

Senate Bill 16

By: Senators Rogers of the 21st, Pearson of the 51st, Goggans of the 7th, Heath of the 31st, Carter of the 13th and others

AS PASSED SENATE

**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 change certain provisions relating to definitions relative to Chapter 8 of said title; to change
3 certain provisions relating to inspections, impoundment of animals, and exceptions; to
4 change certain provisions relating to failure to respond, right to hearing, care, and crime
5 exception; to change certain provisions relating to filing a report regarding animal cruelty
6 and immunity; to amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of
7 Georgia Annotated, relating to gambling offenses, so as to change certain provisions relating
8 to dog fighting; to prohibit fighting or enticement for dog fighting and related conduct; to
9 provide for punishments; to define certain terms; to provide a short title; to provide
10 legislative findings and declarations; to repeal conflicting laws; and for other purposes.

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

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Dog Fighting Act."

14 **SECTION 2.**

15 The General Assembly finds and declares that the fighting of dogs against dogs in this state
16 promotes criminal activity that adversely affects public safety and it is a cruel and
17 unacceptable practice. The General Assembly recognizes and supports the training and use
18 of dogs for hunting, field trials, and other legitimate sporting exhibitions or competitions.
19 The General Assembly finds and declares further that the most effective, economical,
20 humane, and ethical solution to the problem of dog fighting is to punish such conduct as a
21 criminal act.

SECTION 3.

Title 4 of the Official Code of Georgia Annotated, relating to animals, is amended by revising paragraph (6) of Code Section 4-8-41, relating to definitions relative to Chapter 8 of said title, as follows:

"(6) 'Vicious dog' means any dog that:

(A) ~~Inflicts~~ inflicts a severe injury on a human being without provocation after the owner has notice that the dog has previously bitten or attacked or endangered the safety of a human being; ~~or~~

~~(B) Is owned, possessed, kept, harbored, trained, or maintained for the purpose of fighting.~~

Such term shall not include a dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties. A dog shall not be a vicious dog if the injury inflicted by the dog was sustained by a person who, at the time, was committing a willful trespass or other tort or was tormenting, abusing, or assaulting the dog or had in the past been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime."

SECTION 4.

Said title is further amended by revising subsection (c) of Code Section 4-11-9.3, relating to inspections, impoundment of animals, and exceptions, as follows:

"(c) Any person impounding an animal under this article is authorized to return the animal to its owner, upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order, unless such owner was, in a prior administrative or legal action in this state or any other state, found to have failed to provide humane care to an animal, committed cruelty to animals, or engaged in dog fighting or enticement for dog fighting, as such terms are defined in Code Section 16-12-37, in violation of the laws of this state or of the United States or any of the several states. Such consent order shall provide conditions relating to the care and treatment of such animal, including, but not limited to, the following, that:

(1) Such animal will be given humane care and adequate and necessary veterinary services;

(2) Such animal will not be subjected to cruelty; and

(3) The owner will comply with this article."

SECTION 5.

Said title is further amended by revising subparagraph (b)(6)(B) of Code Section 4-11-9.5, relating to failure to respond, right to hearing, care, and crime exception, as follows:

"(B) Unless, in a prior administrative or legal action in this state or any other state, the owner has been found to have failed to provide humane care to an animal, committed cruelty to animals, or engaged in dog fighting or enticement for dog fighting, as such terms are defined in Code Section 16-12-37, in violation of the laws of this state or of the United States or any of the several states, recommend conditions under which the animal may, upon payment by the owner of all costs of impoundment and care, be returned to the owner. Such conditions shall be reduced to writing and served upon the owner and the government agency having custody of the animal. Such conditions may include, but are not limited to, the following, that:

- (i) Such animal will be given humane care and adequate and necessary veterinary services;
- (ii) Such animal will not be subjected to mistreatment; and
- (iii) The owner will comply with this article."

SECTION 6.

Said title is further amended by revising subsection (a) of Code Section 4-11-17, relating to filing a report regarding animal cruelty and immunity, as follows:

"(a) Notwithstanding Code Section 24-9-29 or any other provision of law to the contrary, any licensed ~~accredited~~ veterinarian or veterinary technician having reasonable cause to believe that an animal has been subjected to animal cruelty in violation of Code Section 16-12-4 or dog fighting or enticement for dog fighting, as such terms are defined in Code Section 16-12-37, in violation of Code Section 16-12-37 may make or cause to be made a report of such violation to the Commissioner, his or her designee, an animal control officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in any judicial or administrative proceeding concerning the care of an animal."

SECTION 7.

Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling offenses, is amended by revising Code Section 16-12-37, relating to dog fighting, as follows:

"16-12-37.

~~(a) A person commits the offense of dog fighting when he causes or allows a dog to fight another dog for sport or gaming purposes or maintains or operates any event at which dogs are allowed or encouraged to fight one another.~~

1 ~~(b) A person convicted of the offense of dogfighting shall be punished by a mandatory fine~~
 2 ~~of \$5,000.00 or by a mandatory fine of \$5,000.00 and imprisonment for not less than one~~
 3 ~~year nor more than five years.~~

4 (a) This Code section shall not prohibit, impede, or otherwise interfere with recognized
 5 animal husbandry and training techniques or practices not otherwise specifically prohibited
 6 by law, and the following activities shall not constitute a violation of this Code section:

7 (1) Owning, using, breeding, training, or equipping any dog to pursue, take, hunt, or
 8 recover wildlife or any animal that could be lawfully hunted or taken under Title 27 or
 9 participating in hunting or fishing in accordance with provisions of Title 27 and rules and
 10 regulations promulgated pursuant thereto as such rules and regulations existed on the date
 11 specified in Code Section 27-1-39;

12 (2) Owning, using, breeding, training, or equipping dogs to work livestock for
 13 agricultural purposes in accordance with the rules and regulations of the Commissioner
 14 of Agriculture as such rules and regulations existed on January 1, 2007;

15 (3) Owning, using, breeding, training, or equipping dogs for law enforcement purposes;
 16 or

17 (4) Owning, using, breeding, training, or equipping any dog to control damage from
 18 nuisance or pest species in and around structures or agricultural operations.

19 (b) As used in this Code section, the term:

20 (1) 'Dog' means any member of the species *canis familiaris* or any intentionally bred
 21 hybrid of the species *canis familiaris*.

22 (2) 'Enticement for dog fighting' means knowingly and intentionally provoking,
 23 harassing, or encouraging a dog with another animal for the specific purpose of training
 24 a dog for or causing a dog to engage in fighting as defined in this Code section.

25 (3) 'Fighting' means an attack by a dog against another dog resulting from the intentional
 26 act of any person.

27 (4) 'Person' means any natural person or any firm, partnership, association, or
 28 corporation.

29 (5) 'Spectator' means any person, other than a minor child under the age of 14, who is
 30 willfully present at any location, structure, or facility with knowledge that fighting or
 31 enticement for dog fighting is taking place.

32 (c) Any person who:

33 (1) Intentionally causes any fighting or enticement for dog fighting;

34 (2) Knowingly owns, possesses, harbors, keeps, or has custody or control of any dog for
 35 the purpose of fighting or enticement for dog fighting;

36 (3) Knowingly trains, purchases, sells, transports, transfers, breeds, or equips any dog
 37 for the purpose of fighting or enticement for dog fighting;

1 (4) Knowingly purchases, rents, leases, or otherwise acquires or obtains the use of any
2 structure, facility, property, or location to be used for the purpose of fighting or
3 enticement for dog fighting;

4 (5) Knowingly allows, permits, or makes available any structure, facility, property, or
5 location to be used for the purpose of fighting or enticement for dog fighting;

6 (6) Bets, wagers, or encourages another to bet or wager anything of value on any dog
7 fighting or enticement for dog fighting activity;

8 (7) Knowingly facilitates, conducts, sponsors, organizes, stages, referees, or charges an
9 admission fee for or serves as the stakeholder on any dog fighting or enticement for dog
10 fighting activity;

11 (8) Knowingly uses any means of communication for the purposes of promoting or
12 advertising fighting or enticement for dog fighting; or

13 (9) Is a spectator as defined in this Code section

14 shall be guilty of a felony; and upon a first conviction thereof such person shall be
15 punished by imprisonment for no less than one year nor more than five years, a fine of not
16 less than \$5,000.00, or both such fine and imprisonment; and upon a second or subsequent
17 conviction thereof such person shall be punished by imprisonment for not less than one
18 year nor more than ten years, a fine of not less than \$15,000.00, or both such fine and
19 imprisonment. Each act or omission in violation of this subsection shall constitute a
20 separate offense. The court, as part of the sentence, may prohibit the offender from
21 owning, possessing, or having on the offender's premises any dog during the term of the
22 sentence."

23 SECTION 8.

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