

HOUSE SUBSTITUTE TO SENATE BILL 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 referral of rules and regulations related to the management of a public health
21 emergency by the Office of Legislative Counsel to the House of Representatives and Senate
22 Committees on Judiciary; to provide for a penalty for failure to comply with reporting
23 requirements; to authorize the Department of Human Resources to promulgate rules and
24 regulations related to vaccination and quarantine in a public health emergency; to provide
25 for referral of rules and regulations related to vaccination and quarantine in a public health
26 emergency by the Office of Legislative Counsel to the House of Representatives and Senate
27 Committees on Judiciary; to amend Chapter 1 of Title 35 of the Official Code of Georgia
28 Annotated, relating to general provisions related to law enforcement officers and agencies,
29 so as to require law enforcement agencies to report unusual or suspicious health related

1 events to the Department of Human Resources and the appropriate county board of health;
 2 to amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to
 3 emergency management, so as to authorize the Governor prior to declaring a state of
 4 emergency in the event of a public health emergency to issue a call for a special session of
 5 the General Assembly; to compel health care facilities to provide services or the use of their
 6 facilities during a public health emergency; to exclude certain firearms from limitations
 7 during an emergency; to change the emergency powers of the Governor regarding firearms;
 8 to authorize the Governor to direct the Department of Human Resources to coordinate the
 9 state's response to a public health emergency; to provide for due process procedures related
 10 to quarantine or vaccination programs in a public health emergency; to provide for related
 11 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

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

16 "4-4-6.

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

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

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

33 **SECTION 2.**

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

3 "4-10-7.3.

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

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

17 SECTION 3.

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

20 "4-10-12.

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

23 SECTION 4.

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

26 "4-11-9.7.

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

1 (b) Any person, including, but not limited to, any veterinarian or veterinary diagnostic
 2 laboratory and practice personnel and any person associated with any pet dealer, kennel,
 3 animal shelter, or stable, submitting reports or data in good faith to the department in
 4 compliance with this Code section shall not be liable for any civil damages therefor."

5 SECTION 5.

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

9 "31-12-1.1.

10 As used in this chapter, the term:

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

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

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

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

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

25 SECTION 6.

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

29 "31-12-2.

30 (a) The department is empowered to declare certain diseases, ~~and injuries, and conditions~~
 31 to be diseases requiring notice and to require the reporting thereof to the county board of
 32 health and the department in a manner and at such times as may be prescribed. The
 33 department shall require that such data be supplied as are deemed necessary and
 34 appropriate for the prevention of certain diseases, ~~and accidents~~ injuries, and conditions as
 35 are determined by the department. All such reports and data shall be deemed confidential

1 and shall not be open to inspection by the public; provided, however, the department may
2 release such reports and data in statistical form or for valid research purposes.

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

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

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

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

23 SECTION 7.

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

25 "31-12-2.1.

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

- 32 (1) Identify, interview, and counsel, as appropriate, all individuals reasonably believed
33 to have been exposed to risk;
34 (2) Develop information relating to the source and spread of the risk; and

1 (3) Close, evacuate, or decontaminate, as appropriate, any facility and decontaminate or
 2 destroy any contaminated materials when the department reasonably suspects that such
 3 material or facility may endanger the public health.

4 (b) The department shall promulgate rules and regulations appropriate for management of
 5 any public health emergency declared pursuant to the provisions of Code Section 38-3-51,
 6 with particular regard to coordination of the public health emergency response of the state
 7 pursuant to subsection (i) of said Code section. Such rules and regulations shall be
 8 applicable to the activities of all entities created pursuant to Chapter 3 of this title in such
 9 circumstances, notwithstanding any other provisions of law. In developing such rules and
 10 regulations, the department shall consult and coordinate as appropriate with the Georgia
 11 Emergency Management Agency, the Federal Emergency Management Agency, the
 12 Georgia Department of Public Safety, the Georgia Department of Agriculture, and the
 13 federal Centers for Disease Control and Prevention. The department is authorized, in the
 14 course of management of a declared public health emergency, to adopt and implement
 15 emergency rules and regulations pursuant to the provisions of subsection (b) of Code
 16 Section 50-13-4. Such rules and regulations shall be adopted pursuant to Chapter 13 of
 17 Title 50, the 'Georgia Administrative Procedure Act,' but shall be automatically referred
 18 by the Office of Legislative Counsel to the House of Representatives and Senate
 19 Committees on Judiciary.

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

27 SECTION 8.

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

30 "31-12-3.

31 (a) The department and all county boards of health are empowered to require, by
 32 appropriate rules and regulations, persons located within their respective jurisdictions to
 33 submit to vaccination against contagious or infectious disease where the particular disease
 34 may occur, whether or not the disease may be an active threat. The department may, in
 35 addition, require such other measures to prevent the conveyance of infectious matter from
 36 infected persons to other persons as may be necessary and appropriate. The department

1 shall promulgate appropriate rules and regulations for the implementation of the provisions
 2 of this Code section in the case of a declaration of a public health emergency and shall
 3 include provisions permitting consideration of the opinion of a person's personal physician
 4 as to whether the vaccination is medically appropriate or advisable for such person. Such
 5 rules and regulations shall be adopted pursuant to Chapter 13 of Title 50, the 'Georgia
 6 Administrative Procedure Act,' but shall be automatically referred by the Office of
 7 Legislative Counsel to the House of Representatives and Senate Committees on Judiciary.

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

11 **SECTION 9.**

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

15 "31-12-4.

16 The department and all county boards of health may, from time to time, require the
 17 isolation or segregation of persons with communicable diseases or conditions likely to
 18 endanger the health of others. The department may, in addition, require quarantine or
 19 surveillance of carriers of disease and persons exposed to, or suspected of being infected
 20 with, infectious disease until they are found to be free of the infectious agent or disease in
 21 question. The department shall promulgate appropriate rules and regulations for the
 22 implementation of the provisions of this Code section in the case of a declaration of a
 23 public health emergency. Such rules and regulations shall be adopted pursuant to Chapter
 24 13 of Title 50, the 'Georgia Administrative Procedure Act,' but shall be automatically
 25 referred by the Office of Legislative Counsel to the House of Representatives and Senate
 26 Committees on Judiciary."

27 **SECTION 10.**

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

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

SECTION 11.

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

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

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

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

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

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

SECTION 12.

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

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

1 Assembly by concurrent resolution may terminate a state of emergency or disaster at any
 2 time. Thereupon, the Governor shall by appropriate action end the state of emergency or
 3 disaster."

4 SECTION 13.

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

9 "(4.1) Compel a health care facility to provide services or the use of its facility if such
 10 services or use are reasonable and necessary for emergency response. The use of such
 11 health care facility may include transferring the management and supervision of the
 12 health care facility to the Department of Human Resources for a limited or unlimited
 13 period of time not extending beyond the termination of the public health emergency;".

14 SECTION 14.

15 Said chapter is further amended by striking paragraph (8) of subsection (d) of Code Section
 16 38-3-51 of the Official Code of Georgia Annotated, relating to emergency powers of the
 17 Governor, termination of emergency, limitation in energy emergency, and immunity, and
 18 inserting in its place the following:

19 "(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages,
 20 firearms, explosives, and combustibles; provided, however, that any limitation on
 21 firearms under this Code section shall not include an individual firearm owned by a
 22 private citizen which was legal and owned by that citizen prior to the declaration of state
 23 of emergency or disaster or thereafter acquired in compliance with all applicable laws of
 24 this state and the United States; and"

25 SECTION 15.

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

29 "(i)(1) The Governor may direct the Department of Human Resources to coordinate all
 30 matters pertaining to the response of the state to a public health emergency including
 31 without limitation:
 32 (A) Planning and executing public health emergency assessments, mitigation,
 33 preparedness response, and recovery for the state;

1 (B) Coordinating public health emergency responses between state and local
2 authorities;

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

5 (D) Coordinating recovery operations and mitigation initiatives subsequent to public
6 health emergencies;

7 (E) Organizing public information activities regarding state public health emergency
8 response operations; and

9 (F) Providing for special identification for public health personnel involved in a public
10 health emergency.

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

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

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

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

34 (D) The judge hearing the matter may enter an appropriate order upholding or
35 suspending the quarantine or vaccination order. With respect to vaccination, the order
36 may be applicable on notice to the department or its agents administering the

1 vaccination, or otherwise in the court's discretion. With respect to quarantines, the
 2 order shall be automatically stayed for 48 hours;

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

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

12 (j) Any individual, partnership, association, or corporation who acts in accordance with
 13 an order, rule, or regulation entered by the Governor pursuant to the authority granted by
 14 this Code section will not be held liable to any other individual, partnership, association,
 15 or corporation by reason thereof in any action seeking legal or equitable relief."

16 SECTION 16.

17 Chapter 13 of Title 50 of the Official Code of Georgia Annotated, the "Georgia
 18 Administrative Procedure Act," is amended by striking subsection (b) of Code Section
 19 50-13-4, relating to procedural requirements for adoption, amendment, or repeal of rules,
 20 emergency rules, limitation on action to contest rules, and legislative override, and inserting
 21 in its place the following:

22 "(b) If any agency finds that an imminent peril to the public health, safety, or welfare,
 23 including but not limited to, summary processes such as quarantines, contrabands, seizures,
 24 and the like authorized by law without notice, requires adoption of a rule upon fewer than
 25 30 days' notice and states in writing its reasons for that finding, it may proceed without
 26 prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable
 27 to adopt an emergency rule. Any such rule adopted relative to a public health emergency
 28 shall be submitted as promptly as reasonably practicable to the House of Representatives
 29 and Senate Committees on Judiciary. The rule may be effective for a period of not longer
 30 than 120 days but the adoption of an identical rule under paragraphs (1) and (2) of
 31 subsection (a) of this Code section is not precluded; provided, however, that such a rule
 32 adopted pursuant to discharge of responsibility under an executive order declaring a state
 33 or emergency or disaster exists as a result of a public health emergency, as defined in Code
 34 Section 38-3-3, shall be effective for the duration of the emergency or disaster and for a
 35 period of not more than 120 days thereafter."

SECTION 17.

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This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

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SECTION 18.

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All laws and parts of laws in conflict with this Act are repealed.