

9-1-1990

ANIMALS Animal Protection: Provide for Protection of Farm Animal and Research Facilities

K. Lewis

Follow this and additional works at: <http://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

Recommended Citation

Lewis, K. (1990) "ANIMALS Animal Protection: Provide for Protection of Farm Animal and Research Facilities," *Georgia State University Law Review*: Vol. 7 : Iss. 1 , Article 11.

Available at: <http://readingroom.law.gsu.edu/gsulr/vol7/iss1/11>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact jgermann@gsu.edu.

ANIMALS

Animal Protection: Provide for Protection of Farm Animal and Research Facilities

| | |
|-----------------|---|
| CODE SECTIONS: | O.C.G.A. §§ 4-11-30 to -35 (new) |
| BILL NUMBER: | SB 575 |
| ACT NUMBER: | 1076 |
| SUMMARY: | The Act creates a new article that provides for misdemeanor and felony offenses for destruction or damage to animals or property of an animal research facility. The Act also imposes penalties and provides for recovery of damages, punitive damages, court costs, and attorney's fees. |
| EFFECTIVE DATE: | July 1, 1990 |

History

SB 575 was introduced in response to the increasing "protests and destructive activities" of animal rights groups such as the Animal Liberation Front, Yesterday, and Urban Gorillas.¹ In attempts to protect animal rights, these activists have claimed responsibility for bomb threats, arson, vandalism, death threats, and animal theft.² Over fourteen states have reported incidents involving animal rights activists with costs approaching six million dollars.³ In Georgia, targets of animal rights activism have included Avon,⁴ Emory University,⁵ and the

1. Telephone Interview with Mr. Rudy Underwood, Georgia Farm Bureau Federation (Apr. 19, 1990) [hereinafter Underwood Interview].

2. *Id.*

3. Georgia Farm Bureau Federation, Background Information for "Georgia Farm Animal and Research Facilities Protection Act" (Jan. 22, 1990) (available in Georgia State University College of Law Library) [hereinafter Background Information].

4. Avon has been attacked by animal rights activists because of its use of animals in cosmetic products testing. Avon's implementation of the draize test, the application of cosmetics to the eyes of rabbits, is a top-of-the-list concern of animal rights activists. Telephone interview with Dr. J.B. Jones, Assistant Vice President for Research, University of Georgia (May 17, 1990) [hereinafter Jones Interview].

5. Emory University is susceptible to the activities of animal rights groups because of its on-campus research facility, Yerkes Regional Primate Research Center. Telephone interview with Dr. Mort Silberman, Assistant Director, Woodruff Health Sciences Center, Emory University (Apr. 25, 1990) [hereinafter Silberman Interview].

University of Georgia.⁶ In an effort to deter future incidents of violence, several states have adopted legislation combating illegal activities.⁷ SB 575 specifically allows for criminal charges as well as civil remedies for damages to animal research, testing, production, or education facilities.⁸

SB 575

The Act creates a new article entitled "Georgia Farm Animal and Research Facilities Protection Act."⁹ Patterned after federal legislation introduced by Representative Stenholm of Texas,¹⁰ this new article establishes misdemeanor and felony offenses prohibiting a person from damaging or exercising control over an animal research facility.¹¹ A person "acquir[ing] or otherwise exercis[ing] control over an animal facility, an animal from an animal facility, or other property from an animal facility with intent to deprive the owner . . . and to disrupt or damage the enterprise conducted at the facility"¹² is guilty of a felony.¹³ In addition, a person who intentionally "damages, frees, or destroys any animal or property"¹⁴ on an animal facility is guilty of a felony when the damage exceeds \$500.¹⁵ If the damage is less than \$500, and the person "had notice that the entry was forbidden,"¹⁶ "knew or should have known the facility was closed to the public,"¹⁷ or "received notice to depart but failed to do so,"¹⁸ the person is guilty of a misdemeanor.¹⁹

The Department of Agriculture and any law enforcement agency assisting the Department of Agriculture, while in the exercise of a duty imposed by law, are exempt from the Act's provisions.²⁰ Additionally, the Act allows recovery of "actual and consequential damages, punitive damages, and court costs, including reasonable attorneys' fees."²¹ The

6. Background Information, *supra* note 3. Animal research at the University of Georgia includes research in food and fiber production as well as biomedical research. Food and fiber research encompasses, among other things, reproduction, breeding, and productivity of animals used to produce food and clothing. Jones Interview, *supra* note 4.

7. Background Information, *supra* note 3.

8. Underwood Interview, *supra* note 1.

9. O.C.G.A. §§ 4-11-30 to -35 (Supp. 1990).

10. Underwood Interview, *supra* note 1. Representative Stenholm introduced H.R. 3270.

11. O.C.G.A. § 4-11-32(a)-(c) (Supp. 1990).

12. O.C.G.A. § 4-11-32(a) (Supp. 1990).

13. O.C.G.A. § 4-11-33(a) (Supp. 1990).

14. O.C.G.A. § 4-11-32(b) (Supp. 1990).

15. O.C.G.A. § 4-11-33(a) (Supp. 1990).

16. O.C.G.A. § 4-11-32(c)(1)(A) (Supp. 1990).

17. O.C.G.A. § 4-11-32(c)(1)(B) (Supp. 1990).

18. O.C.G.A. § 4-11-32(c)(1)(C) (Supp. 1990).

19. O.C.G.A. § 4-11-33(b) (Supp. 1990).

20. O.C.G.A. § 4-11-32(d) (Supp. 1990).

21. O.C.G.A. § 4-11-35(a) (Supp. 1990).

Act also authorizes equitable relief through an injunction or restraining order, despite the existence of an adequate remedy at law.²²

As introduced in the Senate, the bill did not make allowances for authorized governmental activities.²³ A Senate committee substitute added exemptions for federal, state, and local agencies in the exercise of their legally authorized duty.²⁴ Also, the Senate committee substitute, in recognition of a need for more carefully studied remedies, dropped the original provisions for recovery of court costs and attorneys' fees.²⁵

The House Committee on Agriculture offered a substitute, which redefined civil remedies to include punitive damages, court costs, attorney's fees, injunctions, and restraining orders.²⁶ Because the original bill, patterned after federal legislation, did not properly mesh with Georgia law, the House committee substitute also restructured the bill in accordance with Georgia law.²⁷ Additionally, the House committee substitute defined "animal" to include specifically named farm animals for the purpose of encompassing both the areas of farm research and medical research.²⁸ The substitute expressly excluded "animals primarily held as pets"²⁹ to avoid situations involving disputes over family pets.³⁰

A House floor amendment reflected only minor changes in language.³¹ The Senate agreed to the House committee substitute and floor amendment.³²

Although the Act, in reality, does not significantly alter the law, legislation clarifying illegal activity is worthwhile according to research scientists at Emory University and the University of Georgia.³³ Statutes addressing trespass, conversion, and nuisance, for example, preexisted the Georgia Farm Animal and Research Facilities Protection Act. With the passage of the Act, however, emphasis is placed on the enforcement of the law in the research arena.³⁴ With specific legislation addressing illegal animal rights activism, law enforcement agencies and the courts are directed to exercise their power in arresting destructive activities.³⁵

22. O.C.G.A. § 4-11-35(b) (Supp. 1990).

23. SB 575, as introduced, 1990 Ga. Gen. Assem.

24. SB 575 (SCS), 1990 Ga. Gen. Assem.

25. *Id.*; Underwood Interview, *supra* note 1.

26. SB 575 (HCS), 1990 Ga. Gen. Assem.

27. Underwood Interview, *supra* note 1. Compare H.R. 3270, 101st Cong., 2d Sess. (1990) with O.C.G.A. 4-11-30 to -35 (Supp. 1990).

28. Underwood Interview, *supra* note 1.

29. SB 575 (HCS), 1990 Ga. Gen. Assem.

30. Underwood Interview, *supra* note 1.

31. SB 575 (HFA), 1990 Ga. Gen. Assem.

32. Final Composite Status Sheet, Mar. 9, 1990.

33. Jones Interview, *supra* note 4; Silberman Interview *supra* note 5.

34. Silberman Interview, *supra* note 5.

35. *Id.*

Moreover, the Act specifically outlines felony and misdemeanor offenses and civil redress to deter future illegal and deleterious acts.

K. Lewis