

The Senate Committee on Judiciary offered the following substitute to HB 827:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 2 of the Official Code of Georgia Annotated, relating to agriculture, so as to  
2 authorize the Department of Agriculture to enforce certain criminal laws; to amend Article 2  
3 of Chapter 7 of Title 16 of the Official Code of Georgia, relating to criminal trespass and  
4 damage to property, so as to provide for the offense of criminal trespass involving a wild  
5 animal; to provide for definitions; to provide for penalties; to provide for an exception; to  
6 amend Code Section 16-8-20 of the Official Code of Georgia Annotated, relating to livestock  
7 theft, so as to provide for increased penalties; to provide for related matters; to repeal  
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended in Code  
12 Section 2-2-13, relating to enforcement of laws and rules within jurisdiction of the  
13 Commissioner and employment of investigators, by revising subsections (a), (b), and (d) as  
14 follows:

15 "(a) The Commissioner shall be vested with police powers to enforce those laws governing  
16 matters within the jurisdiction of the Commissioner or the department as provided by this

17 title and Titles 4, 10, 16, 26, and 43 and the rules and regulations adopted pursuant thereto  
18 and to prevent, detect, and respond to acts of bioterrorism, other terroristic acts or threats,  
19 or natural disasters affecting or potentially affecting plants, animals, products, or facilities  
20 that are subject to regulation by the department.

21 (b) The Commissioner shall be authorized to employ, designate, and deputize investigators  
22 and to delegate to such employees of the department the necessary authority to enforce  
23 those laws governing matters within the jurisdiction of the Commissioner or the department  
24 as provided by this title and Titles 4, 10, 16, 26, and 43 and the rules and regulations  
25 adopted pursuant thereto and to prevent, detect, and respond to acts of bioterrorism, other  
26 terroristic acts or threats, or natural disasters affecting or potentially affecting plants,  
27 animals, products, or facilities that are subject to regulation by the department. Employees  
28 who have been so designated by the Commissioner and who have been certified by the  
29 Georgia Peace Officer Standards and Training Council as having successfully completed  
30 the course of training required by Chapter 8 of Title 35, the 'Georgia Peace Officer  
31 Standards and Training Act,' shall be authorized:

32 (1) To carry firearms authorized or issued by the Commissioner while in the performance  
33 of their duties;

34 (2) To inspect plants, animals, products, or facilities when the same are subject to  
35 regulation by the department;

36 (3) To stop and inspect any vehicle transporting plants, animals, or products when the  
37 same are subject to regulation by the department;

38 (4) To inspect and require the production of health certificates, waybills, permits, or  
39 other documents required by federal or state laws, rules, regulations, or orders for the  
40 transportation of plants, animals, or products when the same are subject to regulation by  
41 the department;

42 (5) To protect any life or property when the circumstances demand action; and

43 (6) To arrest any person found to be in violation of a criminal law when enforcement of  
44 such law is authorized under this subsection."

45 "(d) This Code section shall not repeal, supersede, alter, or affect the power of any other  
46 law enforcement officer of this state or of any county, municipality, or other political  
47 subdivision of this state. At the request of the Commissioner of Agriculture, it shall be the  
48 duty of all state, county, municipal, and other law enforcement officers in this state to  
49 enforce and to assist the Commissioner and the employees and agents of the department  
50 in the enforcement of those laws governing matters within the jurisdiction of the  
51 Commissioner or the department as provided by this title and Titles 4, 10, 16, 26, and 43."

52

## SECTION 2.

53 Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia, relating to criminal  
54 trespass and damage to property, is amended by adding a new Code section to read as  
55 follows:

56 "16-7-21.1

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

58 (1) 'Harass' means to engage in any act which demonstrates a disregard for the  
59 well-being of a wild animal, or which creates the likelihood of injury to or disrupts  
60 normal behavior patterns of the wild animal, such as feeding, watering, resting, and  
61 breeding.

62 (2) 'Wild animal' means any land or sea animal currently or historically found in the  
63 wild, other than a domestic animal or livestock, including an animal kept, exhibited, or  
64 housed at any facility operating with the purpose of public visitation, conservation,  
65 education, or science, including but not limited to a zoological institution as defined in  
66 paragraph (87) of Code Section 48-8-3, and any animal kept, exhibited, or housed in  
67 aquariums, safaris, or animal sanctuaries.

68 (b)(1) A person commits the offense of criminal trespass involving a wild animal in the  
69 first degree if such person enters a cage, enclosure, or other area where a wild animal is  
70 housed or otherwise contained, into which the person knows he or she has no legal  
71 authority, license, or permission to enter, and harasses the wild animal and such wild  
72 animal suffers an injury or death.

73 (2) A person commits the offense of criminal trespass involving a wild animal in the  
74 second degree if such person enters a cage, enclosure, or other area where a wild animal  
75 is housed or otherwise contained, into which the person knows he or she has no legal  
76 authority, license, or permission to enter.

77 (c)(1) A person convicted of the offense of criminal trespass involving a wild animal in  
78 the first degree shall be guilty of a felony and shall be punished by imprisonment for not  
79 less than one nor more than ten years.

80 (2) A person convicted of the offense of criminal trespass involving a wild animal in the  
81 second degree shall be guilty of a misdemeanor and punished by imprisonment for not  
82 more than 12 months.

83 (d) In addition to any other fine, penalty, or restitution which may be imposed by law, such  
84 person would be liable for the cost of any damage to, and loss of, property connected to the  
85 criminal trespass, including, but not limited to, the injury or death of the wild animal.

86 (e) It shall not be an affirmative defense to prosecution under this Code section that:

87 (1) Entry into the cage, enclosure, or other area where the wild animal was housed or  
88 otherwise contained was not sufficiently guarded, locked, or otherwise made inaccessible  
89 so as to prevent entry into the cage, enclosure, or other area;

90 (2) The wild animal was provoked by means other than the presence of the person in the  
91 cage, enclosure, or other area; or

92 (3) Injury to the wild animal was necessary to protect the person from injury or death.

93 (f) Subsection (b) of this Code section shall not apply to a person who enters a cage,  
94 enclosure, or other area for the purpose of aiding another person or a wild animal in the  
95 cage, enclosure, or other area."

96 **SECTION 3.**

97 Code Section 16-8-20 of the Official Code of Georgia Annotated, relating to livestock theft,  
98 is amended by revising subsection (c) as follows:

99 "(c) Any person committing the offense of livestock theft ~~commits~~ shall be guilty of a  
100 felony and, upon conviction thereof, shall be punished by imprisonment for not less than  
101 ~~one two~~ nor more than ~~ten~~ 15 years and by a fine of ~~\$1,000.00~~ \$10,000.00; provided,  
102 however, that, if the fair market value of the livestock taken or appropriated is \$100.00 or  
103 less, the person shall be guilty of a misdemeanor of a high and aggravated nature."

104 **SECTION 4.**

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