

House Bill 1153

By: Representative Levitas of the 82<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to general provisions regarding offenses against public health and morals, so as to  
3 change certain provisions regarding the offense of cruelty to animals; to provide for related  
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to  
8 general provisions regarding offenses against public health and morals, is amended by  
9 revising Code Section 16-12-4, relating to cruelty to animals, as follows:

10 "16-12-4.

11 (a) As used in this Code section, the term:

12 (1) 'Animal' shall not include any fish nor shall such term include any pest that might be  
13 exterminated or removed from a business, residence, or other structure.

14 (2) 'Conviction' shall include pleas of guilty or nolo contendere or probation as a first  
15 offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty  
16 or nolo contendere, or probation as a first offender for an offense under the laws of the  
17 United States or any of the several states that would constitute a violation of this Code  
18 section if committed in this state.

19 (3) ~~'Willful neglect' means the intentional withholding of food and water required by an~~  
20 ~~animal to prevent starvation or dehydration.~~ 'Humane care' means, but shall not be  
21 limited to, making accessible adequate food and drinkable water; providing sanitary  
22 shelter, ventilation and sufficient shade, adequate housing which offers protection from  
23 the weather and harsh temperatures that pose a substantial risk of endangering the health  
24 or well-being of the animal; and routine and emergency veterinary care when necessary.

25 (4) 'Improperly confining an animal in a motor vehicle' means storing or confining an  
 26 animal in a motor vehicle unattended, under conditions that endanger the health or  
 27 well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or  
 28 water, or in any manner that could reasonably be expected to cause suffering, disability,  
 29 or death to the animal.

30 (b) A person commits the offense of cruelty to animals when he or she causes death or  
 31 unjustifiable physical pain or suffering to any animal ~~by an act, an omission, or willful~~  
 32 ~~neglect.~~

33 (1) Failing to provide humane care; or

34 (2) Improperly confining an animal in a motor vehicle.

35 (c) Any person convicted of a violation of this subsection (b) of this Code section shall be  
 36 guilty of a misdemeanor; provided, however, that:

37 ~~(1) Any person who is convicted of a second or subsequent violation of this subsection~~  
 38 ~~shall be punished by imprisonment not to exceed 12 months, a fine not to exceed~~  
 39 ~~\$5,000.00, or both; and~~

40 ~~(2) Any any person who is convicted of a second or subsequent violation of this~~  
 41 ~~subsection (b) of this Code section which results in the death of an animal within five~~  
 42 ~~years as measured from the dates of previous arrests for which convictions were obtained~~  
 43 ~~to the date of the current arrest for which conviction is obtained shall be guilty of a~~  
 44 ~~misdemeanor of a high and aggravated nature and shall be punished by imprisonment for~~  
 45 ~~not less than three months nor more than 12 months, a fine not to exceed \$10,000.00, or~~  
 46 ~~both, which punishment shall not be suspended, probated, or withheld.~~

47 ~~(c)(d) A person commits the offense of aggravated cruelty to animals when he or she;~~  
 48 ~~knowingly and maliciously~~

49 (1) Intentionally fails to provide humane care resulting in the death of an animal; or

50 (2) Intentionally causes death or physical harm to an animal by rendering a part of such  
 51 animal's body useless or by seriously disfiguring such animal.

52 (e) A person convicted of the offense of aggravated cruelty to animals shall be punished  
 53 by imprisonment for not less than one nor more than five years, a fine not to exceed  
 54 ~~\$15,000.00~~ \$20,000.00, or both, provided that any person who is convicted of a second or  
 55 subsequent violation of this subsection (d) of this Code section within five years as  
 56 measured from the dates of previous arrests for which convictions were obtained to the date  
 57 of the current arrest for which conviction is obtained shall be punished by imprisonment  
 58 for not less than one nor more than ~~five~~ ten years, a fine not to exceed the amount provided  
 59 by Code Section 17-10-8, or both.

60 ~~(d)~~(f) Before sentencing a defendant for any conviction under this Code section, the  
61 sentencing judge may require psychological evaluation of the offender and shall consider  
62 the entire criminal record of the offender.

63 ~~(e)~~(g) The provisions of this Code section shall not be construed as prohibiting conduct  
64 which is otherwise permitted under the laws of this state or of the United States, including,  
65 but not limited to, agricultural, animal husbandry, butchering, food processing, marketing,  
66 scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing,  
67 wildlife management, or pest control practices or the authorized practice of veterinary  
68 medicine nor to limit in any way the authority or duty of the Department of Agriculture,  
69 Department of Natural Resources, any county board of health, any law enforcement officer,  
70 dog, animal, or rabies control officer, humane society, veterinarian, or private landowner  
71 protecting his or her property.

72 ~~(f)~~(h)(1) Nothing in this Code section shall be construed as prohibiting a person from:

73 (A) Defending his or her person or property, or the person or property of another, from  
74 injury or damage being caused by an animal; or

75 (B) Injuring or killing an animal reasonably believed to constitute a threat for injury  
76 or damage to any property, livestock, or poultry.

77 (2) The method used to injure or kill such animal pursuant to this subsection shall be  
78 designed to be as humane as is possible under the circumstances. A person who humanely  
79 injures or kills an animal under the circumstances indicated in this subsection shall incur  
80 no civil or criminal liability for such injury or death."

81 **SECTION 2.**

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