

House Bill 440

By: Representatives Willard of the 49th, Dobbs of the 53rd, Jacobs of the 80th, Golick of the 34th, Benfield of the 85th, and others

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 a definition;
4 to clarify provisions relating to the elements of the offenses of cruelty to animals and
5 aggravated cruelty to animals; to provide for related matters; to repeal conflicting laws; and
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

12 "16-12-4.

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

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

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

21 (3) ~~'Willful neglect'~~ 'Neglect' means ~~the intentional withholding of~~ failure to provide
22 necessary food and water required by an animal to prevent starvation or dehydration or
23 necessary shelter and ventilation to the extent that the health of the animal is endangered.

24 (b) A person commits the offense of cruelty to animals when he or she ~~causes death or;~~
25 (1) Causes death or unjustifiable physical pain or suffering to any animal by an act; or
26 (2) Having care or control of an animal causes death or unjustifiable physical pain or
27 suffering to such animal by an act, an omission, or ~~willful~~ neglect.

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

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

33 (2) Any person who is convicted of a second or subsequent violation of ~~this~~ subsection
 34 (b) of this Code section which results in the death of an animal shall be guilty of a
 35 misdemeanor of a high and aggravated nature and shall be punished by imprisonment for
 36 not less than three months nor more than 12 months, a fine not to exceed \$10,000.00, or
 37 both, which punishment shall not be suspended, probated, or withheld.

38 ~~(e)~~(d) A person commits the offense of aggravated cruelty to animals when he or she
 39 knowingly ~~and maliciously causes~~ commits an act which:

40 (1) Causes death or physical harm to an animal by rendering a part of such animal's body
 41 useless or by seriously disfiguring such animal; or

42 (2) Tortures an animal by infliction of or subjection to severe or prolonged physical pain.

43 (e) A person convicted of the offense of aggravated cruelty to animals shall be punished
 44 by imprisonment for not less than one nor more than five years, a fine not to exceed
 45 \$15,000.00, or both, provided that any person who is convicted of a second or subsequent
 46 violation of ~~this~~ subsection (d) of this Code section shall be punished by imprisonment for
 47 not less than one nor more than five years, a fine not to exceed the amount provided by
 48 Code Section 17-10-8, or both.

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

52 ~~(e)~~(g) The provisions of this Code section shall not be construed as prohibiting conduct
 53 which is otherwise permitted under the laws of this state or of the United States, including,
 54 but not limited to, agricultural, animal husbandry, butchering, food processing, marketing,
 55 scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing,
 56 wildlife management, or pest control practices or the authorized practice of veterinary
 57 medicine nor to limit in any way the authority or duty of the Department of Agriculture,
 58 Department of Natural Resources, any county board of health, any law enforcement officer,
 59 dog, animal, or rabies control officer, humane society, veterinarian, or private landowner
 60 protecting his or her property. Nor shall this Code section be construed as prohibiting
 61 accepted training techniques or practices not otherwise specifically prohibited by law.

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

63 (A) ~~Defending his or her person or property~~ Injuring or killing an animal reasonably
64 believed to constitute a threat for injury; or ~~the~~ damage to a person or to his or her
65 property or that of another, from injury or damage being caused by an animal; or
66 (B) Injuring or killing an animal reasonably believed to constitute a threat for injury
67 or damage to any ~~property,~~ livestock; or poultry.

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

72 **SECTION 2.**

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