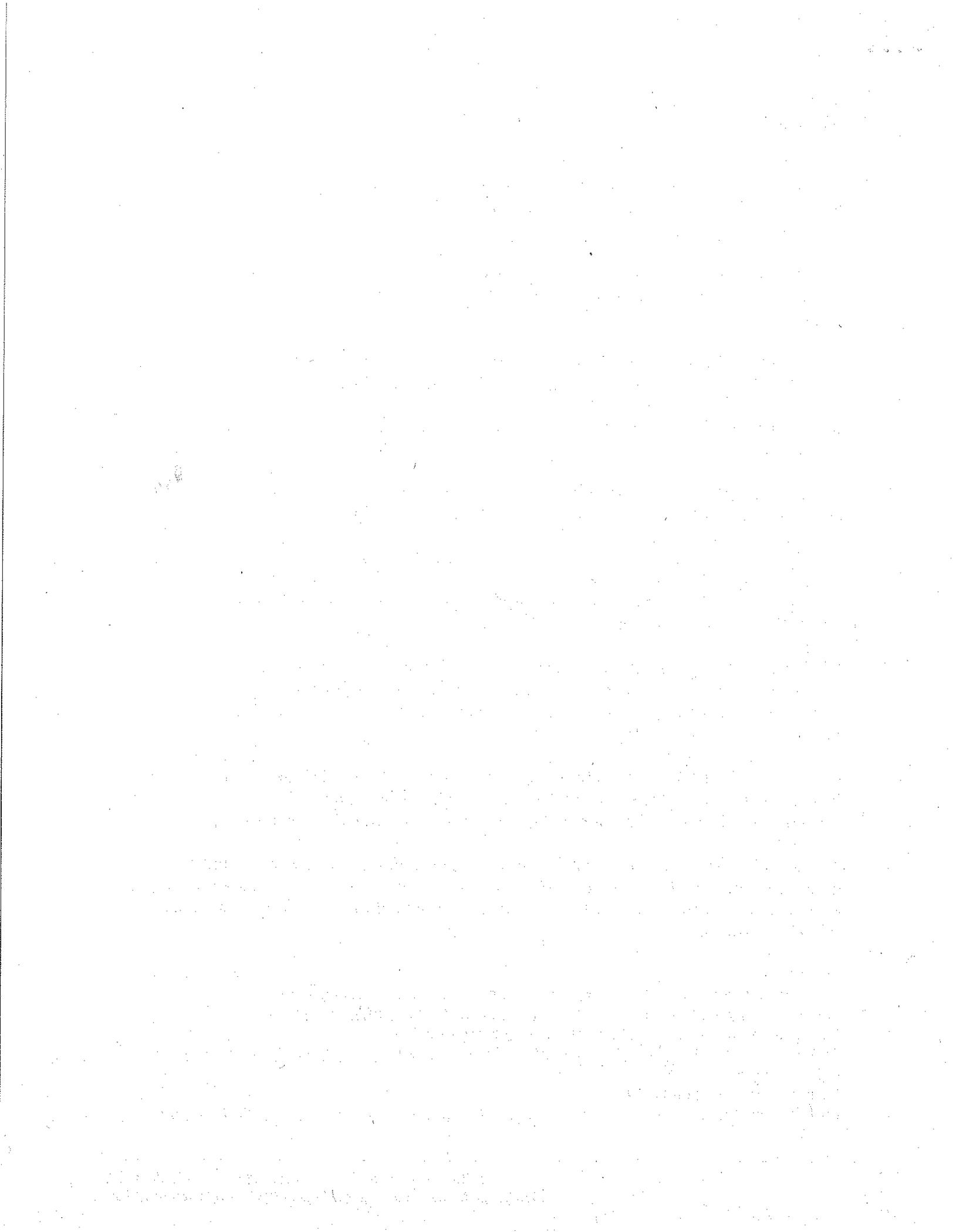
Centers for Disease Control: <http://www.cdc.gov/features/dog-bite-prevention/>

Michigan Compiled Law – Liability of Owner for Dog Bite:

[http://www.legislature.mi.gov/\(S\(vusod4hpgtkcmi2jbdlx2i5g\)\)/mileg.aspx?page=GetObject&objectname=mcl-287-351](http://www.legislature.mi.gov/(S(vusod4hpgtkcmi2jbdlx2i5g))/mileg.aspx?page=GetObject&objectname=mcl-287-351)

Michigan Modified Food Code:

[https://www.michigan.gov/documents/mdard/MI Modified 2009 Food Code 396675 7.pdf](https://www.michigan.gov/documents/mdard/MI_Modified_2009_Food_Code_396675_7.pdf)





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# Lincoln Road's Dog Friendly Atmosphere Revisited After Waitress Is Mauled

September 17, 2012 11:40 PM

Filed Under: Amy Calandrella, Dog Bite, Gio Benitez, Injured, Lincoln Road, Mastiff, Mauled, Miami Beach, South Beach, Stitches, Teri Guttman Valdes, Van Dyke Cafe, Waitress



(Source: peterquins/ www.panoramio.com)  
(Source: peterquins/ www.panoramio.com)

MIAMI BEACH (CBS4) – A South Beach waitress is recovering after a dog attacked her on Labor Day weekend. She received 300 stitches, according to an Animal Services report first obtained by CBS4 News partner [The Miami Herald](#).



The woman is a waitress at Lincoln Road's famous [Van Dyke](#) restaurant. On Labor Day weekend, a woman came to the restaurant with her dogs. Witnesses tell CBS4 that the waitress brought a bowl of water to one of the dogs, described as a large black mastiff.

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The dog, according to witnesses, quickly attacked the waitress and mauled part of her face.

"I heard her scream and run inside the restaurant," said witness Maria.

The waitress was covered in blood.

"She had her hands over her mouth and it was just very, very sudden the way the dog just jumped up," said witness Jerry.

CBS4 went to the owner's home and found the dog which matches the description in the Animal [Services](#) report. We tried to speak with the owner, but she did not open the door.

Now some of the witnesses to the attack wonder if Lincoln Road, which is famously dog-friendly, should have restrictions in place.

"There are just certain places where it appropriate to have them, and places where it's inappropriate to have them. I don't think Lincoln Road is a good place for them," said Jerry.

"It will happen again, let me tell you, it will happen again," said Maria.

We have not been able to reach the waitress and Van Dyke's [management](#) has not yet commented on the incident.

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# Mom: Boy screamed for help as dogs killed him



Robert Allen, Detroit Free Press 11:59 a.m. EST December 24, 2015

## Mother of Xavier Strickland details in court how her son was mauled to death by four pit bulls



(Photo: Family photo)

When she saw three pit bulls loose on a Detroit street, a mother walking with her 4-year-old son to a nearby school stopped.

"I said, 'Xavier, don't move,' and we started walking backwards," Lucille Strickland testified in 36th District Court on Wednesday. "I just knew that it was gonna go down. Because when the dogs looked, they just started running straight at us."

She was the fourth witness called in the preliminary examination of Geneke Lyons, 41, who is charged with second-degree murder, manslaughter and possessing dangerous animals causing death in the death of Xavier Strickland in the yard of Lyons' house on Baylis Street, at the John C. Lodge Freeway. The hearing, in its second day, was continued to Jan. 7.



DETROIT FREE PRESS

Pit bull found hanged in abandoned Detroit house

[\(http://www.freep.com/story/news/local/michigan/detroit/2015/12/10/pit-bull-found-hanged-abandoned-detroit-house/77095212/\)](http://www.freep.com/story/news/local/michigan/detroit/2015/12/10/pit-bull-found-hanged-abandoned-detroit-house/77095212/)



Lucille Strickland of Detroit testified in court on Wednesday, Dec. 23, 2015, about the fatal mauling of her 4-year-old son, Xavier, by four pit bulls. (Photo: Robert Allen/Detroit Free Press)

Strickland spoke clearly, showing little outward emotion, as she recounted the horrors of what happened at about 12:30 p.m. Dec. 2. She previously told the Free Press that the mauling will forever be cemented in her mind.

She said Wednesday that she and her son tripped and fell as they were backing up, and the dogs converged on them. She fell on top of the boy and was bitten on her leg, back and ear.

"I started kicking and punching them away," she said. "They moved, and I got up a little bit, and I had him in my arm."

But as she tried to pull the small child to safety, the dogs "snatched him from me," dragging him back to their owner's house.

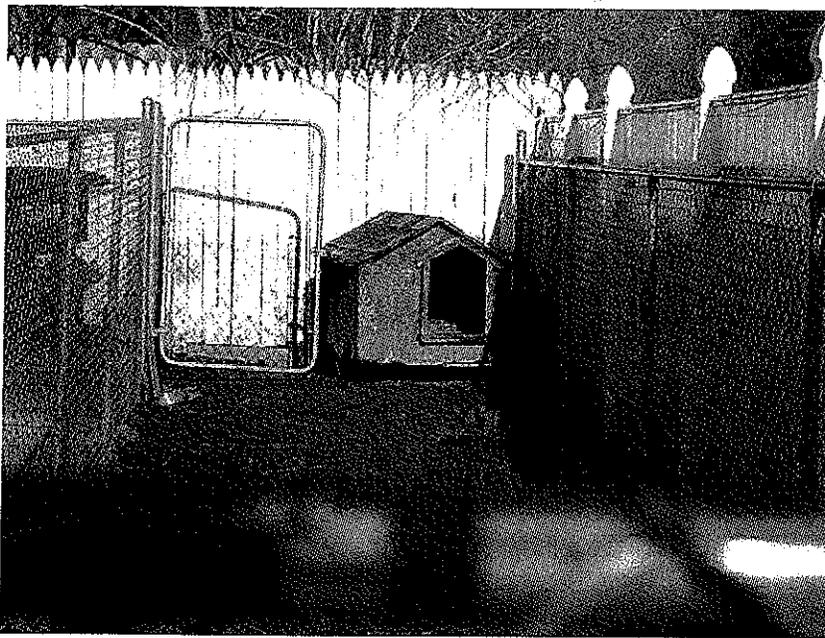
"They pulled him to the fence to the other dog in the fence, and the other dog grabbed his hood on his coat and pulled him under," Strickland said. "And they started biting and eating my son."



DETROIT FREE PRESS

Mother mauled by dogs had history of suicide attempts

[\(http://www.freep.com/story/news/local/michigan/2015/12/09/port-huron-dog-mauling-victims-death-ruled-suicide/77034274/\)](http://www.freep.com/story/news/local/michigan/2015/12/09/port-huron-dog-mauling-victims-death-ruled-suicide/77034274/)



An empty dog house in the backyard of a house on Baylis and the John C. Lodge Service Drive in Detroit is seen on Thursday, Dec. 3. Four-year-old Xavier Strickland, who lived one block away, was mauled to death by pit bulls that pulled him under a fence. (Photo: Eric Seals, Detroit Free Press)

The mother ran to get help. As she started running, she said she could hear Xavier: "Help me, ma! Help me!"

Other witnesses recalled seeing the mother lying in grass, screaming for help. Cherisse Williams on Tuesday testified that she maced a dog in the face before police arrived.

Strickland said Wednesday that she could see the dogs in the yard surrounding her son but she couldn't see him. She heard screaming and gunshots, then she saw an officer carrying Xavier to a patrol car. She ran to the car, which left for the Henry Ford Hospital as another car picked her up to follow her son to the hospital.



[DETROIT FREE PRESS](#)

[Detroit should adopt pit bull ban it didn't 9 years ago](#)

<http://www.freep.com/story/news/columnists/rochelle-riley/2015/12/04/detroit-pit-bull-ban/76747706/>

Strickland said her son was intended to go to Children's Hospital of Michigan for emergency surgery. But his heart stopped, and they got it beating again.

Strickland later testified that she's never been scared of dogs or pit bulls before her son was mauled to death. "Now I am," she said.

She also said that the dogs had previously attacked her daughter, taking her book bag.

Also Wednesday, defense attorney Francisco Villarruel asked to have Lyons' \$1 million bond lowered. District Court Judge Lydia Nance-Adams decided not to change it.

More witnesses are expected to be called when the case is scheduled to resume at 11 a.m. on Jan. 7.

Contact Robert Allen at [rallen@freepress.com](mailto:rallen@freepress.com) or [@rallenMI](#).

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