

House Bill 301 (AS PASSED HOUSE AND SENATE)

By: Representatives Reese of the 98th, Knight of the 126th, Roberts of the 154th, Williams of the 165th, Jacobs of the 80th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia
2 Annotated, relating to gambling offenses, so as to change certain provisions relating to
3 dogfighting; to prohibit dogfighting and related conduct; to provide for punishments; to
4 define a term; to provide for applicability; to amend Title 4 of the Official Code of Georgia
5 Annotated, relating to animals, so as to change certain provisions relating to definitions
6 relative to Chapter 8 of said title; to change certain provisions relating to caring for an
7 impounded animal; to change certain provisions relating to failure to respond, right to
8 hearing, care, and crime exception; to change certain provisions relating to filing a report
9 regarding animal cruelty and immunity; to provide for related matters; to provide an effective
10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

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

15 "16-12-37.

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

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

22 (a) As used in this Code section, the term 'dog' means any domestic canine.

23 (b) Any person who:

24 (1) Owns, possesses, trains, transports, or sells any dog with the intent that such dog shall
25 be engaged in fighting with another dog;

1 (2) For amusement or gain, causes any dog to fight with another dog or for amusement
2 or gain, causes any dogs to injure each other;

3 (3) Wagers money or anything of value on the result of such dogfighting;

4 (4) Knowingly permits any act in violation of paragraph (1) or (2) of this subsection on
5 any premises under the ownership or control of such person or knowingly aids or abets
6 any such act; or

7 (5) Knowingly promotes or advertises an exhibition of fighting with another dog
8 shall be guilty of a felony and, upon the first conviction thereof, shall be punished by
9 imprisonment of not less than one nor more than five years, a fine of not less than
10 \$5,000.00, or both such fine and imprisonment. On a second or subsequent conviction,
11 such person shall be punished by imprisonment of not less than one nor more than ten
12 years, a fine of not less than \$15,000.00, or both such fine and imprisonment. Each act or
13 omission in violation of this subsection shall constitute a separate offense.

14 (c) Any person who is knowingly present only as a spectator at any place for the fighting
15 of dogs shall, upon a first conviction thereof, be guilty of a misdemeanor of a high and
16 aggravated nature. On a second conviction, such person shall be guilty of a felony and
17 shall be punished by imprisonment of not less than one nor more than five years, a fine of
18 not less than \$5,000.00, or both such fine and imprisonment. On a third or subsequent
19 conviction, such person shall be punished by imprisonment of not less than one nor more
20 than ten years, a fine of not less than \$15,000.00, or both such fine and imprisonment.
21 Each act in violation of this subsection shall constitute a separate offense.

22 (d) Any dog subject to fighting may be impounded pursuant to the provisions of Code
23 Sections 4-11-9.2 through 4-11-9.6.

24 (e) This Code section shall not prohibit, impede, or otherwise interfere with animal
25 husbandry, training techniques, competition, events, shows, or practices not otherwise
26 specifically prohibited by law and shall not apply to the following activities:

27 (1) Owning, using, breeding, training, or equipping any animal to pursue, take, hunt, or
28 recover wildlife or any animal lawfully hunted under Title 27 or participating in hunting
29 or fishing in accordance with the provisions of Title 27 and rules and regulations
30 promulgated pursuant thereto as such rules and regulations existed on the date specified
31 in Code Section 27-1-39;

32 (2) Owning, using, breeding, training, or equipping dogs to work livestock for
33 agricultural purposes in accordance with the rules and regulations of the Commissioner
34 of Agriculture as such rules and regulations existed on January 1, 2008;

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

1 (4) Owning, using, breeding, training, or equipping any animal to control damage from
 2 nuisance or pest species in and around structures or agricultural operations."

3 **PART II**

4 **SECTION 2-1.**

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

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

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

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

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

21 **SECTION 2-2.**

22 Said title is further amended by revising subsection (c) of Code Section 4-11-9.3, relating to
 23 caring for an impounded animal, as follows:

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

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

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

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

2 **SECTION 2-3.**

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

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

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

18 **SECTION 2-4.**

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

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

29 **PART III**

30 **SECTION 3-1.**

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

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SECTION 3-2.

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