

GEORGIA ANIMAL CRUELTY LAWS

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Introduction

Georgia's criminal animal protection laws are contained primarily in Title 4 (Animals) and Title 16 (Crimes and Offenses) of the Official Code of Georgia. The main anti-cruelty laws in Title 4 can be found in Chapters 8, 11, and 13. Chapters 8 and 13 deal specifically with dogs and equines, respectively. The provisions of Chapter 11, Article 1 ("Georgia Animal Protection Act") encompass a broad range of issues concerning the treatment, care, and licensing of animals. Many of these provisions (particularly those dealing with unlawful acts and with the inspection, seizure, and impound or animals), are discussed below, while others are beyond the scope of this summary.

The overarching criminal provision regarding cruelty to animals is § 16-12-4, which provides that "a person commits the offense of cruelty to animals when he or she causes death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect." Ga. Code Ann. § 16-12-4(b). The majority of the case law discussed in this summary concerns violations of 16-12-4 or its predecessor (Code 1933, § 26-2802). Another important provision of Title 16 is § 16-12-37, which prohibits dogfighting. Georgia does not have a specific provision prohibiting cockfighting, but the case law clearly establishes that cockfighting constitutes cruelty to animals under § 16-12-4.

Overview of Statutory Provisions and Case Law

- 1. General Animal Protection Provisions:** GA. CODE ANN. §§ 4-11-10, 4-11-16, 4-8-7, 4-13-3
- 2. Cruelty and Mistreatment:** GA. CODE ANN. §§ 16-12-4, 4-8-5, 16-12-37, 4-13-3, 16-11-107, 16-11-107.1
- 3. Abandonment:** GA. CODE ANN. §§ 4-11-15.1, 4-8-3
- 4. Livestock Provisions:** GA. CODE ANN. §§ 4-11-32, 4-11-33
- 5. Slaughtering:** GA. CODE ANN. §§ 26-2-110, 26-2-110.1
- 6. Exemptions and Immunity:** GA. CODE ANN. §§ 4-5-6, 4-11-13, 4-11-17, 27-3-49, 47-14-494
- 7. Inspections, Seizure, and Impound:** GA. CODE ANN. §§ 4-11-9, 4-11-9.2, 4-11-9.3, 4-11-9.4, 4-11-9.5, 4-11-9.6, 4-13-4, 4-13-5, 4-13-6, 4-13-7
- 8. Miscellaneous Provisions:** GA. CODE ANN. §§ 4-11-5.1, 16-6-6, 27-5-6, 27-5-12

¹ Molly Marks produced this document as an undertaking of the George Washington University (GWU) Law School's Animal Welfare Project, and worked under the guidance of the Project's founder and faculty director, Professor Joan Schaffner. Molly graduated from GWU Law School in 2013.

1. GENERAL ANIMAL PROTECTION PROVISIONS

GA. CODE ANN. § 4-11-10 (2012). Unlawful acts

It shall be unlawful for any person licensed under this article or any person employed by a person licensed under this article or under such person's supervision or control to:

- (1) Commit a violation of Code Section 16-12-4, relating to cruelty to animals;
- (2) Fail to keep the pet dealership premises, animal shelter, kennel, or stable in a good state of repair, in a clean and sanitary condition, adequately ventilated, or disinfected when needed;
- (3) Fail to provide humane care² for any animal; or
- (4) Fail to take reasonable care to release for sale, trade, or adoption only those animals that appear to be free of disease, injuries, or abnormalities.

No Applicable Case Law.

GA. CODE ANN. § 4-11-16 (2012). Penalties for violation [of Animal Protection Act]

- (a) Except as otherwise provided in Code Section 16-12-4 or 16-12-37, any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punished as provided in Code Section 17-10-3; provided, however, that if such offense is committed by a corporation, such corporation shall be punished by a fine not to exceed \$1,000.00 for each such violation, community service of not less than 200 hours nor more than 500 hours, or both.
- (b) Each violation of this article shall constitute a separate offense.

No Applicable Case Law.

GA. CODE ANN. § 4-8-7 (2012). Violations relating to dogs

Except as provided in Code Sections 16-12-4 and 16-12-37, any person who violates any provision of this article shall be guilty of a misdemeanor.

No Applicable Case Law.

GA. CODE ANN. § 4-13-3 (2012). Humane Care for Equines – Prohibited acts or omissions

Except as otherwise provided in Code Section 16-12-4 or 16-12-37, any person, partnership, firm, corporation, or other entity violating any of the provisions of this chapter shall be guilty of a misdemeanor.

² “Humane care” of animals means, but is not limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed. GA. CODE ANN. § 4-11-2(4) (2012).

No Applicable Case Law.

2. CRUELTY AND MISTREATMENT

GA. CODE ANN. § 16-12-4 (2012). Cruelty to animals

(a) [Definitions- see footnotes]

(b) A person commits the offense of cruelty to animals³ when he or she causes death or unjustifiable physical pain or suffering to any animal by an act, an omission, or willful neglect.⁴ Any person convicted of a violation of this subsection shall be guilty of a misdemeanor; provided, however, that:

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

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

(c) A person commits the offense of aggravated cruelty to animals when he or she knowingly and maliciously causes death or physical harm to an animal by rendering a part of such animal's body useless or by seriously disfiguring such animal. A person convicted of the offense of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$ 15,000.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed the amount provided by Code Section 17-10-8, or both.

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

(e) The provisions of this Code section shall not be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any

³ (a)(1) "Animal" shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

⁴ (a)(3) "Willful neglect" means the intentional withholding of food and water required by an animal to prevent starvation or dehydration.

county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

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

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

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

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

Applicable Case Law:

***Futch v. State*, 314 Ga. App. 294, 723 S.E.2d 714 (Ga. Ct. App. 2012).**

Facts: Futch was convicted of cruelty to animals for shooting and killing his neighbor's Labrador retriever. According to the neighbor, Futch admitted that he shot the dog because it was barking at Futch's goats. Other witnesses testified that Futch had a proclivity to kill dogs on his property and that the neighbor's dog had never been aggressive toward other animals. Futch and an eyewitness testified that the dog he killed was not a Labrador retriever and was threatening his goats. The trial court charged the jury that "a person may defend his person or property or the person or property of another from injury or damage being caused by a dog or kill any dog causing injury or damage to any livestock or poultry."

Holding: First, the Court of Appeals held that the evidence was sufficient to sustain the conviction. The jury was entitled to reject Futch's testimony and to find that it was not reasonable for him to believe that the dog posed a threat to his goats. Second, the Court held that there was no plain error in the jury instruction because the charge was consistent with the language of the anti-cruelty statute and adequately explained that a person is permitted to kill an animal when necessary to protect his person or property or that of another. Finally, the Court held that the restitution award of \$3,000 to the dog's owner was warranted. Although the owner had paid only \$750 for the dog, expert testimony indicated that the fair market value for such a dog (a one-year-old Labrador retriever that was trained to hunt and retrieve) was between \$3,000 and \$5,000.

Sentencing: Futch was ordered to pay restitution in the amount of \$3,000 to the dog's owner.

***In the Interest of C.B.*, 286 Ga. 173, 686 S.E.2d 124 (Ga. 2009).**

Facts: C.B., a minor, was found guilty of animal cruelty for shooting his neighbor's dog in the shoulder. C.B. admitted to the shooting and claimed that the dog had been a nuisance and menace to his family for years. As of the date of trial, the dog was still suffering soreness and pain from the bullet, which had to be left in the dog's shoulder to avoid inflicting further injury. On appeal, C.B. argued that the statute was unconstitutionally vague because, under

subparagraphs (b) and (f), the same facts can be interpreted either to find an individual criminally responsible for cruelly injuring an animal or to authorize the “humane” injuring of the animal.

Holding: The Court of Appeals held that the anti-cruelty statute was not unconstitutionally vague. Reading the statute as a whole, a person of common intelligence would understand that killing or wounding an animal is justified under subsection (f)(1) only if done in such a way as to demonstrate compassion for the animal. Here, the evidence did not establish that C.B. was justified in shooting the dog.

Sentencing: C.B. was placed on probation.

***Cotton v. State*, 263 Ga. App. 843, 589 S.E.2d 610 (Ga. Ct. App. 2003).**

Facts: A sheriff's deputy and livestock inspector found several cows confined in a very small pen without water or feed on property owned by the defendant, who lived 100+ miles away. The cows were thin, suffering, and desperate for water. According to a neighbor, the defendant used to come to the property to care for the cows on a regular basis but had come less frequently in recent years; on one occasion, there had been a gap of 10-14 days between successive visits. The defendant was convicted of cruelty to animals. On appeal, he argued that the evidence was insufficient to support his conviction because it did not show that he had “intentionally” withheld food and water from the cows, which was required for a finding of willful neglect.

Holding: The Court of Appeals held that the evidence was sufficient to support defendant's conviction for cruelty to animals. Under the disjunctive language of 16-12-4(b), a finding of willful neglect is not necessary where the evidence establishes that the defendant committed an act or omission that caused unjustifiable pain or suffering to an animal. Malice and intent are not elements of the “act or omission” aspects of the offense.

***Fort v. State*, 274 Ga. 518, 558 S.E.2d 1 (Ga. 2001).**

Facts: Defendants were convicted of cruelty to animals (among numerous other offenses) after shooting and killing two people and a dog in an apartment where one defendant had previously bought drugs.

Holding: The evidence was sufficient to sustain the cruelty conviction.

Sentencing: Defendants were sentenced to 12 months' imprisonment for the cruelty count.

***Nel v. State*, 252 Ga. App. 761, 557 S.E.2d 44 (Ga. Ct. App. 2001).**

Facts: Defendant believed that a group of teenage boys were hunting on his property with their dogs. He went in search of them with a pistol and shot one of the dogs. At trial, defendant testified that the dog “came right at” him while he was standing by his car and that he shot the dog in order to avoid injury. However, according to the testimony of an eyewitness who was sitting in the car at the time, the dog ran down the roadway and into the woods, at which point

the witness lost sight of both the dog and defendant. The trial court denied defendant's motions for a directed verdict of acquittal, and the defendant was convicted of cruelty to an animal.

Holding: The Court of Appeals held that the trial court correctly denied defendant's motions for a directed verdict. The eyewitness testimony raised the inference that defendant followed the dog into the woods in order to shoot it; this presented a question of fact for the jury on the issue of self-defense.

***Stephens v. State*, 247 Ga. App. 719, 545 S.E.2d 325 (Ga. Ct. App. 2001).**

Facts: Animal Control officers went to Stephens' home to investigate certain complaints. The officer discovered 17 dogs (16 pitbulls and one boxer) chained in the backyard without adequate shelter or bedding. Some lived in metal drums or plastic igloos; others lived under boards propped against the fence. The trial court described the dogs as living in a "virtual sea of mud," mixed with the dogs' own urine and feces. Additionally, the officers discovered circumstantial evidence of dogfighting, including a pit reinforced with blood-stained boards, bite sticks, and abrasions and neck scars on some of the dogs. The officers confiscated all of the dogs, and Stephens ultimately was convicted of nine counts of animal cruelty.

Holding: The Court of Appeals held that the evidence was sufficient to establish that Stephens subjected his dogs to unjustifiable physical pain and suffering, thereby supporting his conviction for cruelty to animals. Additionally, the Court held that the trial judge was within his discretion to deprive Stephens of the dogs that he did not treat cruelly.

Sentencing: Stephens was sentenced to serve six months for each count (135 days in confinement and the remainder on probation). As a condition of his probation, Stephens was forbidden from owning any dogs.

***Sirmans v. State*, 244 Ga. App. 252, 534 S.E.2d 862 (Ga. Ct. App. 2000).**

Facts: The regional director of the Humane Society ("Regional Director") and two Sheriff's Deputies, accompanied by several Humane Society employees and a local veterinarian, went to Sirmans's farm to investigate allegations of animal neglect. Sirmans refused to allow the investigators to look around his property, but the large animals were outside in plain view, and the investigators were able to observe that they did not have adequate food or water. After photographing the scene, the investigators seized the animals that were in the worst condition and transported them for veterinary care and shelter. Some of the animals died en route or within a few days. The photographs were introduced at trial, along with testimony describing the condition of the animals; according to the Regional Director, the case was one of the worse she had seen. Sirmans was convicted of four counts of animal cruelty (out of 13 charged counts) and one count of simple assault (the latter charged arose from his conduct toward the Humane Society employees when they seized his animals).

Holding: First, the Court of Appeals held that Sirmans waived any objection to admission of the photographs on grounds that the search was illegal by affirmatively stating at trial that he had no objection to admission of the photographs. Second, the Court held that the Humane Society employees were subject to constitutional restrictions on search and seizure of private property

because they were acting as agents of the county and in concert with the sheriff's department. Third, the Court held that the warrantless search of Sirmans's property and seizure of his animals was authorized under the "plain view" exception to the warrant requirement of the 4th Amendment. Fourth, the Court held that Sirmans was not entitled to severance of the assault charge from the cruelty charges. Although the assault was not directly related to Sirmans's neglect of the animals, the assault would not have occurred but for the neglect. Fifth, the Court held that the accusation charging Sirmans with cruelty to animals was sufficient to permit Sirmans and the jury to understand the charged crime. The accusation identified the animals by species, distinguished between living and dead animals, and set out Sirmans's misconduct in each count. Finally, the Court held that the trial court did not have statutory authority to deprive Sirmans of the animals that the state failed to demonstrate were neglected or abused, as such animals were not contraband or evidence of a crime.

Sentencing: The Humane Society retained the animals that the state demonstrated were neglected or abused. (Additional sentencing info not available.)

***Chaney v. State*, 232 Ga. App. 297, 500 S.E.2d 416 (1998).**

Facts: The three defendants were convicted of cruelty to animals for having "intentionally encouraged another to commit the crime of cruelty to animals by aiding in the holding of chicken fights, causing unjustifiable suffering to chickens." Defendants argued that there was no evidence of their having committed any acts of cruelty because the officer who discovered the cockfights did not testify that he saw any of the defendants hit or touch a chicken or arm a chicken in a fight.

Holding: The Court of Appeals held that the evidence, though circumstantial, was sufficient to establish that defendants were more than mere spectators at the fight, thus supporting their convictions for cruelty to animals. The evidence showed that it was customary procedure in cockfighting to allow only three people (the birds' two handlers and a referee) in the pit during a fight; each defendant was clearly observed in the pit with two other persons during the fights. One defendant was seen in the pit holding and dropping a three-foot stick during a fight; another defendant attempted to flee from the center of the pit; and the third picked up one of the roosters and removed its spurs.

Sentencing: Each defendant was sentenced to 12 months' imprisonment and a \$1000 fine.

***Cox v. State*, 216 Ga. App. 86, 453 S.E.2d 471 (Ga. Ct. App. 1995).**

Facts: Cox, a mentally handicapped man, was convicted of second-degree animal cruelty for shooting a dog tied to a parking meter. Witnesses observed the dog yelping and cowering after it was shot. According to the treating veterinarian, the dog was not seriously injured but was in pain. Cox testified that he shot the dog because he thought he was being followed and did not realize the dog was tied up. He stated that he had not intended to hurt the dog.

Holding: The Court of Appeals held that the evidence was sufficient to sustain the conviction. There was no evidence that the shooting was necessary, and it was immaterial that Cox had not intended to hurt the dog; willfulness, intent, and malice are not elements of the offense of cruelty to animals in the second degree.

***Willis v. State*, 201 Ga. App. 182, 410 S.E.2d 377 (Ga. Ct. App. 1991).**

Facts: Willis was accused of shooting a neighbor's Australian Shepherd. The dog's owners testified that they heard the dog yelping, saw Willis holding a rifle, and later discovered a gunshot hole in the dog's ear.

Holding: The Court of Appeals held that the evidence, though circumstantial, was sufficient to sustain the conviction.

***Morgan v. State*, 195 Ga. App. 52, 392 S.E.2d 715 (Ga. Ct. App. 1990).**

Facts: Defendants were convicted of cruelty to animals and commercial gambling after law enforcement officers raided a cockfight being held on Morgan's property. Before the raid began, an undercover officer gained admission to the fighting arena, where he observed several gamecock fights on which attendees were openly placing bets. The crowd fled upon the arrival of the other officers, but the officers gave chase and arrested over 150 individuals, all of whom were charged with cruelty to animals.

Holding: The Court of Appeals upheld the convictions. The evidence indicated that (1) the first defendant collected a \$10 admission fee from everyone who entered the cockfighting arena, (2) the second defendant owned the property on which the fight was held and had attempted to transfer the property to the Cherokee Confederacy after inquiring whether cockfighting was illegal on tribal territory, and (3) gamecocks with spurs and other fighting equipment were found on the premises. This was sufficient to establish that defendants were involved in organizing a cockfight, thus supporting their convictions of cruelty to animals and commercial gambling.

***Motes v. State*, 189 Ga. App. 430, 375 S.E.2d 893 (Ga. Ct. App. 1988).**

Facts: Defendant set fire to a neighbor's dog and the doghouse to which the dog was chained. The doghouse burned down, and the dog was severely burned and had to be euthanized. Defendant was convicted of both cruelty to animals and arson.

Holding: The Court of Appeals upheld defendant's conviction. The essential elements of the crimes of arson and cruelty to animals differed (knowingly causing the destruction of a doghouse by fire or explosion vs. committing an act that caused unjustifiable physical pain, suffering, and death to a dog); therefore, defendant could be convicted of both offenses.

***Military Circle Pet Center No. 94, Inc. v. State*, 181 Ga. App. 657, 353 S.E.2d 555 (Ga. Ct. App. 1987), *rev'd in part on other grounds*, 257 Ga. 388, 360 S.E.2d 248, (Ga. 1987).**

Facts: The corporate defendants were charged with, *inter alia*, 11 counts of cruelty to animals. The accusations charged defendants with negligence that caused unjustifiable physical pain, suffering, and death to living animals. The manner of negligence was not specified.

Holding: The Court of Appeals held that the trial court erred in denying defendants' special demurrers and motions to quash the accusations charging cruelty to animals. Defendants' negligence could have taken many forms (e.g., failure to provide adequate food and/or water, failure to treat a disease, or physical abuse). Thus, the accusations were subject to a special demurrer due to their the failure to charge the manner in which the crime was committed.

***Miller v. State*, 179 Ga. App. 217, 345 S.E.2d 909 (Ga. Ct. App. 1986).**

Facts: Two of Miller's Rottweiler dogs attacked and killed a dog owned by Miller's tenant, who observed the incident. Although Miller was aware of prior incidents in which his dogs had killed or mauled other animals, he allowed two of them to roam the property freely. Miller was convicted of cruelty to animals.

Holding: First, the Court of Appeals held that Miller's actions clearly constituted the offense of cruelty to animals. Specifically, evidence that he allowed the dogs to roam freely despite knowing that the dogs had killed other animals was sufficient to establish "omission or neglect." Second, the Court held that it was immaterial that the dogs allegedly were registered to Miller's six- and eight-year-old daughters, as the evidence clearly established that the dogs were under Miller's custody and control. Third, the Court held that evidence of the past attacks was admissible to show Miller's prior knowledge of the vicious nature of his dogs. Finally, the Court held that the trial court had not erred by overruling Miller's demurrer to the accusation of cruelty to animals. The accusation contained the term "willfully," which was not an element of the offense, but Miller acknowledged that he understood the offense he was charged with committing.

***Smith v. State*, 160 Ga. App. 26, 285 S.E.2d 749 (Ga. Ct. App. 1981).**

Facts: Defendants were convicted of 12 counts of cruelty to animals upon evidence that they operated a pet store without a business license and abandoned a number of animals without food or water. Many of the animals died before being found; others were so severely malnourished and ill that they had to be put to death by the state.

Holding: First, the Court of Appeals held that the evidence was sufficient to sustain defendants' convictions. Defendants had exclusive possession and control of the property on which the animals were found. Additionally, defendants were properly chargeable with cruelty to the animals that were killed by the state. A person who causes unjustifiable suffering to animals has committed the offense of cruelty to animals, whether or not that person also kills the animals. Second, the Court held that the accusation charging defendants with cruelty to animals sufficiently described the animals in question. The accusation identified the animals by species or breed and by location, and it distinguished between similarly described animals on the basis of whether they were living or dead. Finally, the Court held that the imposition of consecutive

sentences for the cruelty offenses was authorized because each count depended on a different set of facts that distinguished it from the others.

Sentencing: Defendants were sentenced to 12 months' confinement and a fine on each count.

***Sierra v. State*, 155 Ga. App. 198, 270 S.E.2d 368 (1980).**

Facts: Sierra was convicted of three counts of cruelty to animals upon evidence that he nearly caused the death of three horses through malnutrition. After granting Sierra's request for a pre-sentence investigation, the trial judge stated that the case was one of the most repulsive he had ever experienced. On appeal, Sierra alleged that the trial court became personally involved in the jury trial and improperly influenced the jury in its verdict.

Holding: The Court of Appeals upheld Sierra's conviction. There was no evidence that the trial court communicated a disapproval of the acts of cruelty to the jury in any harmful way. The extent of the horses' starvation could fully support the judge's observation regarding the repulsiveness of the case.

Sentencing: Defendant was sentenced to three consecutive 12-month sentences, probated upon the payment of a fine and payment to the animal shelter of its custodial fee incurred while the animals were impounded.

***Brckett v. State*, 142 Ga. App. 601, 236 S.E.2d 689 (Ga. Ct. App. 1977).**

Facts: Defendants were convicted of cruelty to animals on the basis of evidence that they were spectators at a cockfight. At the scene, officers had observed two gamecocks fighting to the death while a crowd looked on and cheered; a third gamecock lay slain nearby. All of the spectators were rounded up and charged.

Holding: The Court of Appeals overturned defendants' convictions. The Court held that cruelty to a gamecock fell within the purview of the statutory prohibition against cruelty to animals; the legislative history indicated that the statute was intended to proscribe cruelty to "all animals," including fowl. However, the evidence was insufficient to sustain the convictions because there was no evidence that the individual defendants had arranged the fight, set up the pit, or strapped on the spurs.

***Bolton v. State*, 107 Ga. App. 883, 131 S.E.2d 862 (Ga. Ct. App. 1963).**

Facts: Bolton was convicted of animal cruelty for shooting and killing a dog. In an unsworn statement to the jury, he contended that he was justified in killing the dog; however, he did not request that the trial court give specific instructions to the jury regarding this contention, and the court did not do so.

Holding: The Court of Appeals upheld Bolton's conviction. The evidence was sufficient to support the finding that he killed the dog "willfully and without justification." Moreover, the trial court was not required to give unrequested instructions to the jury regarding Bolton's unsworn statement.

***Harrison v. State*, 83 Ga. App. 367, 64 S.E.2d 83 (Ga. Ct. App. 1951).**

Facts: Harrison shot 13 hogs belonging to his neighbor; all of the hogs died from their wounds the next day. The neighbor testified that, when she asked Harrison if he had shot the hogs, he said that he had. Harrison was convicted of “instigating acts of cruelty to hogs.” On appeal, Harrison argued that he could not be found guilty under the provisions of the statute in question because the county in which the shooting occurred was a “no-fence” county and the hogs were trespassing on his land.

Holding: The Court of Appeals held that the evidence supported Harrison’s conviction. The “no-fence” law does not give an owner of land in a “no-fence” county the right to shoot domestic animals trespassing on said land.

GA. CODE ANN. § 4-8-5 (2012). Performing cruel acts on, or harming, maiming or killing dogs

(a) No person shall perform a cruel act on any dog; nor shall any person harm, maim, or kill any dog, or attempt to do so, except that a person may:

(1) Defend his or her person or property, or the person or property of another, from injury or damage being caused by a dog; or

(2) Kill any dog causing injury or damage to any livestock, poultry, or pet animal.

(b) The method used for killing the dog shall be designed to be as humane as is possible under the circumstances. A person who humanely kills a dog under the circumstances indicated in subsection (a) of this Code section shall incur no liability for such death.

(c) This Code section shall not be construed to limit in any way the authority or duty of any law enforcement officer, dog or rabies control officer, humane society, or veterinarian.

Applicable Case Law:

***Readd v. State*, 164 Ga. App. 97, 296 S.E.2d 402 (Ga. Ct. App. 1982).**

Facts: Readd was convicted of cruelty to animals after shooting and killing a neighbor's dog. The dog previously had killed several of Readd’s rabbits.

Holding: The Court of Appeals held that the trial court correctly refused to charge the statute permitting a person to kill a dog in order to defend his person or property from injury or damage (the predecessor to § 4-8-5). To justify killing a dog in defense of property, the defendant has the burden of establishing that the danger was imminent, that a real or obviously apparent necessity existed, and that the threatened injury was not otherwise preventable. In this case, the dog was only trespassing and was not threatening Readd’s rabbits; thus, Readd was authorized to

use only such force as was necessary to drive the dog from his property. Additionally, the stipulation of the evidence supported the finding that the dog did not pose a threat to Readd.

GA. CODE ANN. § 16-12-37 (2012). Dogfighting

(b) Any person who:

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

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

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

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

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

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

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

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

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

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

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

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

Applicable Case Law:

***Phillip v. State*, 313 Ga. App. 302, 721 S.E.2d 214 (Ga. Ct. App. 2011).**

Facts: Defendant was charged with 14 counts of dogfighting and two counts of aggravated cruelty to animals. He entered a non-negotiated guilty plea and was sentenced to 17 years imprisonment, with the sentence for each count to run concurrently.

Holding: The Court of Appeals held the sentence illegal and void. The judgment indicated that the sentence for each count was to run concurrently; thus, the 17-year sentence exceeded the five-year statutory maximum. Accordingly, the sentence was vacated and the case remanded.

***Barton v. State*, 253 Ga. 478, 322 S.E.2d 54 (Ga. 1984).**

Facts: In the course of a raid on a rural farm, law enforcement officers discovered an organized dogfighting operation taking place in a large pit. The pit was surrounded by a crowd of people, most of whom fled at the sight of the officers. There were two wounded pit bull terriers in the pit, as well as several more dogs tied up nearby. Additionally, the officers observed numerous items that are commonly used in organized dogfighting (e.g., weighing scales, breaking sticks, and catmills). Defendants Barton, Chafin, Greene, and Townsend were charged with dogfighting and gambling on the basis of their alleged involvement with the operation. At trial, the regional director of the Humane Society (“Regional Director”), who had accompanied the officers on the raid, testified about the personal observations he had made during the raid, explained how dogfighting is organized and carried out, and stated that gambling is a primary purpose of organized dogfighting. All four defendants were convicted of the charged offenses.

Holding: First, the Supreme Court held that the Regional Director’s expert testimony was relevant and therefore admissible. Second, the Court upheld the conviction of Greene but reversed the convictions of Barton, Chafin, and Townsend. Evidence that Greene had been (1) found 400 miles from home in a remote area where dogfighting and gambling were taking place, and (2) apprehended while standing directly next to the pit with \$899 on his person, was sufficient to sustain a conviction for dogfighting and gambling. However, evidence that Barton, Chafin, and Townsend had been “brought back” from an unspecified area and searched next to the pit was insufficient to link them to the area of the crime. Finally, the Court held that the trial court had erred in charging the principle of flight because there was no evidence that these particular defendants had been among the persons who had fled the scene. However, the charge was not reversible error because it was unlikely to have contributed to Greene’s conviction.

***Hargrove v. State*, 253 Ga. 450, 321 S.E.2d 104 (Ga. 1984).**

Facts: Defendants were arrested during a raid on a dogfighting event and were convicted of dogfighting. On appeal, defendants challenged the constitutionality of 16-12-37 on several grounds.

Holding: The Court of Appeals rejected defendants' constitutional challenges to the dogfighting statute and upheld defendants' conviction. First, the Court held that the statute is not unconstitutionally vague and does not violate equal protection. The statute is sufficiently definite to put a person of common intelligence on notice that knowing participation in a dogfighting event is prohibited, and it is within the legislature's discretion to determine that the act of participating in organized dogfighting should be punished more severely than other acts of animal cruelty. Second, the Court held that the statutory penalty (\$5000 fine with option of one year in prison) does not constitute amount to cruel and unusual punishment for those convicted of dogfighting. Third, the Court held that the evidence was sufficient to support defendants' convictions. Evidence that defendants had large amounts of money on their persons when arrested and that officers overheard someone at the scene placing a bet, together with the dogfighting equipment found at the scene, the fact that the event was held in the early morning in a wooded area, and evidence as to the nature of dogfighting were sufficient to support the conclusion that the dogfight was organized for gaming purposes. Finally, the Court held that dogfighting is not a lesser included offense of commercial gambling as a matter of either fact or law.

***Moody v. State*, 253 Ga. 456, 320 S.E.2d 545 (1984).**

Facts: Defendants were indicted for violating 16-12-37.

Holding: Defendants' motion to quash and strike the indictment on constitutional grounds was overruled. First, the statute is not overbroad; it prohibits any level of intentional participation in dogfighting (including conduct other than actually placing a dog in a pit) because such participation is fundamental to the purpose of dogfighting as a gambling sport. Additionally, the statute does not infringe on any constitutionally protected conduct.

GA. CODE ANN. § 4-13-3 (2012). Humane Care for Equines -- Prohibited acts or omissions

It shall be unlawful for the owner of any equine:

- (1) To commit a violation of Code Section 16-12-4, relating to cruelty to animals, which involves an equine⁵ owned by, possessed by, or in the custody or control of such person;
- (2) To fail to provide adequate food and water⁶ to such equine;
- (3) To fail to provide humane care for such equine;
- (4) To unnecessarily overload, overdrive, torment, or beat any equine or to cause the death of any equine in a cruel or inhumane manner; or
- (5) To interfere with or hinder the Commissioner or his designated agent or any sheriff, deputy sheriff, or other law enforcement officer in carrying out his duties under this chapter.

⁵ "Equine" means any member of the Equidae species, including horses, mules, and asses. GA. CODE ANN. § 4-13-2(2) (2012).

⁶ "Adequate food and water" means food and water which is sufficient in amount and appropriate for the particular type of equine to prevent starvation, dehydration, or a significant risk to the equine's health from a lack of food or water. GA. CODE ANN. § 4-13-2(1) (2012).

Applicable Case Law:

***Tiller v. State*, 218 Ga. App. 418, 461 S.E.2d 572 (Ga. Ct. App. 1995).**

Facts: Tiller was convicted of seven counts of cruelty to animals stemming from his negligent treatment of horses on his farm. When found, the horses were severely malnourished and anemic; their hooves were in poor condition; and several required medical treatment for other conditions. Tiller admitted that he had not purchased enough feed for the horses. He argued, however, that there was no evidence that he owned the property or the horses, and therefore no evidence that he was responsible for the neglect.

Holding: First, the Court of Appeals held that the evidence was sufficient to support Tiller's conviction for cruelty to animals. The necessary elements for such a conviction are that the animals were neglected and suffering; neither ownership of the property on which the animals are found nor ownership of the animals themselves is a material element of the offense. The evidence clearly established that Tiller was responsible for the care and feeding of the horses. The evidence also established that the horses were not fed properly and were denied essential medical treatment, and that they suffered pain as a result. Thus, all necessary elements of the offense were proved. Second, the Court held that the jury charge adequately conveyed to the jury that it was dealing with separate counts. Finally, the Court held that a videotape depicting the horses' condition when they were seized was admissible. Despite its potential to inflame the jury, the tape was relevant to the jury's consideration of the charged offenses.

***Derresaw v. State*, 35 Ga. App. 197, 132 S.E. 409 (Ga. Ct. App. 1926).**

Facts: Derresaw was convicted of cruelly treating a horse. The horse's owner lent the horse to Derresaw and claimed that the horse appeared to be in "bad condition" when returned; there were no bruises or other marks on the horse, but it seemed stiff. The owner accused Derresaw of driving the horse too hard.

Holding: The Court of Appeals reversed the defendant's conviction. The circumstantial evidence against him was not sufficient to exclude every reliable hypothesis other than guilt.

GA. CODE ANN. § 16-11-107 (2012). Destroying or causing serious or debilitating physical injury to police dog or police horse

(a) [Definitions]

(b) Any person who knowingly and intentionally destroys or causes serious or debilitating physical injury to a police dog⁷ or police horse⁸, knowing said dog to be a police dog or said horse to be a police horse, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years, or a fine not to exceed \$10,000.00, or both. This subsection shall not apply to the destruction of a police dog or police horse for humane purposes.

No Applicable Case Law.

GA. CODE ANN. § 16-11-107.1 (2012). Harassment of assistance dog; penalties

(a) [Definitions]

(b) Any person who knowingly and intentionally harasses⁹ or attempts to harass an assistance dog¹⁰, knowing the dog to be an assistance dog, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not less than 90 days or a fine not to exceed \$500.00, or both.

(c) Any person who has received notice that his or her behavior is interfering with the use of an assistance dog who continues to knowingly and intentionally harass an assistance dog, knowing the dog to be an assistance dog, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not less than 90 days or a fine not to exceed \$500.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished as for a misdemeanor of a high and aggravated nature.

(d) Any person who knowingly and intentionally allows his or her dog to harass an assistance dog, knowing the dog to be an assistance dog, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not less than 90 days or a fine not to exceed \$500.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished as for a misdemeanor of a high and aggravated nature.

⁷ (a)(7) “Police dog” means a bomb detection dog, a firearms detection dog, a narcotic detection dog, a patrol dog, an accelerant detection dog, or a tracking dog used by a law enforcement agency. “Police dog” also means a search and rescue dog.

⁸ (a)(8) “Police horse” means a horse trained to transport, carry, or be ridden by a law enforcement officer and used by a law enforcement agency.

⁹ (a)(2) “Harass” means to engage in any conduct directed toward an assistance dog that is knowingly likely to impede or interfere with the assistance dog’s performance of its duties or that places the blind, deaf, or physically limited person being served or assisted by the dog in danger of injury.

¹⁰ (a)(1) “Assistance dog” means a dog that is or has been trained by a licensed or certified person, organization, or agency to perform physical tasks for a physically challenged person. Assistance dogs include guide or leader dogs that guide individuals who are legally blind; hearing dogs that alert individuals who are deaf or hard of hearing to specific sounds; and service dogs for individuals with disabilities other than blindness or deafness, which are trained to perform a variety of physical tasks, including, but not limited to, pulling a wheelchair, lending balance support, picking up dropped objects, or providing assistance in a medical crisis.

(e) Any person who knowingly and intentionally allows his or her dog to cause death or physical harm to an assistance dog by rendering a part of the assistance dog's body useless or by seriously disfiguring the assistance dog, knowing the dog to be an assistance dog, shall be punished as for a misdemeanor of a high and aggravated nature.

No Applicable Case Law.

3. ABANDONMENT

GA. CODE ANN. § 4-11-15.1 (2012). Unlawful to abandon domestic animal

Notwithstanding the provisions of Code Section 4-11-13, it shall be unlawful for any person knowingly and intentionally to abandon any domesticated animal upon any public or private property or public right of way. This Code section shall not be construed as amending or otherwise affecting the provisions of Chapter 3 of this title, relating to livestock running at large or straying.

No Applicable Case Law.

GA. CODE ANN. § 4-8-3 (2012). Abandoning dogs

No person shall release a dog on any property, public or private, with the intention of abandoning the dog.

No Applicable Case Law.

4. LIVESTOCK PROVISIONS

GA. CODE ANN. § 4-11-32 (2012). Offenses relating to animals and animal facilities and to crops and crop facilities; exemptions

(a)(1) A person commits an offense if, without the consent of the owner, the person acquires or otherwise exercises control over an animal facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of such facility, animal, or property and to disrupt or damage the enterprise conducted at the animal facility.

(2) A person commits an offense if, without the consent of the owner, the person acquires or otherwise exercises control over a crop facility, a crop from a crop facility, or other property from a crop facility with the intent to deprive the owner of such facility, crop, or property and to disrupt or damage the enterprise conducted at the crop facility.

(b)(1) A person commits an offense if, without the consent of the owner, the person damages or destroys an animal facility or damages, frees, or destroys any animal or property in or on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility and the damage or loss thereto exceeds \$ 500.00.

(2) A person commits an offense if, without the consent of the owner, the person damages or destroys a crop facility or damages or destroys any crop or property in or on a crop facility with the intent to disrupt or damage the enterprise conducted at the crop facility and the damage or loss thereto exceeds \$ 500.00.

(c)(1) A person commits an offense if, without the consent of the owner, the person damages or destroys an animal facility or damages, frees, or destroys any animal or property in or on an animal facility and the damage or loss thereto is \$ 500.00 or less or enters or remains on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility, and the person:

(A) Had notice that the entry was forbidden;

(B) Knew or should have known that the animal facility was or had closed to the public; or

(C) Received notice to depart but failed to do so.

(2) For purposes of this subsection “notice” means:

(A) Oral or written communication by the owner or someone with actual or apparent authority to act for the owner;

(B) The presence of fencing or other type of enclosure or barrier designed to exclude intruders or to contain animals; or

(C) A sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(c.1)(1) A person commits an offense if, without the consent of the owner, the person damages or destroys a crop facility or damages or destroys any crop or property in or on a crop facility and the damage or loss thereto is \$ 500.00 or less or enters or remains on a crop facility with the intent to disrupt or damage the enterprise conducted at the crop facility, and the person:

(A) Had notice that the entry was forbidden;

(B) Knew or should have known that the crop facility was or had closed to the public; or

(C) Received notice to depart but failed to do so.

(2) For purposes of this subsection “notice” means:

(A) Oral or written communication by the owner or someone with actual or apparent authority to act for the owner; or

(B) A sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(d) This Code section shall not apply to, affect, or otherwise prohibit actions taken by the Department of Agriculture, any other federal, state, or local department or agency, or any official,

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employee, or agent thereof while in the exercise or performance of any power or duty imposed by law or by rule and regulation.

Applicable Case Law:

Ga. Op. Atty. Gen. No. 03-7, 2003 WL 21767855 (Ga. A.G. July 23, 2003).

Facts: The operators of a cockfighting enterprise claimed that their conduct fell within the “scientific research” exemption in § 16-12-4(e) due to their practice of extracting blood and tissue samples from some of the birds and sending these samples to a poultry laboratory for disease testing.

Holding: In an official opinion, the Deputy Attorney General stated that the cockfight operators were not except from prosecution for animal cruelty. The exemption in subsection (e) was inapplicable because there was no scientific rationale for testing birds that had engaged in cockfights; thus, there was no meaningful connection between the fights and the subsequent research. The fights were merely a means to encourage the birds’ owners to bring the birds to a location where they could be tested. Additionally, the Deputy AG expressed the view that the Georgia Farm Animal, Crop and Research Facilities Protection Act (§ 4-11-30 through 33) was inapplicable to cockfighting.

GA. CODE ANN. § 4-11-33 (2012). Violations

(a) A person convicted of any of the offenses defined in subsections (a) and (b) of Code Section 4-11-32 shall be guilty of a felony and, upon conviction, shall be punished by a fine not to exceed \$ 10,000.00 or by imprisonment for a term not to exceed three years, or both.

(b) Any person violating subsection (c) or (c.1) of Code Section 4-11-32 shall be guilty of a misdemeanor.

No Applicable Case Law.

5. SLAUGHTERING

GA. CODE ANN. § 26-2-110 (2012). Slaughtering of animals and sale and transportation of meat prohibited under certain conditions

No person, firm, or corporation shall, with respect to any cattle, sheep, swine, nontraditional livestock, rabbits, goats, horses, mules, or other equines, or any carcasses, parts of carcasses, meat, or meat food products of any such animals:

(2) Slaughter or handle in connection with such slaughter any such animals in any manner not declared to be humane under Code Section 26-2-110.1;

Applicable Case Law:

***Schoen Bros. Inc. v. Pylant*, 162 Ga. 565 (1926).**

Facts: A butcher sued the owner of a slaughterhouse after the latter refused to slaughter animals offered by the butcher. According to the butcher, the owner's refusal constituted a breach of his (the owner's) legal duty under a local ordinance requiring every owner of a slaughterhouse to "slaughter for the public without discrimination."

Holding: The court held that the regulation of slaughterhouses was a legitimate exercise of the city's police power; therefore, the ordinance was valid. When the operator of a licensed slaughterhouse refuses "arbitrarily and without cause" to slaughter animals for a member of the public, the operator is liable in damages.

GA. CODE ANN. § 26-2-110.1 (2012). Humane methods of slaughtering and handling prescribed

(a) For purposes of this article, the following methods of slaughtering and handling are declared to be humane:

(1) In the case of cattle, calves, horses, mules, sheep, swine, nontraditional livestock, rabbits, and other livestock, all animals are to be rendered insensible to pain by a single blow or gunshot or by an electrical, chemical, or other means which is rapid and effective before being shackled, hoisted, thrown, cast, or cut; or

(2) By slaughtering and handling in connection with such slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

(b) In addition to the methods prescribed in subsection (a) of this Code section, the Commissioner may designate as humane any methods of slaughtering and handling which have been so designated by the United States secretary of agriculture on or before April 7, 1981, pursuant to United States Code Section 7-1904. The Commissioner is further authorized to designate as humane other methods of slaughtering and handling which have been demonstrated by research, investigation, and experimentation to be humane with reference to the speed and scope of slaughtering operations and with reference to other existing methods and then current scientific knowledge.

No Applicable Case Law.

6. EXEMPTIONS AND IMMUNITY

GA. CODE ANN. § 4-5-6 (2012). Abandoned and diseased animals, how dealt with

For the purpose of putting a speedy end to the suffering of hopelessly diseased and disabled animals, any person finding any abandoned domestic animal which is diseased or injured past

recovery may apply to any magistrate of the county, who may summarily decide whether such animal should be destroyed, after giving notice to the owner, if known, whenever such notice can be given without defeating the object of this Code section. The order authorizing the destruction of such animal shall not defeat the owner's claim for damages against the person destroying or procuring the destruction of such animal.

No Applicable Case Law.

GA. CODE ANN. § 4-11-13 (2012). Article not applicable to persons raising animals for human consumption

The provisions of this article shall not apply to any person who raises, keeps, or maintains animals solely for the purposes of human consumption.

No Applicable Case Law.

GA. CODE ANN. § 4-11-17 (2013). Reports of animal cruelty or dog fighting by veterinarians or veterinary technicians; immunity from civil or criminal liability

(a) Notwithstanding Code Section 24-12-31 or any other provision of law to the contrary, any licensed 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 an act prohibited under 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.

(b) Any person participating in the making of a report pursuant to this Code section or participating in any administrative or judicial proceeding pursuant to this article or Title 16 shall, in so doing, be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided such participation pursuant to this Code section or any other law is made in good faith.

No Applicable Case Law.

GA. CODE ANN. § 27-3-49 (2012). Killing of dogs running deer; freedom from liability

(a) It shall be the duty of every conservation ranger to kill any dog pursuing or killing any deer in any locality other than that prescribed by law or rules and regulations permitting such hunting, and no action for damages shall be maintained against the person for such killing.

(b) It shall be unlawful for any person other than a conservation ranger, sheriff, or deputy sheriff to kill a dog wearing a collar, which dog is or has been pursuing or killing a deer.

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(c) It shall not be unlawful for any person to kill a dog which does not have a collar and which is pursuing or killing deer in any locality other than that prescribed by law or rules and regulations permitting such hunting, and no action for damages shall be maintained against the person for such killing.

No Applicable Case Law.

GA. CODE ANN. § 44-14-494 (2012). Disposal of animal not to constitute cruelty to animals

It shall not constitute a violation of Code Section 16-12-4 if a licensed veterinarian or an operator of a facility for boarding animals or pets disposes of an animal or pet as provided in Code Section 44-14-491.

No Applicable Case Law.

7. INSPECTION, SEIZURE, AND IMPOUND

GA. CODE ANN. § 4-11-9 (2012). Inspections

The Commissioner or his designated agents are authorized to enter upon any public or private property at any time for the purpose of inspecting the business premises of any pet dealer or any animal shelter, kennel, or stable and the dogs, cats, equines, or other animals housed at such facility to determine if such facility is licensed and for the purpose of enforcing this article and the rules and regulations adopted by the Commissioner pursuant to this article.

No Applicable Case Law.

GA. CODE ANN. § 4-11-9.2 (2012). Inspection warrants; impounding of animals

(a) At any time there is probable cause to believe that a violation of this article or any rule or regulation adopted pursuant to this article has occurred, the Commissioner, his or her designated agent, or an animal control officer who is an employee of state or local government may apply to the appropriate court in the county in which the animal is located for an inspection warrant under the provisions of Code Section 2-2-11.

(b) Any sheriff, deputy sheriff, or other peace officer shall have the authority to enforce the provisions of this article and Code Sections 16-12-4 and 16-12-37.

(c) The Commissioner, his or her designated agent, an animal control officer who is an employee of state or local government, or any sheriff, deputy sheriff, or other peace officer is authorized to impound any animal:

(1) That has not received humane care;

- (2) That has been subjected to cruelty in violation of Code Section 16-12-4;
- (3) That is used or intended for use in any violation of Code Section 16-12-37; or
- (4) If it is determined that a consent order or other order concerning the treatment of animals issued pursuant to this article is being violated.
- (d) Prior to an animal being impounded pursuant to paragraph (1), (2), or (3) of subsection (c) of this Code section, a licensed accredited veterinarian approved by the Commissioner or a veterinarian employed by a state or federal government and approved by the Commissioner, shall, at the request of the Commissioner, his or her designee, an animal control officer, a sheriff, a deputy sheriff, or other peace officer, examine and determine the condition or treatment of the animal.
- (e) The provisions of this Code section and Code Sections 4-11-9.3 through 4-11-9.6 shall not apply to scientific experiments or investigations conducted by or at an accredited college or university in this state or research facility registered with the Commissioner or the United States Department of Agriculture.

No Applicable Case Law.

GA. CODE ANN. § 4-11-9.3 (2012). Duty to make arrangements for care of impounded animal; lien for cost of care; return of animal to owner

- (a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2 to make reasonable and proper arrangements to provide the impounded animal with humane care and adequate and necessary veterinary services. Such arrangements may include, but shall not be limited to, providing shelter and care for the animal at any state, federal, county, municipal, or governmental facility or shelter; contracting with a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services for a reasonable fee; or allowing a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services as a volunteer and at no cost.
- (b) Any person impounding an animal under this article or providing care for an impounded animal shall have a lien on such animal for the reasonable costs of caring for such animal. Such lien may be foreclosed in any court that is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.
- (c) Any person impounding an animal under this article shall be authorized to return such 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, in a prior administrative or legal action in this state or any other state, was found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under 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 shall be given humane care and adequate and necessary veterinary services;

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

(3) The owner shall comply with this article.

(d) The provisions of subsection (c) of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner without the approval of the prosecuting attorney. An agency having custody of an animal that was seized as an object or instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the court having jurisdiction over the offense for an order authorizing such agency to dispose of the animal prior to trial of the criminal case as provided by law.

No Applicable Case Law.

GA. CODE ANN. § 4-11-9.4 (2012). Notification to owner of impoundment of animal

(a) It shall be the duty of any person impounding an animal under this article to notify the owner of such animal immediately upon impoundment. Such notice shall state the name and business address of the person impounding the animal, the name and address of the state or local government agency having custody of the animal, a description of the animal, the reason why the animal was impounded, and a statement of the time limits for the owner to respond and request a hearing as provided in Code Section 4-11-9.5. The notice shall be provided by personal service or by registered mail, certified mail, or statutory overnight delivery sent to the last known address of the owner. Service of the notice which complies with subsection (b) of Code Section 9-11-5 shall in all cases be sufficient. If the owner of such animal is unknown or cannot be found, service of the notice on the owner shall be made by posting the notice in a conspicuous place at the location where the animal was impounded and by publishing a notice once in a newspaper of general circulation in the county where the animal was impounded.

(b) An animal impounded pursuant to this article is deemed to be in the custody of the state or local government agency responsible for enforcement of this article within said county or municipality.

No Applicable Case Law.

GA. CODE ANN. § 4-11-9.5 (2012). Hearing on impoundment of animal

(a) If the owner of an animal impounded pursuant to this article fails to respond in writing within five business days of the date the notice of impoundment was served, or, if the owner is unknown or could not be found within 30 days of publication of the notice of impoundment, the impounded animal may be disposed of pursuant to Code Section 4-11-9.6.

(b)(1) If the owner of an animal impounded pursuant to this article refuses to enter into a consent agreement with the government agency having custody of the animal that such animal will be given humane care and adequate and necessary veterinary care, the owner may request, in writing, a hearing within five business days of the date the notice of impoundment was served on such owner, or, if the owner is unknown or could not be found, within 30 days of the date of

publication of the notice of impoundment. Such request for hearing shall be served upon the government agency having custody of the animal. If no hearing is requested within the time limits specified in this paragraph and the failure to request such hearing is due in whole or in part to the reasonably avoidable fault of the owner, the right to a hearing shall have been waived.

(2) Within 30 days after receiving a written request for a hearing, the government agency having custody of the animal shall hold a hearing as is provided in Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” If the animal is in the custody of an agency of local government which has, by local law or ordinance, established a procedure for hearing such matters, the body designated in such local law or ordinance shall conduct the hearing required by this Code section. If the local government does not have a hearing procedure, the government agency having custody of the animal may refer the matter to the Office of State Administrative Hearings. If the animal is in the custody of the Department of Agriculture, the Commissioner or his or her designee shall conduct the hearing. The hearing shall be public and all testimony shall be received under oath. A record of the proceedings at such hearing shall be made and maintained by the hearing officer as provided in Code Section 50-13-13.

(3) The scope of the hearing shall be limited to whether the impounding of the animal was authorized by subsection (c) of Code Section 4-11-9.2.

(4) The hearing officer shall, within five business days after such hearing, forward a decision to the person who impounded the animal and the government agency having custody of the animal.

(5) If the hearing officer finds that the animal was improperly impounded, the animal shall be returned to the owner and the cost incurred in providing reasonable care and treatment for the animal from the date of impoundment to the date of the order shall be paid by the impounding agency.

(6) If the hearing officer finds that the animal was lawfully impounded, the hearing officer may:

(A) Recommend that the government agency having custody of the animal dispose of the animal as provided in Code Section 4-11-9.6; or

(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 committed an act prohibited under 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 shall be given humane care and adequate and necessary veterinary services;

(ii) Such animal shall not be subjected to mistreatment; and

(iii) The owner shall comply with this article.

(c) The provisions of this Code section shall not apply to an animal that was an object or instrumentality of a crime nor shall any such animal be returned to the owner or disposed of without the approval of the prosecuting attorney.

No Applicable Case Law.

GA. CODE ANN. § 4-11-9.6 (2012). Disposal of impounded animal

(a) The government agency having custody of an animal impounded pursuant to this article which is not returned to the owner as provided in Code Sections 4-11-9.3 and 4-11-9.5 may dispose of the animal through sale by any commercially feasible means, at a public auction or by sealed bids, or, if in the opinion of a licensed accredited veterinarian or a veterinarian employed by a state or federal government and approved by the Commissioner such animal has a temperament or condition such that euthanasia is the only reasonable course of action, by humanely disposing of the animal.

(b) Any proceeds from the sale of such animal shall be used first to pay the costs associated with the impoundment, including, but not limited to, removal of the animal from the premises, shelter and care of the animal, notice, hearing, and disposition of the animal. Any funds remaining shall:

(1) If the owner is unknown or cannot be found, be paid into the state treasury if the animal was impounded by the Commissioner or his or her designated agent or into the treasury of the local government if the animal was impounded by the sheriff, a deputy sheriff, another law enforcement officer, or an animal control officer; or

(2) If the owner is known, be paid to the owner.

(c) The government agency responsible for conducting the sale shall keep a record of all sales, disbursements, and distributions made under this article.

No Applicable Case Law.

GA. CODE ANN. § 4-13-4 (2012). Inspections; impoundment, care, and disposition of equines

(a) At any time there is cause to believe that a violation of Code Section 4-13-3 has occurred, the Commissioner of Agriculture or his designated agent may apply to the appropriate court in the county in which the equine is located for an inspection warrant under the provisions of Code Section 2-2-11 or any sheriff, deputy sheriff, or other law enforcement officer may apply for a search warrant for the purpose of inspecting any equine found on such property to determine if a violation of Code Section 4-13-3 has occurred.

(b) The Commissioner or his designated agent or any sheriff, deputy sheriff, or other law enforcement officer is authorized to impound any equine which has not been furnished with adequate food and water, which has not received humane care, or which has been subjected to cruelty in violation of Code Section 4-13-3. Such determination as to the condition or treatment of the equine shall be made by a licensed veterinarian employed by the state or federal government following an examination conducted at the request of the Commissioner or his designated agent or any sheriff, deputy sheriff, or other law enforcement officer.

No Applicable Case Law.

GA. CODE ANN. § 4-13-5 (2012). Powers and duties of persons impounding equines; lien for costs of caring of equine; return of equine to owner

(a) It shall be the duty of any person designated for impounding an equine under Code Section 4-13-4 to make reasonable and proper arrangements to provide the impounded equine with adequate and necessary shelter, food, water, veterinary services, and humane care and to take such actions as to ensure the survival of the equine or the humane euthanasia of the equine and disposal thereof if such actions are necessary. Such arrangements may include, but shall not be limited to, providing shelter and care for the equine at any state, federal, county, municipal, or governmental facility or shelter, contracting with a private individual, partnership, corporation, association, or other entity to provide shelter, food, water, veterinary services, and humane care for a reasonable fee, or allowing a private individual, partnership, corporation, association, or other entity to provide shelter, food, water, veterinary services, and humane care as a volunteer and at no cost. Any person impounding an equine under this chapter or providing care for an impounded equine shall have a lien on such equine for the reasonable costs of caring for such equine.

(b) The lien acquired under subsection (a) of this Code section may be foreclosed in any court which is competent to hear civil cases, including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.

(c) Any person impounding an equine under this chapter is authorized to return the equine to its owner upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order or receiving written assurances:

- (1) That such equine will be given humane care, adequate food and water, adequate shelter, and veterinary services;
- (2) That such equine will not be subjected to cruelty; and
- (3) That the owner will comply with this chapter.

No Applicable Case Law.

GA. CODE ANN. § 4-13-6 (2012). Notice to owner of impoundment

It shall be the duty of any person impounding an equine under this chapter to notify the owner of such equine immediately upon impoundment. Such notice shall state the name and address of the person impounding the equine, the location where the equine is being held, and a description of the equine. If the owner of such equine is unknown or cannot be found, service of the notice on the owner shall be obtained by publishing a notice once in a newspaper of general circulation where the equine is impounded.

No Applicable Case Law.

GA. CODE ANN. § 4-13-7 (2012). Disposal of equine through sale or euthanasia

If the owner of the equine cannot be found, if the owner refuses to enter into a consent order or to provide a written assurance that such equine will be given humane care and adequate food, water, shelter, and veterinary care, or if the owner fails to comply with this chapter after having

entered into a consent order or having given a written assurance on a previous occasion, the Commissioner or his designated agent, the sheriff, any deputy sheriff, or any other law enforcement officer may dispose of the equine through sale at a public auction or by sealed bids or, if such equine is in a physical condition such that euthanasia is the only reasonable course of action, by humanely disposing of the equine. Prior to disposing of an equine through sale or euthanasia, the Commissioner or his designated agent, the sheriff, any deputy sheriff, or any other law enforcement officer shall make a reasonable effort to locate the owner and, if the owner cannot be located after reasonable effort, the sale or euthanasia may proceed. Any proceeds from the sale of such equine shall be used first to pay the costs of care given the equine and any funds remaining shall be paid into the state treasury if the equine was impounded by the Commissioner or his designated agent or into the county treasury if the equine was impounded by the sheriff, a deputy sheriff, or other law enforcement officer.

No Applicable Case Law.

8. MISCELLANEOUS PROVISIONS

GA. CODE ANN. § 4-11-5.1 (2012). Substances and procedures for euthanasia of dogs and cats by animal shelters

(a) Except as provided in subsection (b) of this Code section, the use of sodium pentobarbital or a derivative of it shall be the exclusive method for euthanasia of dogs and cats by animal shelters or other facilities which are operated for the collection and care of stray, neglected, abandoned, or unwanted animals. A lethal solution shall be used in the following order of preference:

- (1) Intravenous injection by hypodermic needle;
- (2) Intraperitoneal injection by hypodermic needle; or
- (3) If the dog or cat is unconscious, intracardial injection by hypodermic needle.

(b) Notwithstanding subsection (a) of this Code section, any substance which is clinically proven to be as humane as sodium pentobarbital and which has been officially recognized as such by the American Veterinary Medical Association may be used in lieu of sodium pentobarbital to perform euthanasia on dogs and cats, but succinylcholine chloride, curare, curariform mixtures, or any substance which acts as a neuromuscular blocking agent may not be used on a dog or cat in lieu of sodium pentobarbital for euthanasia purposes.

(c) In addition to the exception provided for in subsection (b) of this Code section, in cases of extraordinary circumstance where the dog or cat poses an extreme risk or danger to the veterinarian, physician, or lay person performing euthanasia, such person shall be allowed the use of any other substance or procedure that is humane to perform euthanasia on such dangerous dog or cat.

(d) Under no circumstance shall a chamber using commercially bottled carbon monoxide gas or other lethal gas or a chamber which causes a change in body oxygen by means of altering atmospheric pressure or which is connected to an internal combustion engine and uses the engine exhaust for euthanasia purposes be permitted.

(e) A dog or cat may be tranquilized with an approved and humane substance before euthanasia is performed.

(f) Euthanasia shall be performed by a licensed veterinarian or physician or a lay person who is properly trained in the proper and humane use of a method of euthanasia. Such lay person shall perform euthanasia under supervision of a licensed veterinarian or physician. This shall not be construed so as to require that a veterinarian or physician be present at the time euthanasia is performed.

(g) No dog or cat may be left unattended between the time euthanasia procedures are first begun and the time death occurs, nor may its body be disposed of until death is confirmed by a qualified person.

(h) The supervising veterinarian or physician shall be subject to all record-keeping requirements and inspection requirements of the State Board of Pharmacy pertaining to sodium pentobarbital and other drugs authorized under subsection (b) of this Code section and may limit the quantity of possession of sodium pentobarbital and other drugs authorized to ensure compliance with the provisions of this Code section.

No Applicable Case Law.

GA. CODE ANN. § 16-6-6 (2012). Bestiality

(a) A person commits the offense of bestiality when he performs or submits to any sexual act with an animal involving the sex organs of the one and the mouth, anus, penis, or vagina of the other.

(b) A person convicted of the offense of bestiality shall be punished by imprisonment for not less than one nor more than five years.

No Applicable Case Law.

GA. CODE ANN. § 27-5-6 (2012). Specifications for the humane handling, care, confinement and transportation of certain wild animals

It shall be unlawful to import, transport, sell, transfer, or possess any wild animal regulated by this chapter without meeting the specifications expressed in this Code section for the humane handling, care, confinement, and transportation of such animals:

(1) FACILITIES IN GENERAL.

(A) The facility must be constructed of such material and of such strength as appropriate for the animals involved. The housing facilities shall be structurally sound and shall be maintained in good repair to protect and contain the animals. The facilities shall be designed in such manner, including the inclusion of barriers of sufficient dimensions and conformation, to safeguard both the animals and the public against injury by direct contact.

(B) Reliable and adequate electric power, if required to comply with other provisions of this Code section, and adequate potable water shall be available on the premises.

(C) Supplies of food and bedding shall be stored in facilities which adequately protect the supplies against deterioration, molding, or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(D) Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, trash, and debris. Disposal facilities shall be so provided and operated so as to minimize vermin infestation, odors, and disease hazards. The disposal facilities and any disposal of animal and food wastes, bedding, dead animals, trash, and debris shall comply with applicable federal, state, and local laws and regulations relating to pollution control or the protection of the environment.

(E) Facilities such as washrooms, basins, showers, or sinks shall be provided to maintain cleanliness among animal caretakers.

(2) INDOOR FACILITIES.

(A) Temperature in indoor housing facilities shall be sufficiently regulated by heating or cooling to protect the animals from extremes of temperature, to provide for their health, and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

(B) Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health and to prevent discomfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

(C) Indoor housing facilities shall have ample lighting, by natural or artificial means, or both, of good quality, distribution, and duration as appropriate for the species involved. Such lighting shall be uniformly distributed and of sufficient intensity to permit routine inspection and cleaning. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination.

(D) A suitable sanitary method shall be provided for rapid elimination of excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors and installed so as to prevent any backup of sewage. The method of drainage shall comply with applicable federal, state, and local laws and regulations relating to pollution control or the protection of the environment.

(3) OUTDOOR FACILITIES.

(A) When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

(B) Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals. Individual animals shall be acclimated before they are exposed to the extremes of the local climate.

(C) A suitable method shall be provided for rapid elimination of excess water. The method of drainage shall comply with applicable federal, state, and local laws and regulations relating to pollution control or the protection of the environment.

(4) SPACE REQUIREMENTS. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with

adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavioral patterns.

(5) FEEDING.

(A) The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of animal. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

(B) Food and food receptacles, if used, shall be sufficient in quantity and located so as to be accessible to all animals in the enclosure and shall be placed so as to minimize contamination. Food receptacles shall be kept clean and sanitary at all times. If self-feeders are used, adequate measures shall be taken to prevent molding, contamination, and deterioration or caking of food.

(6) WATERING. If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall take into consideration the age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

(7) SANITATION.

(A) Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily.

(B) Subsequent to the presence of an animal with an infectious or transmissible disease, cages, rooms, and hard-surfaced pens or runs shall be sanitized either by washing them with hot water (180 degrees Fahrenheit at source) and soap or detergent, as in a mechanical washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant or by cleaning all soiled surfaces with saturated live steam under pressure. Pens or runs using gravel, sand, or dirt shall be sanitized when necessary.

(C) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Code section. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

(D) A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

(8) EMPLOYEES. A sufficient number of adequately trained employees shall be utilized to maintain the professionally acceptable level of husbandry practices set forth in this Code section. Such employees shall be under a supervisor who has a background in animal care.

(9) SEPARATION. Animals housed in the same primary enclosure must be compatible. Animals shall not be housed near animals that interfere with their health or cause them discomfort.

(10) VETERINARY CARE.

(A) Programs of disease prevention, parasite control, euthanasia, and adequate veterinary care shall be established and maintained. The pest control programs shall be reviewed for the safe use of materials and methods.

(B) Animals shall be observed every day by the person in charge of the care of the animals or by someone working under his direct supervision. Sick, diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed, unless such action is inconsistent with the research purposes for which the animal was obtained and is being held.

(C)(i) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian at the research facility. Such drugs shall be used in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides and shall produce in the individual subject animal a high level of tranquilization, anesthesia, or analgesia consistent with the protocol or design of the experiment.

(ii) It shall be incumbent upon each research facility to provide guidelines and consultation to research personnel with respect to the type and amount of tranquilizers, anesthetics, or analgesics recommended as being appropriate for each species of animal used by that institution.

(iii) The use of these three classes of drugs shall effectively minimize the pain and discomfort of the animals while under experimentation.

(11) HANDLING.

(A) Handling of animals shall be done expeditiously and carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal. Care should be exercised also to avoid harm to the handler.

(B) Animals to which the public is afforded direct contact shall only be displayed for periods of time and under conditions consistent with the animals' health and not leading to their discomfort.

(C) During public display, the animals must be handled so there is minimal risk of harm to the public with sufficient distance allowed between the animals and the viewing public to assure safety to both the public and the animals. Performing animals shall be allowed a rest period between performances equal to the time for one performance.

(12) VEHICLES.

(A) Vehicles used in transporting animals shall be mechanically sound and equipped to provide the animals adequate fresh air, both when moving and stationary, without injurious drafts or discomfort.

(B) The animal cargo space shall be so constructed and maintained so as to prevent the ingress of the vehicle's exhaust gases.

(C) The interior of the animal cargo space shall be kept physically clean.

(D) The ambient temperature shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature and to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below or rise above temperatures compatible with the health and comfort of the animals.

(13) PRIMARY ENCLOSURES USED TO TRANSPORT ANIMALS.

(A) Primary enclosures, such as compartments used to transport animals, shall be well constructed, well ventilated, and designed to protect the health and assure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that each animal in the vehicle has access to sufficient air for normal breathing, the openings of such

enclosures are easily accessible at all times for emergency removal of the animals, and the animals are afforded adequate protection from the elements.

(B) Animals transported in the same primary enclosure shall be compatible. Socially dependent animals (e.g., siblings, dam, and young cagemates) must be allowed visual and olfactory contact.

(C) Primary enclosures used to transport animals shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely and to make normal postural adjustments; provided, however, that certain species may be restricted in their movements according to professionally acceptable standards when such freedom of movement would constitute a danger to the animals or their handlers.

(D) Animals shall not be placed in primary enclosures over other animals in transit unless each enclosure is fitted with a floor of a material which prevents animal excreta or other wastes from entering lower enclosures.

(E) Primary enclosures used to transport animals shall be cleansed and sanitized before and after each shipment. All bedding in the vehicle shall be clean at the beginning of each trip.

(14) FOOD AND WATER REQUIREMENTS.

(A) Potable water shall be provided to each animal at least once in each 12 hour period except as directed by hibernation, veterinary treatment, or other professionally accepted practices. Those animals which, by common accepted practice, require watering more frequently shall be so watered.

(B) Each animal shall be fed at least once in each 24 hour period except as directed by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices. Those animals which, by common accepted practice, require feeding more frequently shall be so fed.

(C) A sufficient quantity of food and water shall accompany the animal to provide food and water for the animal for a period of at least 24 hours, except as directed by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

(15) CARE IN TRANSIT.

(A) It shall be the responsibility of the attendant or driver to inspect the animals frequently enough to assure the health and comfort of the animals.

(B) In the event of a breakdown or delay of the vehicle, it is the responsibility of the animal caretaker or vehicle operator to assure that animals get adequate ventilation and protection from fumes, vehicle exhaust, and extremes in temperature and to assure that the animals are not subjected to undue discomfort.

(C) In an emergency concerning the health and welfare of the animals, adequate veterinary care shall be provided without delay.

(16) Nothing in this Code section shall prevent wild animal license or permit holders from processing for meat or meat products animals that are surplus to the primary purpose of their wild animal business. Such processing must be done in compliance with the provisions of Article 3 of Chapter 2 of Title 26, the "Georgia Meat Inspection Act."

No Applicable Case Law.

GA. CODE ANN. § 27-5-12 (2012). Unlawful to kill or wound farmed deer or wild animal held under license or permit; exceptions

Updated as of January 26, 2013

It shall be unlawful to shoot, kill, or wound any wild animal held under a wild animal license or permit or any farmed deer for enjoyment, gain, amusement, or sport. This Code section does not prohibit:

- (1) A licensed veterinarian from diagnosing, treating, or performing other duties within the standards of veterinary practice on a farmed deer;
- (2) The slaughter of wild animals or farmed deer in compliance with the provisions of paragraph (16) of Code Section 27-5-6 and with the laws of this state relating to the slaughter of livestock;
or
- (3) The recapture or disposal of farmed deer which have escaped and which have become classified as wild animals pursuant to Code Section 4-4-174 or the disposal of wild animals according to Code Section 27-5-10.

No Applicable Case Law.