

The House Committee on Judiciary offered the following substitute to SB 385:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 4 of the Official Code of Georgia Annotated, relating to animals, so as to
2 authorize the Commissioner of Agriculture to require the reporting of certain animal diseases
3 and syndromes; to provide for the contents of reports; to provide for the confidentiality of
4 reports; to provide for limited exceptions and for the use of certain data; to provide that
5 certain persons making such reports shall not be liable for civil damages; to provide for
6 penalties and change the provisions relating to certain penalties; to amend Chapter 12 of Title
7 31 of the Official Code of Georgia Annotated, relating to control of hazardous conditions,
8 preventable diseases, and metabolic disorders, so as to provide definitions of bioterrorism
9 and public health emergency; to require health care providers, coroners, and medical
10 examiners to report cases of bioterrorism and other conditions that pose a substantial risk of
11 a public health emergency to the Department of Human Resources and the appropriate
12 county board of health; to establish reporting requirements for pharmacists of increased or
13 unusual prescriptions that may be related to bioterrorism; to require the Department of
14 Human Resources to notify the Department of Public Safety of any potential causes of
15 bioterrorism; to provide for the Department of Human Resources to identify persons exposed
16 to bioterrorism; to authorize the closing and decontamination of facilities that may endanger
17 the public health; to authorize the Department of Human Resources to promulgate rules and
18 regulations for the management of a public health emergency and to prepare a public health
19 emergency plan and draft executive order for the declaration of a public health emergency;
20 to provide for a penalty for failure to comply with reporting requirements; to authorize the
21 Department of Human Resources to promulgate rules and regulations related to vaccination
22 and quarantine in a public health emergency; to amend Chapter 1 of Title 35 of the Official
23 Code of Georgia Annotated, relating to general provisions related to law enforcement
24 officers and agencies, so as to require law enforcement agencies to report unusual or
25 suspicious health related events to the Department of Human Resources and the appropriate
26 county board of health; to amend Chapter 3 of Title 38 of the Official Code of Georgia
27 Annotated, relating to emergency management, so as to authorize the Governor prior to
28 declaring a state of emergency in the event of a public health emergency to issue a call for

1 a special session of the General Assembly; to compel health care facilities to provide services
 2 or the use of their facilities during a public health emergency; to exclude certain firearms
 3 from limitations during an emergency; to change the emergency powers of the Governor
 4 regarding firearms; to authorize the Governor to direct the Department of Human Resources
 5 to coordinate the state's response to a public health emergency; to provide for due process
 6 procedures related to quarantine or vaccination programs in a public health emergency; to
 7 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
 8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 4 of the Official Code of Georgia Annotated, relating to animals, is amended by adding
 12 a new Code Section 4-4-6 to read as follows:

13 "4-4-6.

14 (a) The Commissioner is authorized to declare certain animal diseases and syndromes to
 15 be diseases requiring notice and to require the reporting thereof to the department in a
 16 manner and at such times as may be prescribed by the Commissioner. The department
 17 shall require that such data be supplied as is deemed necessary and appropriate for the
 18 prevention and control of certain diseases and syndromes as are determined by the
 19 Commissioner. All such reports and data shall be deemed confidential and shall not be
 20 open to inspection by the public; provided, however, that the Commissioner may release
 21 such reports and data in statistical form, for valid research purposes, and for other purposes
 22 as deemed appropriate by the Commissioner.

23 (b) Any person, including, but not limited to, any veterinarian or veterinary diagnostic
 24 laboratory and practice personnel and any person associated with any livestock farm, ranch,
 25 sales establishment, transportation, or slaughter, submitting reports or data in good faith
 26 to the department in compliance with this Code section shall not be liable for any civil
 27 damages therefor.

28 (c) Any person violating any provision of this Code section shall be guilty of a
 29 misdemeanor."

30 **SECTION 2.**

31 Said title is further amended by adding to Chapter 10 of said title, known as the "Bird Dealers
 32 Licensing Act," a new Code Section 4-10-7.3 to read as follows:

33 "4-10-7.3.

1 (a) The Commissioner is authorized to declare certain animal diseases and syndromes to
 2 be diseases requiring notice and to require the reporting thereof to the department in a
 3 manner and at such times as may be prescribed by the Commissioner. The department
 4 shall require that such data be supplied as is deemed necessary and appropriate for the
 5 prevention and control of certain diseases and syndromes as are determined by the
 6 Commissioner. All such reports and data shall be deemed confidential and shall not be
 7 open to inspection by the public; provided, however, that the Commissioner may release
 8 such reports and data in statistical form, for valid research purposes, and for other purposes
 9 as deemed appropriate by the Commissioner.

10 (b) Any person, including, but not limited to, any veterinarian or veterinary diagnostic
 11 laboratory and practice personnel and any person associated with any bird dealer regulated
 12 by this chapter, submitting reports or data in good faith to the department in compliance
 13 with this Code section shall not be liable for any civil damages therefor."

14 SECTION 3.

15 Said title is further amended by striking Code Section 4-10-12, relating to penalties, and
 16 inserting in its place the following:

17 "4-10-12.

18 Any person who ~~acts as a bird dealer without a license in violation of this chapter~~ violates
 19 any provision of this chapter shall be guilty of a misdemeanor."

20 SECTION 4.

21 Said title is further amended by adding to Article 1 of Chapter 11 of said title, known as the
 22 "Georgia Animal Protection Act," a new Code Section 4-11-9.7 to read as follows:

23 "4-11-9.7.

24 (a) The Commissioner is authorized to declare certain animal diseases and syndromes to
 25 be diseases requiring notice and to require the reporting thereof to the department in a
 26 manner and at such times as may be prescribed by the Commissioner. The department
 27 shall require that such data be supplied as is deemed necessary and appropriate for the
 28 prevention and control of certain diseases and syndromes as are determined by the
 29 Commissioner. All such reports and data shall be deemed confidential and shall not be
 30 open to inspection by the public; provided, however, that the Commissioner may release
 31 such reports and data in statistical form, for valid research purposes, and for other purposes
 32 as deemed appropriate by the Commissioner.

33 (b) Any person, including, but not limited to, any veterinarian or veterinary diagnostic
 34 laboratory and practice personnel and any person associated with any pet dealer, kennel,

1 animal shelter, or stable, submitting reports or data in good faith to the department in
2 compliance with this Code section shall not be liable for any civil damages therefor."

3 SECTION 5.

4 Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to control of
5 hazardous conditions, preventable diseases, and metabolic disorders, is amended by adding
6 a new Code Section 31-12-1.1 to read as follows:

7 "31-12-1.1.

8 As used in this chapter, the term:

9 (1) 'Bioterrorism' means the intentional creation or use of any microorganism, virus,
10 infectious substance, or any component thereof, whether naturally occurring or
11 bioengineered, to cause death, illness, disease, or other biological malfunction in a
12 human, animal, plant, or other living organism in order improperly or illegally to
13 influence the conduct of government, to interfere with or disrupt commerce, or to
14 intimidate or coerce a civilian population.

15 (2) 'Public health emergency' means the occurrence or imminent threat of an illness or
16 health condition that is reasonably believed to be caused by bioterrorism or the
17 appearance of a novel or previously controlled or eradicated infectious agent or biological
18 toxin and poses a high probability of any of the following harms:

19 (A) A large number of deaths in the affected population;

20 (B) A large number of serious or long-term disabilities in the affected population; or

21 (C) Widespread exposure to an infectious or toxic agent that poses a significant risk
22 of substantial future harm to a large number of people in the affected population."

23 SECTION 6.

24 Said chapter is further amended by striking Code Section 31-12-2, relating to reporting
25 disease, confidentiality of information supplied, and immunity from liability as to
26 information supplied, and inserting in its place the following:

27 "31-12-2.

28 (a) The department is empowered to declare certain diseases, ~~and injuries, and conditions~~
29 to be diseases requiring notice and to require the reporting thereof to the county board of
30 health and the department in a manner and at such times as may be prescribed. The
31 department shall require that such data be supplied as are deemed necessary and
32 appropriate for the prevention of certain diseases, ~~and accidents~~ injuries, and conditions as
33 are determined by the department. All such reports and data shall be deemed confidential
34 and shall not be open to inspection by the public; provided, however, the department may
35 release such reports and data in statistical form or for valid research purposes.

1 (b) A health care provider, coroner, or medical examiner shall report to the department and
 2 the county board of health all known or presumptively diagnosed cases of persons
 3 harboring any illness or health condition that may be caused by bioterrorism, epidemic or
 4 pandemic disease, or novel and highly fatal infectious agents or toxins and that may pose
 5 a substantial risk of a public health emergency. Reportable illnesses and conditions
 6 include, without limitation, diseases caused by biological agents listed at 42 C.F.R. Part 72,
 7 app. A (2000) and any illnesses or conditions identified by the department as potential
 8 causes of a public health emergency.

9 (c) A pharmacist shall report to the department and the county board of health any unusual
 10 or increased prescription rates, unusual types of prescriptions, or unusual trends in
 11 pharmacy visits that may reasonably be believed to be caused by bioterrorism, epidemic
 12 or pandemic disease, or novel and highly fatal infectious agents or toxins and that may pose
 13 a substantial risk of a public health emergency.

14 (d) Any person, including but not limited to practitioners of the healing arts, submitting
 15 in good faith reports or data to the department or county boards of health in compliance
 16 with the provisions of this Code section shall not be liable for any civil damages therefor.

17 (e) Whenever the department learns of any case of an unusual illness, health condition, or
 18 death, or an unusual cluster of such events, or any other suspicious health related event that
 19 it reasonably believes has the potential to be caused by bioterrorism, it shall immediately
 20 notify the Department of Public Safety and other appropriate public safety authorities."

21 SECTION 7.

22 Said chapter is further amended by adding a new Code Section 31-12-2.1 to read as follows:

23 "31-12-2.1.

24 (a) The department shall ascertain the existence of any illness or health condition that may
 25 be caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal
 26 infectious agents or toxins and that may pose a substantial risk of a public health
 27 emergency; investigate all such cases to determine sources of infection and to provide for
 28 proper control measures; and define the distribution of the illness or health condition. The
 29 department shall:

- 30 (1) Identify, interview, and counsel, as appropriate, all individuals reasonably believed
- 31 to have been exposed to risk;
- 32 (2) Develop information relating to the source and spread of the risk; and
- 33 (3) Close, evacuate, or decontaminate, as appropriate, any facility and decontaminate or
- 34 destroy any contaminated materials when the department reasonably suspects that such
- 35 material or facility may endanger the public health.

1 (b) The department shall promulgate rules and regulations appropriate for management of
 2 any public health emergency declared pursuant to the provisions of Code Section 38-3-51,
 3 with particular regard to coordination of the public health emergency response of the state
 4 pursuant to subsection (i) of said Code section. Such rules and regulations shall be
 5 applicable to the activities of all entities created pursuant to Chapter 3 of this title in such
 6 circumstances, notwithstanding any other provisions of law. In developing such rules and
 7 regulations, the department shall consult and coordinate as appropriate with the Georgia
 8 Emergency Management Agency, the Federal Emergency Management Agency, the
 9 Georgia Department of Public Safety, the Georgia Department of Agriculture, and the
 10 federal Centers for Disease Control and Prevention. The department is authorized, in the
 11 course of management of a declared public health emergency, to adopt and implement
 12 emergency rules and regulations pursuant to the provisions of subsection (b) of Code
 13 Section 50-13-4.

14 (c) The department shall promulgate, prepare, and maintain a public health emergency
 15 plan and draft executive order for the declaration of a public health emergency pursuant to
 16 Code Section 38-3-51 and Chapter 13 of Title 50. In preparation of such public health
 17 emergency plan and draft executive order, the department shall consult and coordinate as
 18 appropriate with the Georgia Emergency Management Agency, the Federal Emergency
 19 Management Agency, the Georgia Department of Public Safety, the Georgia Department
 20 of Agriculture, and the federal Centers for Disease Control and Prevention."

21 SECTION 8.

22 Said chapter is further amended by striking in its entirety Code Section 31-12-3, relating to
 23 power to require immunization, and inserting in its place the following:

24 "31-12-3.

25 (a) The department and all county boards of health are empowered to require, by
 26 appropriate rules and regulations, persons located within their respective jurisdictions to
 27 submit to vaccination against contagious or infectious disease where the particular disease
 28 may occur, whether or not the disease may be an active threat. The department may, in
 29 addition, require such other measures to prevent the conveyance of infectious matter from
 30 infected persons to other persons as may be necessary and appropriate. The department
 31 shall promulgate appropriate rules and regulations for the implementation of the provisions
 32 of this Code section in the case of a declaration of a public health emergency and shall
 33 include provisions permitting consideration of the opinion of a person's personal physician
 34 as to whether the vaccination is medically appropriate or advisable for such person.

1 (b) In the absence of an epidemic or immediate threat thereof, this Code section shall not
 2 apply to any person who objects in writing thereto on grounds that such immunization
 3 conflicts with his religious beliefs."

4 SECTION 9.

5 Said chapter is further amended by striking in its entirety Code Section 31-12-4, relating to
 6 isolation and segregation of diseased persons and quarantine, and inserting in its place the
 7 following:

8 "31-12-4.

9 The department and all county boards of health may, from time to time, require the
 10 isolation or segregation of persons with communicable diseases or conditions likely to
 11 endanger the health of others. The department may, in addition, require quarantine or
 12 surveillance of carriers of disease and persons exposed to, or suspected of being infected
 13 with, infectious disease until they are found to be free of the infectious agent or disease in
 14 question. The department shall promulgate appropriate rules and regulations for the
 15 implementation of the provisions of this Code section in the case of a declaration of a
 16 public health emergency."

17 SECTION 10.

18 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general
 19 provisions related to law enforcement officers and agencies, is amended by adding a new
 20 subsection (d) to Code Section 35-1-8, relating to acquisition, collection, classification, and
 21 preservation of information assisting in identifying deceased persons and locating missing
 22 persons, to read as follows:

23 "(d) Report any case of an unusual illness, health condition, or death, or an unusual cluster
 24 of such events, or any other suspicious health related event to the Department of Human
 25 Resources and the appropriate county board of health."

26 SECTION 11.

27 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency
 28 management, is amended by renumbering paragraphs (1), (2), (3), (4), and (5) of Code
 29 Section 38-3-3, relating to definitions, as paragraphs (2), (3), (4), (5), and (7), respectively
 30 and adding new paragraphs (1) and (6) to read as follows:

31 "(1) 'Bioterrorism' means the intentional creation or use of any microorganism, virus,
 32 infectious substance, or any component thereof, whether naturally occurring or
 33 bioengineered, to cause death, illness, disease, or other biological malfunction in a
 34 human, animal, plant, or other living organism in order improperly or illegally to

1 influence the conduct of government, to interfere with or disrupt commerce, or to
2 intimidate or coerce a civilian population."

3 "(6) 'Public health emergency' means the occurrence or imminent threat of an illness or
4 health condition that is reasonably believed to be caused by bioterrorism or the
5 appearance of a novel or previously controlled or eradicated infectious agent or biological
6 toxin and poses a high probability of any of the following harms:

7 (A) A large number of deaths in the affected population;

8 (B) A large number of serious or long-term disabilities in the affected population; or

9 (C) Widespread exposure to an infectious or toxic agent that poses a significant risk
10 of substantial future harm to a large number of people in the affected population."

11 SECTION 12.

12 Said chapter is further amended by striking subsection (a) of Code Section 38-3-51, relating
13 to emergency powers of the Governor, termination of emergency, limitations in energy
14 emergency, and immunity, and inserting in its place the following:

15 "(a) In the event of actual or impending emergency or disaster of natural or ~~manmade~~
16 human origin, or impending or actual enemy attack, or a public health emergency, within
17 or affecting this state or against the United States, the Governor may declare that a state of
18 emergency or disaster exists. As a condition precedent to declaring that a state of
19 emergency or disaster exists as a result of a public health emergency, the Governor shall
20 issue a call for a special session of the General Assembly pursuant to Article II, Section V,
21 Paragraph VII of the Constitution of Georgia, which session shall convene at 8:00 A.M.
22 on the second day following the date of such declaration for the purpose of concurring with
23 or terminating the public health emergency. The state of emergency or disaster shall
24 continue until the Governor finds that the threat or danger has passed or the emergency or
25 disaster has been dealt with, to the extent that emergency or disaster conditions no longer
26 exist, and terminates the state of emergency or disaster. No state of emergency or disaster
27 may continue for longer than 30 days unless renewed by the Governor. The General
28 Assembly by concurrent resolution may terminate a state of emergency or disaster at any
29 time. Thereupon, the Governor shall by appropriate action end the state of emergency or
30 disaster."

31 SECTION 13.

32 Said chapter is further amended by inserting between paragraphs (4) and (5) of subsection
33 (d) of Code Section 38-3-51, relating to emergency powers of the Governor, termination of
34 emergency, limitations in energy emergency, and immunity, a new paragraph (4.1) to read
35 as follows:

1 "(4.1) Compel a health care facility to provide services or the use of its facility if such
 2 services or use are reasonable and necessary for emergency response. The use of such
 3 health care facility may include transferring the management and supervision of the
 4 health care facility to the Department of Human Resources for a limited or unlimited
 5 period of time not extending beyond the termination of the public health emergency;".

6 **SECTION 14.**

7 Said chapter is further amended by striking paragraph (8) of subsection (d) of Code Section
 8 38-3-51 of the Official Code of Georgia Annotated, relating to emergency powers of the
 9 Governor, termination of emergency, limitation in energy emergency, and immunity, and
 10 inserting in its place the following:

11 "(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages,
 12 firearms, explosives, and combustibles; provided, however, that any limitation on
 13 transporting firearms under this Code section shall not include an individual firearm
 14 owned by a private citizen which was legal and owned by that citizen prior to the
 15 declaration of state of emergency or disaster; and".

16 **SECTION 15.**

17 Said chapter is further amended by striking subsection (i) of Code Section 38-3-51, relating
 18 to emergency powers of the Governor, termination of emergency, limitations in energy
 19 emergency, and immunity, and inserting in its place the following:

20 "(i)(1) The Governor may direct the Department of Human Resources to coordinate all
 21 matters pertaining to the response of the state to a public health emergency including
 22 without limitation:

23 (A) Planning and executing public health emergency assessments, mitigation,
 24 preparedness response, and recovery for the state;

25 (B) Coordinating public health emergency responses between state and local
 26 authorities;

27 (C) Collaborating with appropriate federal government authorities, elected officials of
 28 other states, private organizations, or private sector companies;

29 (D) Coordinating recovery operations and mitigation initiatives subsequent to public
 30 health emergencies;

31 (E) Organizing public information activities regarding state public health emergency
 32 response operations; and

33 (F) Providing for special identification for public health personnel involved in a public
 34 health emergency.

1 (2) The following due process procedures shall be applicable to any quarantine or
2 vaccination program instituted pursuant to a declaration of a public health emergency:

3 (A) Consonant with maintenance of appropriate quarantine rules, the department shall
4 permit access to counsel in person or by such other means as practicable that do not
5 threaten the integrity of the quarantine;

6 (B) An order imposing a quarantine or a vaccination program may be appealed but
7 shall not be stayed during the pendency of the challenge. The burden of proof shall be
8 on the state to demonstrate that there exists a substantial risk of exposing other persons
9 to imminent danger. With respect to vaccination, the state's burden of proof shall be
10 met by clear and convincing evidence. With respect to quarantine, the state's burden
11 of proof shall be met by a preponderance of the evidence;

12 (C) An individual or a class may challenge the order before any available judge of the
13 state courts, the superior courts, the Court of Appeals, or the Supreme Court. Such
14 judge, upon attestation of the exigency of the circumstances, may proceed ex parte
15 with respect to the state or may appoint counsel to represent the interests of the state or
16 other unrepresented parties. The judge hearing the matter may consolidate a multiplicity
17 of cases or, on the motion of a party or of the court, proceed to determine the interests
18 of a class or classes. The rules of evidence applicable to civil cases shall be applied to
19 the fullest extent practicable taking into account the circumstances of the emergency.
20 All parties shall have the right to subpoena and cross-examine witnesses, but in
21 enforcement of its subpoena powers the court shall take into account the circumstances
22 of the emergency. All proceedings shall be transcribed to the extent practicable. Filing
23 fees shall be waived and all costs borne by the state;

24 (D) The judge hearing the matter may enter an appropriate order upholding or
25 suspending the quarantine or vaccination order. With respect to vaccination, the order
26 may be applicable on notice to the department or its agents administering the
27 vaccination, or otherwise in the court's discretion. With respect to quarantines, the
28 order shall be automatically stayed for 48 hours;

29 (E) The department or any party may appeal any order within 24 hours to the Court of
30 Appeals, the Supreme Court, or to any available judge thereof in the event that
31 circumstances render a full court unavailable. If the trial judge has proceeded ex parte
32 or with counsel appointed for the state, the trial court shall either direct the filing of an
33 appeal in its order or itself certify the order for appeal. Filing fees for appeal shall be
34 waived, all costs shall be borne by the state, and such appeals shall be heard
35 expeditiously; and

36 (F) No provisions of this paragraph shall be construed to limit or restrict the right of
37 habeas corpus under the laws of the United States.

