Animal Law in South Carolina
Piecing It All Together

BY STEPHAN FUTERAL, ESQUIRE
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Animal in South Carolina - Piecing It All Together
A Comprehensive Free Legal Guide

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My wife Kelsey and I have 4 dogs, all of which are rescues, and three of which are pet therapy dogs. Kelsey is the secretary of Pet Therapy, Inc., which is a national organization with over 10,000 members and growing. When people ask me why we have four dogs, I tell them it’s because we don’t want five! All kidding aside, we have a passion for rescuing dogs. On weekends, we take our therapy dogs to visit with the elderly at local senior centers and assisted-living facilities. I can’t begin to describe to you how rewarding the experience is for us, for our dogs, and for the people with whom we visit.

For those of us who own pets, they’re like members of our family. According to a Harris Poll conducted in 2011, more than three in five Americans (62%) have a pet. Among pet owners, seven in ten have a dog (69%) and half have a cat (51%). Over nine in ten pet owners (91%) say they consider their pet to be a member of their family. Over half of pet owners (57%) say they frequently let their pet sleep in the bed. Pets also get presents. One-third of pet owners (33%) frequently purchase holiday presents for their pet, while one-quarter (27%) occasionally do so. One in five pet owners (20%) frequently buy their pets birthday presents and another 17% do so occasionally. Lastly, in 2014, the U.S. pet industry generated over 58 billion dollars in sales. In other words, pets are everywhere and pets are big business too.
With so many pets in our cities and counties, there are many laws addressing these pets ranging from licensing laws, leash laws, and prohibitions against owning certain pets in city limits, such as pigs, that may be considered livestock. Importantly, there are criminal laws regarding pets that injure another animal or a person. Having said that, it’s my experience that most pet owners aren’t aware of the laws in South Carolina that relate to pets and to animals. In fact, I’m not aware of any book or legal guide on the subject in South Carolina. That’s why I wrote this book for all pet and animals owners in South Carolina to be aware of their legal rights and their responsibilities.

As a side note, for those of you who may be interested in becoming involved with pet therapy, here is the link to Pet Therapy, Inc.:

https://www.therapydogs.com/

Best wishes,

Stephan Futeral

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Many thanks to Kim Kelly, South Carolina’s State Director for the Humane Society of the United States, for all the hard work she does to protect the welfare of animals in our state and for her input and her assistance with this book. For more information about HSUS, visit:

http://www.humanesociety.org/about/state/south_carolina/

About the Author

Stephan Futeral has been an attorney since 1993. He was a judicial clerk for the Honorable C. Tolbert Goolsby, Jr., Judge of the South Carolina Court of Appeals, and he has been a law professor at the Charleston School of Law. He was granted membership to the National Trial Lawyers Top 100 Criminal Trial Lawyers. He practices law in Charleston, South Carolina with the law firm of Futeral & Nelson, LLC. For more information on Stephan Futeral’s professional background, please tap here.

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My pets are invaluable and are worth far more to me than just a dollar figure. They’re my companions and they bring joy into my life that can’t easily be measured. However, the value that we place on our pets and the value the law places on them are two very different things.
Traditionally, South Carolina’s courts consider pets to “personal property” much like your TV or your car. Customarily, animals had value to their owners because they were raised for consumption, work, or fur. Basically, these animals had a “market price” value based on a price per pound. Then, in a 1899 larceny case, a South Carolina court recognized for the first time that a dog had a value other than “market value” because the dog provided amusement and service to the owner. Unfortunately, the law in South Carolina hasn’t progressed much since 1899. For example, in 1937, a pet owner brought a lawsuit to recover damages for her ten breeding dogs that had been poisoned to death. The owner sought $50 per dog an additional $2,500 for her emotional damage and for the pain and suffering the dogs endured. However, the court awarded the dog owner $500 replacement value of the dogs. In other words, the court only recognized these dogs as personal property.

LEGAL CLAIMS FOR DAMAGES TO YOUR PETS

South Carolina pet owners can bring at least six types of legal actions for harm to a pet: (1) negligence; (2) veterinary malpractice; (3) breach of contract; (4) conversion (like theft but civil in nature); (5) trespass to chattel (interfered with another person’s lawful possession of property); and (6) bailment.

Negligence - Negligence is the failure to take proper care in doing something that you have a duty to do. For example, when you are driving a vehicle, you have a “duty of due care” to other drivers on the road to operate your vehicle safely and to avoid causing accidents. The same principle can apply to injuries to your pet. For example, let’s say that you’ve taken your dog to a pet groomer, and the groomer places your dog on a table to brush your dog. A responsible groomer would tether your dog to a pole attached to the table to make sure that your dog stays put and doesn’t jump off of the table and injure itself. If the groomer fails to tether your dog, and your dog jumps off of the table and injures itself, then the groomer was negligent and may be legally responsible for the injuries to your dog.

Veterinary Malpractice - Malpractice is an extension of the laws of negligence that are applied to professionals such as veterinarians. Veterinary malpractice is discussed in greater detail in Chapter 2.

Breach of Contract - For this type of claim, there must be an enforceable contract, either written or oral, between the animal owner and another person or entity. For example, let’s say that you own a horse and that you’ve entered into an agreement to pay a business to provide stalls, feed, grooming, and other services for your horse. Let’s also stay that one evening the business puts your horse out to pasture, leaves the pasture gate open, and your horse runs away and is lost forever. Under these circumstances, you may have a claim for breach of the services contract. Additionally, you may have a claim for negligence (failing to secure the pasture gate).
**Conversion** - Conversion is an unauthorized act that deprives an owner of personal property, such as a pet, without his or her consent. The wrongdoer uses the property to his or her own use and excludes the owner from use and enjoyment of the property. Conversion, which is a civil claim, is different from criminal theft because theft is an intentional act. An example would be if your cat strayed and a neighbor took your cat, without knowing that it was yours, and sold it to a stranger. Due to the permanent loss of your cat, you’d have a claim for conversion.

**Trespass to Chattels** - Trespass to chattels is the “little brother of conversion.” Trespass to chattels allows for a legal claim where the damage to the personal property isn’t sufficient to support a claim of conversion. Taking the example of the stray cat above, let’s say that instead of selling your cat to a stranger, your neighbor intentionally kept your cat indoors before you discovered that your neighbor had your cat. Also, let’s say your cat was an expensive breed, and your neighbor allowed the cat’s tail to be cut off. In this scenario, you wouldn’t have a claim for conversion because you were able to recover your cat. However, you’d have a claim for trespass to chattels for the decrease in value of your cat because of its lost tail.

**Bailment** - In South Carolina, a bailment is created by the delivery of personal property by one person to another in trust for a specific purpose, pursuant to an express or implied contract to fulfill that trust. For example, leaving your car with a valet for parking and safekeeping creates a bailment. A bailment for the “mutual benefit” of the parties arises when one party takes the personal property of another into his or her care or custody in exchange for payment or other benefit. In the context of pets, an example of a bailment for the “mutual benefit” of the parties occurs when a pet owner (the bailor) pays a boarding facility (the bailee) to tend to their dog while the owner goes on vacation. The boarding facility could be liable for damages to the dog if: (a) the dog was delivered to the boarding facility in good condition, (2) the dog was lost or returned in a damaged condition, and (3) the loss or the damage to the dog was due to the failure of the boarding facility to exercise ordinary care in the safekeeping of the dog.

For any of these legal actions, a South Carolina court may award damages that include veterinary bills, lost profits (for breeding or showing), increased costs of care (long-term medication), physical therapy bills, replacement value (how much the owner paid for the pet), or market value (the price the pet would bring if it were sold on the open market).

**VALUING DAMAGES**

In South Carolina, a pet owner’s biggest challenge in bringing a claim under any of the legal theories I mentioned is the low value of their damages which is often just the replacement cost of their pet. For example, my dogs are all rescues. Despite the fact that my dogs are irreplaceable to me, each of them would be worth only a few dollars as far as South Carolina law is concerned. Other dogs have more value such as a breeding dog for which the owner may lose income. If the dog is a
service or a therapy dog, the owner may recover their financial investment in training these dogs. Likewise, an owner may seek damages for the investment in training a dog who competes in agility, obedience, or has earned AKC titles. Damages based on market value take into consideration factors such as:

1. purchase price
2. age
3. health
4. breed
5. training
6. usefulness, and
7. special traits or characteristics of value

South Carolina also follows the "value to the owner" doctrine when valuing personal property. Essentially, a pet owner may testify as to his or her estimate of the reasonable value of their pet, or the pet’s “special value.” However, a pet owner can’t recover for any “fanciful or sentimental value which the owner may place on the item.”

EMOTIONAL DAMAGE CLAIMS FOR INJURIES TO YOUR PETS

Novel arguments are making their way across the country for the recovery of damages for the emotional value of pets. There is a slow legal trend from state to state where courts are allowing owners to recover damages for emotional harm and to access punitive damages for intentional harm caused to a pet. For example, in the case of Morgan v. Kroupa, the Vermont Supreme Court acknowledged "[a pet's] worth is not primarily financial, but emotional; its value derives from the animal's relationship with its human companions . . . . [C]ourts must fashion and apply rules that recognize their unique status. . . . A pet is not just a thing but occupies a special place somewhere in between a person and a piece of personal property.”

Other states, such as Alaska, Hawaii, and Kentucky, have recognized pet-related claims for “intentional infliction of emotional distress.” Intentional infliction of emotional distress occurs when:

1. the defendant intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from his or her conduct;
2. The conduct was so extreme and outrageous so as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community;
3. the actions of the defendant caused plaintiff’s emotional distress; and
4. the emotional distress suffered by the plaintiff was severe such that no reasonable person could be expected to endure it.
A real-world example would be the case of Taylor vs. Burgess out of Kentucky. In that case, Taylor, a horse owner, decided to try to find someone with a farm who would care for two of her horses in exchange for the enjoyment of having them. This common arrangement in the “horse world” is referred to as a “free-lease agreement.” Burgess had a small farm with horses of her own. Taylor explained to Burgess that Taylor never wanted to lose contact with the horses, that she wanted to be able to visit them, and if Burgess ever didn’t want to keep them anymore, Taylor would take them back or find another place for them to live. Burgess agreed and assured Taylor that Burgess loved horses, that she was knowledgeable about horses, that she had a nice pasture for them to live in together, that she liked helping people, and that Taylor could come and visit the horses any time Taylor wanted. Taylor didn’t transfer ownership of the horses or ever indicate to Burgess that she no longer wanted them. However, within days after Taylor delivered the horses to Burgess, Burgess sold the horses to a slaughter house. The jury awarded $1,000.00 for the fair market value of the horses for the breach of the free-lease agreement; $50,000.00 in compensatory damages for intentional infliction of emotional distress, and $75,000.00 in punitive damages. Here in South Carolina, our courts haven’t decided whether an owner may make a claim for the owner’s emotional suffering.

CLAIMS AGAINST THE GOVERNMENT

In recent years, there have been news reports about government agencies, such as law enforcement, wrongfully injuring or killing people’s pets. One of many examples is a shooting in Texas in April 2014. A dog owner’s home was broken in to, and police came to investigate. When a deputy walked up to the home, the owner’s dog jumped out of a truck and approached the deputy who shot and killed the dog. Although the deputy claimed that the dog “charged” him, a veterinarian examined the dog’s body and found that the dog was shot while retreating from the deputy. In another example out of Texas, an online video shows a Texas police calling two dogs who are approaching the officer with their tails wagging. The officer then opens fire several times, causing one of the dogs to retreat, and killing the other dog. In both of those situations, the owners made claims against the police officers for killing their dogs.

Here in South Carolina, Section 15-78-60 provides that a governmental entity, such as a police department and its officers, isn’t liable for a loss resulting from “the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee . . . .” In other words, if a police officer, using his or her “discretion or judgment,” injures or kills your pet while performing his or her duties, you can’t make any claim for damages even if others may find the officer’s actions to be wrongful.
Because professionals such as veterinarians have special training, we expect them to have a certain level of competence and to avoid mistakes. Veterinarian malpractice occurs when a vet doesn’t treat a pet’s medical condition properly and, as a result, causes a new injury, aggravates an injury, or causes the death of the pet.
A veterinarian commits malpractice by not exercising the degree of skill and learning that is ordinarily exercised by other veterinarians deal with the same or similar circumstances. If a veterinarian fails to act competently and to use good judgment, then the veterinarian may be responsible for any injuries to your pet.

**TYPES OF VETERINARY MALPRACTICE**

Veterinary malpractice happens in a variety of situations such as:

- Delay or failure in diagnosing a disease;
- Stopping treatment while a pet still needs veterinary attention;
- Surgical or anesthesia-related mishaps during an operation;
- Failure to gain the “informed consent” of the pet’s owner for an operation or surgical procedure, i.e., failing to disclose to the pet owner the risks associated with the procedure;
- Failing to properly treat a disease after making a correct diagnosis; or
- Misuse of drugs or a medical device or an implant.

**PROOF OF VETERINARY MALPRACTICE**

For an animal owner to recover damages for injury to an animal by a veterinarian, the owner must prove:

- **Duty of Care** - This is typically proved by showing that the veterinarian accepted the responsibility to treat the animal.
- **Negligence** - Professional negligence is the failure of a vet to do something that should have been done in keeping with good and accepted veterinary practices or the failure to do something that should have been done in keeping with good and accepted veterinary practices.
- **Proximate Cause** - Proximate cause is a legal concept which essentially means a “legal” cause. The vet’s negligence must be such that it did in fact cause the pet owner injuries (such as loss of the pet) and that the injury suffered by the pet owner was reasonably foreseeable beforehand as a result of the vet’s failure to render appropriate care.
- **Damages** - Harm done to the pet owner that proximately results from the vet’s negligence.

Typically, South Carolina requires proof of veterinary malpractice by way of expert testimony. A jury is not permitted to infer negligence from a bad result. Thus, a vet who is licensed and who is familiar with the standards of good and accepted veterinary practice for the care in question must testify that the professional standards weren’t met. Further, the expert vet must testify that the injuries probably wouldn’t have occurred if proper veterinary practices had been followed.
PROOF OF DAMAGES

Here’s a summary of what a pet owner may be able to sue for and recover:

• Cost of treatment necessary to fix the damage caused by the malpractice;
• Market or replacement value of the pet; and
• Punitive damages (if the veterinarian's conduct was outrageous or intentional).

Damages, such as additional vet bills or the pet’s worth, are proved by the testimony of the pet owner. However, some damages, such as veterinary treatment and expenses, may require the testimony of an expert witness.

THE TIME TO BRING A MALPRACTICE CLAIM

South Carolina typically has a three-year statute of limitations in negligence cases such as veterinary malpractice. This means that the lawsuit must be brought within three years from the date of the vet’s conduct that caused injuries.

Because pet owner sometimes aren’t aware that their pet has become a victim of veterinary negligence, South Carolina has a “modified discovery rule.” Under this rule, if a pet owner discovers the malpractice more than three years after the negligence occurred, the pet owner then has a “reasonable time” within which to sue. There are some exceptions to this rule, so please confer with your attorney regarding any legal question.

THE COST OF A MALPRACTICE CLAIM

Most malpractice attorneys take their cases on a “contingency” basis, where the attorney fee is a percentage (usually 33.33% to 40% of the judgment, after costs and fees are deducted) of the amount recovered from the defendant through a civil judgment or a settlement. In other words, the client doesn’t pay any attorney fees unless there’s a financial recovery in the case.

To establish whether a vet’s treatment fell below the standard of care, the pet owner must have expert testimony to prove both the required standard of care and the vet’s failure to conform to that standard. Due to the cost of hiring experts, veterinary malpractice cases can be expensive cases to bring. By the time a case reaches trial, costs alone oftentimes exceed the amount of financial recovery a pet owner seeks through a malpractice claim. Therefore, even when there is a clear case of veterinary negligence, a lawsuit may not be appropriate because the cost of litigation may exceed the amount of any damages awarded by a judge or a jury. For this reason, I’ve seen very few cases of veterinary malpractice in South Carolina.

Hiring a vet to serve as an expert against another vet also present another challenge. Vets in any locality tend to know each other and are friendly with each other. Like many
professionals such as doctors, vets don’t like to take the witness stand to testify against a colleague. In other words, sometimes it’s hard to find a vet who is willing to serve as an expert witness.

**STATUTORY EXCEPTION**

Under South Carolina law, Section 47-1-75, a vet who acts without compensation, in “good faith,” and “without malice, recklessness, or gross negligence,” isn’t liable for any injuries or harm resulting from rendering emergency care or treatment to a domestic animal which is abandoned, ill, injured, or in distress related to an accident or disaster.
In South Carolina, there are state, county, and municipal laws that criminalize the ownership of a “vicious” or “dangerous” animal. The biggest challenge of any pet owner faced with criminal charges is defining what is either “vicious” or “dangerous.”
Common dictionary terms of “vicious” are little help because they include such definitions such as “grossly immoral,” “depraved,” “evil,” “spiteful,” and “malicious.” Pets aren’t people, but we tend to anthropomorphize our pets’ behaviors (happy, sad, mischievous, etc.). Having said that, they’re still animals that are driven to act out of basic instincts concerning fear, food, and safety.

VICIOUS DOGS

Many criminal laws concerning “vicious” animals do little to clarify for the accused, the judge, or the jury the meaning of the term “vicious.” South Carolina’s state statute, Section 47-3-10(7), defines a “vicious” dog as “any dog evidencing an abnormal inclination to attack persons or animals without provocation.” On the one hand, our state’s statute offers some guidance by suggesting that a dog that is provoked into an attack may not be considered vicious. On the other hand, our state’s statute offers no clarity as to what constitutes an “abnormal inclination to attack.” Reasonable persons may differ as to what is normal vs. abnormal behavior for any dog. For example, a dog that is sweet and tender with adults, children, and other animals may still act aggressively if anyone attempts to take away the dog’s food. As another example, a dog that has never shown any tendency towards aggressive behavior may attack another animal if the dog feels threatened or cornered.

DANGEROUS ANIMALS

In addition to state statutes regarding vicious dogs, South Carolina also has statutes dealing with dangerous animals as follows:

Section 47-3-710. Definitions.

(A) As used in this article "dangerous animal" means an animal of the canine or feline family:

(1) which the owner knows or reasonably should know has a propensity, tendency, or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals;

(2) which:

(a) makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other than the place where the animal is confined as required by Section 47-3-720; or

(b) commits unprovoked acts in a place other than the place where the animal is confined as required by Section 47-3-720 and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being;

(3) which is owned or harbored primarily or in part for the purpose of fighting or which is trained for fighting.
(B) "Dangerous animal" does not include:

(1) an animal used exclusively for agricultural purposes; or

(2) an animal which attacks a person who is trespassing or who appears to be trespassing. A trespasser is a person who is not lawfully upon the premises of the owner, as set forth in Section 47-3-770(A).

(C) An animal is not a "dangerous animal" solely by virtue of its breed or species.

(D) As used in this article "owner" means a person who owns or has custody or control of the animal.

(E) As used in this article, "injury" or "bodily injury" means (1) broken bones, (2) lacerations, (3) punctures of the skin, or (4) any physical injury resulting in death.

Section 47-3-720. Dangerous animal not to go unconfined on premises; "unconfined" defined; exceptions.

No person owning or harboring or having the care or the custody of a dangerous animal may permit the animal to go unconfined on his premises. A dangerous animal is "unconfined" as used in this Section if the animal is not confined securely indoors or confined in a securely enclosed fence or securely enclosed and locked pen or run area upon the person’s premises. The pen or run area must be clearly marked as containing a dangerous animal and must be designed to prevent the entry of the general public, including children, and to prevent the escape or release of the animal. However, this Section does not apply to an animal owned by a licensed security company and on patrol in a confined area.

Section 47-3-730. Dangerous animal not permitted beyond premises unless safely restrained.

No person owning or harboring or having the care of a dangerous animal may permit the animal to go beyond his premises unless the animal is safely restrained and the requirements of Section 47-3-760(E) are met.

Section 47-3-740. Owning or harboring animal for fighting or attacking humans or domestic animals prohibited; selling, breeding, buying or attempting to buy, or intent to do same, prohibited; exceptions.

(A) No person may own or harbor an animal for the purpose of fighting or train, torment, badger, bait, or use an animal for the purpose of causing or encouraging the animal to unprovoked attacks upon human beings or domestic animals.

(B) No person may possess with intent to sell, offer for sale, breed, or buy or attempt to buy a known dangerous animal; however, this subSection does not apply to a person who is licensed to possess and breed an animal under the classifications specified and regulated by the United States Department of Agriculture under the Animal Welfare Act as codified in Title 7 of the United States Code.
Section 47-3-750. Seizure and impoundment of dangerous animal.

(A) If a law enforcement agent, animal control officer, or animal control officer under contract with a county or municipal government to provide animal control services has probable cause to believe that a dangerous animal is being harbored or cared for in violation of Section 47-3-720 or 47-3-740 or 47-3-760(E), the agent or officer may petition the court having jurisdiction to order the seizure and impoundment of the dangerous animal while the trial is pending.

(B) If a law enforcement agent, animal control officer, or animal control officer under contract with a county or municipal government to provide animal control services has probable cause to believe that a dangerous animal is being harbored or housed in violation of Section 47-3-730, the agent or officer may seize and impound the dangerous animal while the trial is pending.

Section 47-3-760. Penalties; registration of dangerous animals.

(A) A person who violates Section 47-3-720 or 47-3-730 or subSection (E) of this Section or who is the owner of a dangerous animal which attacks and injures a domestic animal is guilty of a misdemeanor and, upon conviction, for a first offense, must be fined not more than two hundred dollars or imprisoned not more than thirty days and, upon conviction of a subsequent offense, must be fined one thousand dollars none of which may be suspended or remitted.

(B) A person who is the owner of a dangerous animal which attacks and injures a human being in violation of Section 47-3-710(A)(2)(a) or a person who violates Section 47-3-740:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years;

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years.

(C) A dangerous animal which attacks a human being or domestic animal may be ordered destroyed when in the court's judgment the dangerous animal represents a continuing threat of serious harm to human beings or domestic animals.

(D) A person found guilty of violating this article shall pay all expenses, including, but not limited to, shelter, food, veterinary expenses for boarding and veterinary expenses necessitated by the seizure of an animal for the protection of the public, medical expenses incurred by a victim from an attack by a dangerous animal, and other expenses required for the destruction of the animal.

(E) A person owning a dangerous animal shall register the animal with the local law enforcement authority of the county.
in which the owner resides. The requirements of the registration must be determined by the county governing body. However, the registration application must be accompanied by proof of liability insurance or surety bond of at least fifty thousand dollars insuring or securing the owner for personal injuries inflicted by the dangerous animal. The county governing body shall provide to the owner registering the dangerous animal a metal license tag and a certificate. The metal license tag at all times must be attached to a collar or harness worn by the dangerous animal for which the certificate and tag have been issued.

(F) Nothing in this chapter is designed to abrogate any civil remedies available under statutory or common law.

Section 47-3-770. When person is lawfully on premises; authority to use force to repel attack by dangerous animal when lawfully on premises; no liability for action taken to repel or restrain unprovoked attack of dangerous animal.

(A) A person lawfully is upon the premises of the owner within the meaning of this article when he is on the premises in the performance of a duty imposed upon him by the laws of this State, by the laws or postal regulations of the United States, when he is on the premises upon invitation, expressed or implied, of the owner, or when he is in the performance of a duty relative to public safety, which includes policemen, firemen, or other authorized personnel. A person may ingress to and egress from the premises for a purpose connected with the performance of the public safety duty.

(B) A person who lawfully is on the owner's premises and who is attacked by a dangerous animal or witnesses the attack may use reasonable force to repel the attack. A person is not liable in damages or otherwise for action to repel or action taken to restrain or control an animal from an unprovoked attack.

COUNTY & CITY ORDINANCES

In addition to state law, many counties and municipalities in South Carolina have their own ordinances regarding vicious or dangerous animals. For example, Charleston County Code Section 3-1 defines a “dangerous animal” as an animal “which the owner knows or reasonable should know has a propensity, tendency, or disposition to attack unprovoked . . ..” Like our state’s statute, Charleston County’s Code recognizes that an animal may be provoked into an attack, but it is otherwise not a dangerous animal.

Some ordinances offer little to no guidance as to what constitutes a “vicious” dog or animal. For example, in the City of Charleston, South Carolina, Municipal Code Section 5-19 makes it unlawful “for any person to own, keep, have charge of, shelter, feed, harbor or take care of any vicious animal within the city limits.” Unlike South Carolina’s state statute or Charleston County’s Ordinance, Charleston’s Municipal Code doesn’t define the term “vicious.” Also, Charleston’s Municipal
Code doesn’t recognize that an otherwise docile animal may be provoked into an attack.

In South Carolina, procedural due process requires fair notice to the accused and proper standards for adjudication. Specifically, the provisions of a criminal statute must be “sufficiently definite to give reasonable notice of the prohibited conduct to those who wish to avoid its penalties and to apprise Judge and jury of standards for the determination of guilt.” Because the Charleston Municipal Code is vague and doesn’t define the term “vicious,” the ordinance may be unconstitutional.

To check to see whether your county or city has an ordinance regarding dangerous or vicious animals visit:

https://www.municode.com/library/sc
Legal Claims for Dog Bites

Some states allow for a “one bite” scenario. In those states, the dog owner or keeper isn’t liable for the dog’s attack if it was the first attack and the dog hadn’t otherwise shown any signs of aggressiveness. South Carolina’s laws don’t allow for “one bite.”
Instead, South Carolina’s laws favor dog bite victims. Section 47-3-110 is a “strict liability” statute. In other words, whether a person is attacked by a dog in a public place or in a private place such as the dog owner’s home or yard (assuming you were lawfully on that person’s property), the dog owner is liable for any injuries. Also, a person who is caring for or keeping the dog, even if not the owner, can be liable for any injuries if the dog attacks a person. The only exception to this “strict liability” statute is if the victim provokes the dog into attacking.

FACTS & STATISTIC ABOUT DOG BITE INJURIES & VICTIMS

The following statistics come from the National Canine Research Foundation, the Centers for Disease Control, and the Humane Society of the United States.

- Approximately 4.7 million dog bites occur in the U.S. each year.
- Nearly 800,000 dog bites require medical care.
- Approximately 92% of fatal dog attacks involved male dogs, 94% of which weren’t neutered.
- Approximately 25% of fatal dog attacks involved chained dogs.
- Approximately 71% of bites occur to the extremities (arms, legs, hands, feet).
- Approximately two-thirds of bites occurred on or near the victim’s property, and most victims knew the dog.
- Approximately 24% of human deaths involved unrestrained dogs off of their owners’ property.
- Approximately 58% of human deaths involved unrestrained dogs on their owners’ property.
- Among children, the rate of dog bite–related injuries is highest for 5 to 9-year-olds.
- Children are more likely than adults to receive medical attention for dog bites.
- Male adults are more likely than female adults to be bitten.

LEGAL CLAIMS FOR DOG BITE INJURIES IN SOUTH CAROLINA

Dog attacks oftentimes result in serious and life-threatening injuries. These injuries typically include:

- Puncture wounds
- Infections
- Lacerations
- Nerve damage
- Scarring and disfigurement; and
- Psychological and emotional trauma
**Psychological Trauma** – A dog bite victim may experience psychological trauma known as Post Traumatic Stress Disorder (PTSD). PTSD symptoms usually start soon after the traumatic event, but they may not appear until months or years later. They also may come and go over many years. There are four basic symptoms:

- **Reliving the event.** This includes bad memories or nightmares (flashbacks).

- **Avoiding situations that remind you of the event.**

- **Negative changes in beliefs and feelings.** This may include feelings of fear, guilt, or shame.

- **Hyperarousal.** You may be jittery, always alert, and on the lookout for danger. This includes trouble concentrating or sleeping.

For injuries, the dog bite victim can recover the cost of medical bills and any future medical treatment, the cost of reconstructive surgery to deal with scarring, damages for emotional distress, damages for any temporary or permanent physical and psychological impairment, punitive damages for willful or reckless acts by the owner or the keeper of the dog, and other damages. In some cases the parent of a child (or a spouse) can recover damages for any injuries to their child (or their spouse) if the parent (or spouse) observed their child (or their spouse) being attacked. Under South Carolina law, this is known as “bystander recovery.” Essentially, the bystander can recover damages for the emotional harm caused to them by witnessing the attack.

**PRACTICAL TIPS FOR PREVENTING & AVOIDING DOG BITES**

Although many dogs are gentle in nature, there are several things that both dog owners and others can do minimize the risk of a dog bite or attack.

**FOR DOG OWNERS**

- Spay or neuter your dog. Spaying and neutering typically reduces a dog’s aggressive tendencies.

- Don’t encourage aggressive behaviors such as wrestling with your dog.

- Don’t let small children interact with your dog unsupervised.

- Even if your dog is on a leash, don’t allow children and other persons to get nose-to-nose with your dog.

- Socialize your dog with other persons at an early age.

- In public, always properly restrain your dog on a leash.

- Teach your dog to be submissive by rewarding them to roll over and to expose their abdomen and to give up food without growling.
• If your dog displays aggressive behaviors, seek advice from a veterinarian, an animal behaviorist, or dog trainer to redirect your dog’s behaviors.

FOR OTHERS

• Don’t approach an unfamiliar dog.

• Remain motionless when approached by an unfamiliar dog.

• Don’t run from a dog or scream.

• If knocked over by a dog, roll into a ball and be still.

• Avoid direct eye contact with a dog.

• Don’t disturb a dog that is sleeping, eating, or caring for puppies.

• Don’t pet a dog without allowing it to see and to sniff you first. Also, when petting a dog, don’t reach behind the dog’s head.

For more information regarding South Carolina’s statutes concerning the liability to person bitten or attacked by dog, see Chapter 7, Section 2.
Section 1

At the Scene of the Attack

No matter how careful you may be around other people’s dogs, there’s always the chance that you may find yourself attacked. Most people don’t think about that possibility and they don’t have a plan in case they’re bitten or attacked by a dog. Having said that, knowing what to do if you’ve been the victim of a dog bite can make a huge difference to any insurance claim or legal claim you might have against the dog’s owner or handler.

Stay Calm - Of course, this is easier said than done. You may be in shock or experience a rush of adrenaline, feel anxiety, or suffer from pain. Nevertheless, you must stay calm despite the confusion surrounding the attack. If you start to panic, take a few moments to calm yourself by taking deep breaths.

Take Stock of the Situation - Before you do anything, take stock of what is going with you and around you. Check to see if you or anyone else is injured. Afterwards, do what you can to get yourself to safety before taking any other steps.

Dial 911 - Make sure that you contact emergency services immediately. Even if you are unsure whether you need medical treatment, ask for an ambulance. Better to have emergency services there, even if it turns out you don’t need them, than to wait too long for help.

Get Witness Information – Record the names, phone numbers (business, home, and mobile), and addresses of all witnesses and the dog’s owner or handler.

Get Police or Animal Control Information - Get the full name, the badge number, and the police report number (along with a copy of the report, if possible) from the police officer or animal control officer in charge at the scene.

IMPORTANT

Don’t make ANY statements to others, except law enforcement or animal control, regarding what happened. Any statement you make can be used against you in a law suit, so you must be careful to provide accurate information.

Preserve the Clothes You Wore During the Attack – Rips, tears or blood stains on your clothing can provide insight into the attack, how it occurred, and what injuries you suffered.
Take Pictures of the Scene of the Attack – Most people have a camera built-into their cell phone or smart phone. Use it! Take photos and/or video of the entire scene of the attack from different angles and distances.

Take Pictures of Your Injuries – Before any of your injuries have time to heal, photograph them using good lighting and from different angles and distances. Also, photograph the results of medical treatment, such as stitches, you may receive.

Write Down Ever Detail You Remember - As soon as possible after the attack, write a detailed report of everything you remember. Remember, the longer you wait, the more details you’re likely to forget.
Section 2

After the Attack

Medical Treatment - Obviously, you should seek immediate medical treatment for your injuries. For minor injuries, consider seeing your regular physician who should already have your basic information and medical records. For serious injuries or a specific injury, seek medical treatment from a specialist.

Your primary goal is to recover from your attack to the fullest extent medically possible. Don’t be a “bad” patient; if you’re not a good patient, not only will you harm your chances for a full recovery but you will likely cause problems with any claim you have against insurance or legal claim regarding the attack. Here are three common mistakes “bad patients” make that have a negative impact on their health and their legal claim:

1. Attempting to do too much too soon - Some people are “stubborn” when it comes to following their doctor’s orders. They will start engaging in strenuous activities against the advice of their doctor and not follow the doctor’s instructions. Take all the medications you’re prescribed, get plenty of rest, complete your rehabilitation or physical therapy program, and follow ALL of your physician’s orders.

2. Downplaying pain and medical condition - Some people don’t like to complain about their situation. They will tell their doctor that everything is “fine” or that they’re feeling better when they are still suffering. It is crucial that you are 100% honest and accurate about whatever may be going on with you medically. By accurately reporting your problems, your physician can accurately diagnose your condition and plan the best course of your treatment. Also, it’s important to remember that everything your doctor records in your medical record will be reviewed by insurance companies and even lawyers to evaluate any claim you make for your injuries. If you inaccurately report that you’re healthy, it will become difficult, if not impossible, for you to later claim that you were injured in the attack.

3. Canceling appointments with doctors or physical therapy - Insurance companies and their lawyers will latch on to any reason to avoid or to reduce payment for your injuries. When you cancel or miss medical appointments, the insurance company and their lawyer will be quick to claim that you either you didn’t need the treatment or that it’s your fault that you aren’t recovering from the attack.
The more serious the attack may be, the more likely you’ll need the help of a lawyer to deal with complex medical issues, insurance coverage issues, and legal issues. It’s always a good idea to meet with a lawyer as soon as possible for several reasons. You should meet with a lawyer to ask questions about insurance and the law to make sure that you have a strategy behind any claim you may make for your injuries. Most personal injury lawyers work on a contingency basis, so there shouldn’t be any fees to meet with a lawyer. Also, even if you meet with a lawyer, you aren’t obligated to hire that lawyer. So, you should take the time to meet with more than one attorney to choose the one you feel will do the best job for you.

Here are several issues that demonstrate why you should at least meet with a lawyer, if not hire one, to help you with any claims for injuries:

**Dealing with the Insurance Adjuster** - The person who is the primary contact with the other driver’s insurance company is called an “adjuster.” Remember one thing, the adjuster isn’t your friend. As friendly as he or she may be on the phone, they have one job - **TO PAY AS LITTLE AS POSSIBLE ON YOUR CLAIM.**

The adjuster will often tell you that they need to take your statement before processing your claim. They’ll look for things in your statement that may assist them in denying or devaluing your claim. When adjusters ask me if they can take my clients’ statements, I reply by saying I’d be happy to allow it if they allow me to take a statement from their insured. I’ve never had them agree to this request. I see no fairness in allowing my client to give a statement if their insured won’t give one to me. Overall, any statements you give to the insurance company could hurt you a lot more than they help you.

**Dealing with Insurance Claims** - Handling personal injury claims takes experience in knowing the laws of insurance. Sometimes there may be others at fault that you didn’t realize. Sometimes the insurance policy limits aren’t enough to compensate you for your injuries, and you need to know what else might be out there. For example, there may be more than one insurance policy that covers the attack. In this situation, a personal injury lawyer is trained to identify insurance coverage.
Valuing Your Claim - Handling a personal injury claim is often more difficult than people realize. For example, it may be tough to figuring out what your claim is worth. You may forget to include your lost wages. You may not know exactly how much compensation for pain and suffering you are entitled to. You might not realize how important your medical records are in building your case, and you might even have difficulty reading the records. You might not realize that a case in one county of South Carolina is worth a totally different amount in another county because the jury pools in two neighboring counties can be completely different. The tendencies of the jury pools are huge factors in driving a claim’s value. In all, having a skilled personal injury lawyer on your side can only help to maximize your financial recovery.

Understanding Personal Injury Law - Knowing personal injury laws takes experience. Unless you’re a personal injury professional, you may be unfamiliar with all the laws that pertain to your claim. In other words, because you probably don’t know what you are legally entitled to, the insurance adjuster will probably take advantage of you. For example, in South Carolina, if you’re injured then your spouse also has a claim for “loss of consortium” because you may be unable to help around the house with chores, taking care of children, and more. An insurance adjuster won’t tell you that your spouse is entitled to compensation. Insurance companies profit by under-compensating injured persons, so some companies will offer a lower settlement to you if you don’t have a personal injury lawyer on your side.

Maximizing Your Chances for Financial Recovery - An internal insurance company study showed that on average, insurance companies pay 2.1 times more on claims filed by attorneys than claims filed by individuals without an attorney. So, if you hire an experienced attorney, you may benefit from the attorney’s work by saving time, energy, and receiving a larger settlement award from the insurance company.
There is no federal law that prohibits the mistreatment of animals. However, there are several federal laws that protect some animals in particular situations. Also, there are some state laws in South Carolina and local ordinances that prohibit cruelty to animals. Here’s a summary of many of these laws.
1. **ANIMAL WELFARE ACT**

7 U.S.C. §§ 2131-2159 regulates the use of animals in research or for exhibition. This Act isn’t intended to regulate how animals are used for research purposes, but only to set standards for how they are obtained and maintained at a facility. To deal with the problem of stolen pets, research facilities were required to purchase dogs and cats from licensed dealers and animal dealers and animal research facilities must keep detailed records. Birds, mice, and rats are excluded from the act. Here is a brief summary of what the law covers:

- Permits are required to buy and to sell listed animals or register for their use by dealers of animals, exhibitors of animals, and research facilities that use listed animals. Pet owners, agriculture use, and retail pet stores aren’t covered under the federal law.

- There are limitations on how animals may enter the controlled chain of commerce, to eliminate the use of stolen animals.

- There are limitations on the environmental conditions under which the animals must be kept.

- Research facilities may purchase listed animals only from licensed dealers.
Those who transport listed animals must comply with published regulations governing the well-being of the animals.

Research facilities must create an Animal Care Committee to review the use of animals by the facility and to inspect the animal housing facilities.

Research facilities must abide by legal restrictions on the imposition of pain during research.

Research facilities must comply with federal regulations concerning the housing and the care of animals used in research.

It’s illegal for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

2. ANIMAL FIGHTING PROHIBITION ENFORCEMENT ACT

In 2007, Michael Vick’s involvement in a large-scale dog fighting operation brought dog fighting into the national spotlight. Along with this scrutiny came the Animal Fighting Prohibition Enforcement Act that bans animal fighting operations. This law makes it a federal felony to sponsor, exhibit, buy, sell, deliver, possess, train or transport an animal for participation in an animal fighting venture. This crime is punishable by a term of imprisonment of five years and a fine of $250,000.

3. ANIMAL FIGHTING SPECTATOR PROHIBITION ACT

Enacted in 2014, this law makes it a federal felony to knowingly bring a minor under the age of 16 to a dogfight or a cockfight, punishable by up to three years in prison and a $250,000 fine, and a federal misdemeanor to knowingly attend a fight as a spectator, punishable by up to one year in prison and a $100,000 fine.

4. HUMANE (METHODS OF) SLAUGHTER ACT

The only federal law regulating the treatment of animals used in food production is the Humane Methods of Slaughter Act (HMSA), 7 U.S.C. §§ 1901-1906. The Act is enforced by the USDA Food Safety and Inspection Service (FSIS). The Act, which excludes poultry, requires livestock to be slaughtered humanely. Foreign packers that export to the U.S. must meet standards equal to those required of US meat packers. USDA inspectors can stop the slaughtering line if they observe any cruelty, and slaughter may not recommence until deficiencies, whether of equipment or of abuses by personnel, are corrected.

There are many critics who assert that the laws are routinely and blatantly disregarded and that the Act isn’t enforced by the USDA and the FSIS. The 2002 Farm Bill includes a resolution that the Humane Methods of Slaughter Act should be fully enforced and calls on the Secretary of Agriculture to
track violations of the Act and to annually report their findings to Congress.

5. TWENTY-EIGHT HOUR LAW

49 U.S.C. § 80502 regulates the transportation of animals across state lines. The law requires that after twenty-eight hours of travel, animals must be unloaded for at least five hours for food, water and rest.

6. HORSE PROTECTION ACT

15 U.S.C. §§ 1821-1831 makes it illegal to show a horse, enter it at a horse show, or to auction, sell, offer for sale, or transport a horse for any of these purposes if it has been sored. Soring involves the intentional infliction of pain to a horse's legs or hooves to force a horse to perform an artificial, exaggerated gait. The pain is caused by applying irritants or blistering agents, such as mustard oil, diesel fuel, or kerosene, to the front feet or forelegs of a horse.

The Horse Protection Act is enforced by the Animal and Plant Health Inspection Service (APHIS). Although violations of the Act are seen most often in the Tennessee Walking Horse industry, the Horse Protection Act covers all breeds.
1. ANIMAL FIGHTING AND BAITING ACT

Section 16-27-30
Any person who:
(a) owns an animal for the purpose of fighting or baiting;
(b) is a party to or causes any fighting or baiting of any animal;
(c) purchases, rents, leases, or otherwise acquires or obtains the use of any structure, facility, or location for the purpose of fighting or baiting any animal; or
(d) knowingly allows or permits or makes available any structure, facility, or location to be used for the purpose of fighting or baiting any animal is guilty of a felony and upon conviction must be punished by a fine of five thousand dollars or imprisoned for five years, or both.

Section 16-27-40
Any person who:
(a) is present at any structure, facility, or location where preparations are being made for the purpose of fighting or baiting any animal with knowledge that those preparations are being made, or
(b) is present at any structure, facility, or location with knowledge that fighting or baiting of any animal is taking place or is about to take place there is guilty of a misdemeanor
and upon conviction for a first offense must be punished by a fine of five hundred dollars or imprisonment for six months, or both, and for a second offense by a fine of one thousand dollars or imprisonment for one year, or both. Any person convicted of a third or subsequent offense is guilty of a felony and must be punished by a fine of five thousand dollars or imprisonment for five years, or both.

Section 16-27-55

(A) A person who violates a provision of this chapter is subject to forfeiture of:

(1) property, both real and personal, which is knowingly used to engage in a violation or to further a violation of this chapter; and

(2) monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of this chapter.

(B) Property subject to forfeiture pursuant to the provisions of this chapter may be seized by the appropriate law enforcement agency with a warrant properly issued by a court with jurisdiction over the property. Property may be seized without a warrant if the:

(1) seizure is incident to an arrest or a search with a search warrant or an inspection under an administrative inspection warrant;

(2) property subject to seizure was the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding pursuant to the provisions of this chapter;

(3) law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of the provisions of this chapter.

Section 16-27-80

(A) This chapter does not apply to dogs used for the purpose of hunting, including, but not limited to, hunting on shooting preserves or wildlife management areas authorized pursuant to Title 50, or to dogs used in field trials, including events more commonly known as "water races", "treeing contests", "coon-on-a-log", "bear-baying", or "fox-pen-trials". Such "fox-pen-trials" must be approved by permit for field trials by the South Carolina Department of Natural Resources.

(B) Except as otherwise provided in Section 16-27-60, this chapter applies to events more commonly known as "hog-dog fights", "hog-dog rodeos", or "hog-dogging" in which bets are placed, or cash, points, titles, trophies, or other awards are given based primarily on the ability of a dog to catch a hog using physical contact in the controlled environment of an enclosure.
2. ILL TREATMENT OF ANIMALS

Section 47-1-40. Ill-treatment of animals generally; penalties.

(A) A person who knowingly or intentionally overloads, overdrives, overworks, or ill-treats an animal, deprives an animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon an animal, or by omission or commission knowingly or intentionally causes these acts to be done, is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding ninety days or by a fine of not less than one hundred dollars nor more than one thousand dollars, or both, for a first offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a second or subsequent offense.

(B) A person who tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon an animal or by omission or commission causes these acts to be done, is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

(C) This Section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvicultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.

Section 47-1-50. Cruel work; carriage in vehicles; penalties.

(A) An owner, a possessor, or a person having the charge or custody of an animal may not:

(1) cruelly drive or work it when unfit for labor;

(2) carry it, or cause it to be carried, in or upon a vehicle or otherwise in an unnecessarily cruel or inhumane manner.

(B) A person who violates this Section is guilty of a misdemeanor and, upon conviction, must be punished for each offense in the manner prescribed in Section 47-1-40(A).

Section 47-1-60. Cutting muscles of tails of horses, asses, mules, mares, or geldings prohibited.

Any person who (a) cuts the tissue or muscle of the tail of any horse, ass, mule, mare or gelding, or otherwise operates upon it in any manner for the purpose or with the effect of altering the natural carriage of the tail, except when such cutting or operation is necessary for the health or life of the animal, as certified to in writing by a licensed veterinarian, (b) causes, procures or knowingly permits such cutting or operation to be
done or (c) assists in or is voluntarily present at such cutting or operation shall be guilty of a misdemeanor.

Any person convicted of violating any of the provisions of this Section shall be fined not less than fifty nor more than one hundred dollars or imprisoned not less than fifteen nor more than thirty days.

Section 47-1-70. Abandonment of animals; penalties; hunting dog exception.

(A) A person may not abandon an animal. As used in this Section "abandonment" is defined as deserting, forsaking, or intending to give up absolutely an animal without securing another owner or without providing the necessities of life. "Necessities of life" includes:

(1) adequate water which means a constant access to a supply of clean, fresh, and potable water provided in a suitable manner for the species;

(2) adequate food which means provision at suitable intervals of quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight;

(3) adequate shelter which means shelter that reasonably may be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

(B) A person who violates this Section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than thirty days, or both. Offenses under this Section must be tried in the magistrate's or municipal court.

(C) A hunting dog that is positively identifiable in accordance with Section 47-3-510 or Section 47-3-530 is exempt from this Section.

Section 47-1-75. Immunity from civil and criminal liability.

Any person, including a person licensed to practice veterinary medicine, or an animal control officer or agent of the South Carolina Society for the Prevention of Cruelty to Animals or any society incorporated for that purpose, who in good faith and without compensation for services provided, acting without malice, recklessness, or gross negligence, renders emergency care or treatment to a domestic animal which is abandoned, ill, injured, or in distress related to an accident or disaster shall not be liable or subject to any civil or criminal liability for any injuries or harm to such animal resulting from the rendering of such care or treatment, or any act or failure to act to provide or arrange for further medical treatment or care for such animal.
Section 47-1-80. Destruction of abandoned infirm animal.

Any agent or officer of the Department of Health and Environmental Control or police officer or officer of the South Carolina Society for the Prevention of Cruelty to Animals or of any society duly incorporated for that purpose may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing to be glandered, injured or diseased past recovery for any useful purpose.

Section 47-1-90. Overloading and length of confinement of animals in railroad cars.

No railroad company in the carrying or transportation of animals shall overload the cars nor permit the animals to be confined in cars for a longer period than thirty-six consecutive hours without unloading them for rest, water and feeding for a period of at least five consecutive hours, unless prevented from so unloading by storm or other accidental causes beyond the control of such railroad company; provided, however, that when animals shall be carried in cars in which they can and do have proper food, water and space and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

In estimating such confinement the time during which the animals have been confined without such rest on connecting roads from which they are received shall be included, it being the intent of this Section to prohibit their continuous confinement beyond the period of thirty-six hours, except upon the contingencies hereinbefore stated.

Section 47-1-100. Care of animals unloaded during transit.

Animals unloaded as required by Section 47-1-90 shall be properly fed, watered and sheltered during such rest by the owner or person having the custody thereof or, in case of his default in so doing, then by the railroad company transporting such animals at the expense of the owner or person in custody thereof; and the company shall, in such case, have a lien upon such animals for food, care and custody furnished and shall not be liable for any detention of such animals.

Section 47-1-110. Violations of Sections 47-1-90 and 47-1-100.

Any company or the owner or custodian of such animals who shall fail to comply with the provisions of Sections 47-1-90 and 47-1-100 shall, for each and every such offense, if found guilty, be fined not less than fifty nor more than five hundred dollars, in any court of competent jurisdiction.

Section 47-1-120. Custody of animals in charge of arrested persons.

When a person arrested is, at the time of the arrest, in charge of an animal, an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, may take charge of the animal
and deposit the animal in a safe place of custody or deliver the animal into the possession of the police or sheriff of the county or place where the arrest was made, who shall assume the custody of the animal; and all necessary expenses incurred in taking charge of the animal shall be a lien thereon.

Section 47-1-125. Coloring or dying animals prohibited; sale or distribution of certain young animals prohibited; penalty.

(1) It is unlawful for any person to dye or color artificially any animal or fowl, including but not limited to rabbits, baby chickens, and ducklings, or to bring any dyed or colored animal or fowl into this State.

(2) It is unlawful for any person to sell, offer for sale or give away as merchandising premiums, baby chickens, ducklings or other fowl under four weeks of age or rabbits under two months of age to be used as pets, toys or retail premiums.

(3) This Section shall not be construed to apply to any animal or fowl, including but not limited to rabbits, baby chickens and ducklings to be used or raised for agricultural purposes by persons with proper facilities to care for them or for poultry or livestock exhibitions.

(4) Any person violating the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars or imprisoned for not more than thirty days.

Section 47-1-130. Arrest by law enforcement officers for violation of laws prohibiting cruelty to animals.

(A) Any person violating the laws in relation to cruelty to animals may be arrested by a law enforcement officer and held, without warrant, in the same manner as in the case of persons found breaking the peace.

(B) The South Carolina Society for the Prevention of Cruelty to Animals, or other organizations organized for the same purpose, may not make an arrest for a violation of the laws in relation to cruelty to animals.

Section 47-1-140. Notice to owners; care of animals after arrest of person in charge; lien.

The law enforcement officer making the arrest, with or without warrant, shall use reasonable diligence to give notice to the owner of the animals found in the charge or custody of the person arrested, if the person is not the owner, and shall care and provide properly for the animals. The law enforcement officer making the arrest shall have a lien on the animals for the expense of such care and provision unless the charge is dismissed or nol prossed or the person is found not guilty, then the lien is extinguished. The lien also may be extinguished by an agreement between the person charged and the prosecuting agency or the law enforcement agency in custody of the animal. Notwithstanding any other provision of law, an animal may be seized preceding an arrest and pursuant to Section 47-1-150.
Section 47-1-150. Issuance of search warrant; purpose of Section; motions regarding custody of animal; notice; care, disposal of, or return of animal.

(A) When complaint is made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases that the complainant believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, deputy state constable, constable or police officer to search such building or place; but no search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown. If an animal is seized pursuant to this Section and the South Carolina Society for the Prevention of Cruelty of Animals, or other society incorporated for that purpose is involved with the seizure, the animal may be held pending criminal disposition of the case at a facility maintained or contracted by that agency.

(B) The purpose of this Section is to provide a means by which a neglected or mistreated animal can be:

(1) removed from its present custody; or

(2) made the subject of an order to provide care, issued to its owner by the magistrate or municipal judge, any law enforcement officer, or any agent of the county and given protection and an appropriate and humane disposition made.

(C) Any law enforcement officer or any agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or any society incorporated for that purpose may move before a magistrate for an order to:

(1) lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location if deemed by the court that removal is necessary to prevent further suffering or ill-treatment, or

(2) order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location, and shall forthwith petition the magistrate or municipal judge of the county or municipality wherein the animal is found for a hearing, to be set within twenty-four hours after the date of seizure of the animal or issuance of the order to provide care and held not more than two days after the setting of such date, to determine whether the owner, if known, is able to provide adequately for the animal and is fit to have custody of the animal. The hearing shall be concluded, and the court order entered the date the hearing is commenced. No fee shall be charged for the filing of the petition. Nothing herein is intended to require court action for the taking into custody and making proper disposition of stray or abandoned animals as lawfully performed by animal control agents.

(D) The officer or agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or of any
society incorporated for that purpose, taking charge of any animal pursuant to the provisions of this Section shall have written notice served prior to the hearing set forth in subSection (C)(2), upon the owner of the animal, if he is known and is residing in the county where the animal was taken. The sheriff of the county shall not charge a fee for service of such notice. If the owner of the animal is known but is residing outside of the county wherein the animal was taken, notice of the hearing shall be by publication.

(E) If any seized animal held by court order at the owner's premises is removed without notification to the investigating agency, or if an animal becomes sick or dies, and the owner or custodian fails to immediately notify the investigating agency, the owner must be held in contempt of court and fined up to the penalties provided by law.

(F) The officer or agent of any county or of the South Carolina Society for the Prevention of Cruelty to Animals, or of any society incorporated for that purpose, taking charge of an animal as provided for in this Section shall provide for the animal until either:

(1) The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment for the care and provision of the animal while in the agent's or officer's custody; or

(2) The animal is turned over to the officer or agent as provided in Section 47-1-170 and a humane disposition of the animal is made.

(G) If the court determines that the owner is able to provide adequately for, and have custody of the animal, the order shall provide that the animal in possession of the officer or agent be claimed and removed by the owner within seven days after the date of the order.

Section 47-1-170. Penalties for violations of chapter.

The owner or person having charge or custody of an animal cruelly used who is convicted of any violation of this chapter forfeits ownership, charge, or custody of the animal and at the discretion of the court, the person who is charged with or convicted of a violation of this chapter must be ordered to pay costs incurred to care for the animal and related expenses.

Section 47-1-200. Requirements for transfer of animals and importation or exportation of dog or cat; penalties for violations.

(A) During transportation, an animal must not be confined in one area for more than twenty-four consecutive hours without being adequately exercised, rested, fed, and watered. The time may be extended reasonably when an act of God causes a delay. The animal must be provided adequate space and ventilation.
(B) A dog or cat under eight weeks of age must not be imported or exported without being accompanied by its dam.

(C) A person who violates the provisions of this Section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned for not more than thirty days, or both.

Section 47-1-210. Live animals as prizes; exceptions; penalties.

(A) It is unlawful to give away a live animal including, but not limited to, a fish, bird, fowl, or reptile, as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement, or for these species to be used as an incentive to enter into any business agreement if the offer made was for the purpose of attracting trade.

(B) Nothing in this Section may be construed to prohibit an auction or raffle of a live animal including, but not limited to, a fish, bird, fowl, or reptile. Further, the giving away or the testing of game or fowl for breeding purposes only is lawful and is not prohibited by this Section as an incentive to enter into a business agreement if the person giving away or testing game or fowl is engaged in that trade.

(C) A person who violates this Section is guilty of a misdemeanor and, upon conviction, must be punished for each separate offense by a fine not to exceed three hundred dollars or imprisonment not to exceed thirty days, or both.

(D) This Section does not apply when a live animal is given away as follows:

(1) by individuals or organizations operating in conjunction with a cooperative extension education program or agricultural vocational program sanctioned by the State Department of Education or local school districts;

(2) by individuals or organizations operating in conjunction with field trials approved by the Department of Natural Resources; or

(3) by kennels that advertise in national publications in regard to dogs that are registered with the United Kennel Club or the American Kennel Club.
Service animals, such as service dogs, are individually trained to perform tasks that help to lessen the impact of the disability of the animal’s owner.
These remarkable animals can be trained to work with people who use wheelchairs, have balance issues, have various types of autism, need seizure alert or response, need to be alerted to other medical issues like low blood sugar, or have psychiatric disabilities. These specially trained animals can help the disabled owner by retrieving objects that are out of their owner’s reach, opening and closing doors, turning light switches off and on, signaling that help is needed, finding another person and leading the person to the owner, and many other individual tasks as needed by a person with a disability. Both federal and state laws recognize the special needs of the disabled and protect the special services that these animals provide their owners.

**FEDERAL LAW**

**49 U.S.C. § 41705. Air Carrier Access Act.**

This federal law states that no air carrier may discriminate against individuals with a disability. An individual with a disability means “any individual who has a physical or a mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.”

The Air Carriers Accessibility Act (ACAA) requires that carriers permit dogs and other service animals used by persons with a disability to accompany those persons on a flight. The ACAA requires air carriers to “permit a service animal to accompany a traveler with a disability to any seat.” However, the air carrier can assign a passenger to another seat if the service animal “obstructs an aisle or other area that must remain clear in order to facilitate an emergency evacuation.” If the animal can’t be accommodated at the seat location of the disabled passenger, the carrier must offer the passenger the opportunity to move with the animal to a seat location, if present on the aircraft, where the animal can be accommodated, as an alternative to requiring that the animal travel with checked baggage.

Carriers are required to recognize that an animal is a service animal if the owner has identification cards, other written documentation, presence of harnesses or markings on harnesses, tags, or the credible verbal assurances of the qualified individual with a disability using the animal.

**STATE LAW**

**Section 43-33-20. Right of use of public facilities and accommodations of blind, other special need persons, and guide dog trainers.**

(a) The blind, the visually handicapped, and the otherwise physically disabled have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public facilities, and other public places;

(b) The blind, the visually handicapped, and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges of all
common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons;

(c) Every handicapped person has the right to be accompanied by an assistance dog, especially trained for the purpose, in any of the places listed in item (b) of this Section without being required to pay an extra charge for the assistance dog. Each handicapped person is liable for any damage done to the premises or facilities by the dog.

(d) Every person who is a trainer of an assistance or guide dog, while engaged in the training of an assistance or guide dog, has the same rights and privileges with respect to access to public facilities and accommodations as blind and disabled persons, including the right to be accompanied by an assistance or guide dog or assistance or guide dog in training, in any of the places listed in item (b) of this Section without being required to pay an extra charge for the assistance dog. A person who uses premises or facilities accommodations accompanied by a dog under the authority of this item is liable for any damage done to the premises or facilities by the dog.

Every handicapped person who has an assistance dog, or who obtains an assistance dog, is entitled to full and equal access to all housing accommodations provided for in this Section. Each handicapped person is not required to pay extra compensation for the dog but is liable for any damage done to the premises by the dog.

LAYLA’S LAW

In South Carolina, there are statutes that specifically protect service animals. These statutes are known as “Layla’s Law.”

Section 47-3-920. Definitions.

For purposes of this article:

(1) "Guide dog" means a dog that is trained for the purpose of guiding blind persons or a dog trained for the purpose of assisting hearing impaired persons.

(2) "Humane euthanasia" means the termination of a terminally ill or critically injured guide dog or service animal’s life by a means that produces a rapid and minimally painful death as provided in Section 47-3-420.

(3) "Notice" means an actual verbal or written warning prescribing the behavior of another person and a request that the person stop the behavior.

(4) "Service animal" means an animal that is trained for the purposes of assisting or accommodating the sensory, mental, or physical disability of a disabled person.

Section 43-33-70(d). Right of blind and other physically disabled persons to equal access to housing accommodations.
(5) "Value" means the value to the guide dog or service animal user and does not refer to the cost or fair market value.

Section 47-3-930. Interference with use of a guide dog or service animal; misdemeanor.

(A) It is unlawful for a person who has received notice that his behavior is interfering with the use of a guide dog or service animal to continue with reckless disregard to interfere with the use of a guide dog or service animal by obstructing, intimidating, or jeopardizing the safety of the guide dog or service animal or its user.

(B) It is unlawful for a person with reckless disregard to allow his dog that is not contained by a fence, a leash, or another containment system to interfere with the use of a guide dog or service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the guide dog or service animal or its user.

(C) A person who violates subSection (A) or (B) is guilty of a misdemeanor triable in magistrate's court and, upon conviction, is subject to the maximum fines and terms of imprisonment in magistrate's court.

Section 47-3-940. Injury, disability, or death; reckless disregard; penalties.

(A) It is unlawful for a person with reckless disregard to injure, disable, or cause the death of a guide dog or service animal.

(B) It is unlawful for a person with reckless disregard to allow his dog to injure, disable, or cause the death of a guide dog or service animal.

(C) A person who violates subSection (A) or (B) is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than six months, or both.

Section 47-3-950. Unauthorized control over guide dog or service animal; penalties.

(A) It is unlawful for a person to wrongfully obtain or exert unauthorized control over a guide dog or service animal with the intent to deprive the guide dog or service animal user of his guide dog or service animal.

(B) A person who violates subSection (A) is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand dollars or imprisoned not less than one year, or both.

Section 47-3-960. Intentional injury, disability, or death; penalties.

(A) It is unlawful for a person to intentionally injure, disable, or cause the death of a guide dog or service animal, except in the case of self-defense or humane euthanasia.

(B) A person who violates subSection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more
than five thousand dollars or imprisoned not more than three years, or both.

Section 47-3-970. Restitution.

(A) A defendant convicted of a violation of this article may be ordered to make full restitution for damages including incidental and consequential expenses incurred by the guide dog or service animal and its user, which arise out of or are related to the criminal offense.

(B) Restitution for a conviction under this article includes, but is not limited to:

(1) the value of the replacement of an incapacitated or deceased guide dog or service animal, the training of a replacement guide dog or service animal, or retraining of the affected guide dog or service animal and related veterinary and care expenses; and

(2) medical expenses of the guide dog or service animal user, training of the guide dog or service animal user, and compensation for wages or earned income lost by the guide dog or service animal user.

(C) This article does not affect civil remedies available for conduct punishable under this article. Restitution paid pursuant to this article must be set off against damages awarded in a civil action arising out of the same conduct that resulted in the restitution payment.
In addition to the laws related to humane treatment of animals and service animals, there are many other state and federal laws that are animal-related. This Chapter pulls together and gives a brief summary of many of the more important laws covering animals in South Carolina.
ENDANGERED SPECIES ACT

The Endangered Species Act ("ESA"), 6 U.S.C. §§ 1531-1544, is a federal law that protects endangered and threatened species from becoming extinct. A species (or subspecies) is endangered if it is “in danger of extinction through out all or a significant portion of its range.” A “threatened species” is one that is likely to become endangered within the foreseeable future.

The ESA makes it illegal to import, export, take, possess, sell, or transport any endangered or threatened species. Also, the ESA provides for the designation of land necessary for the habitat of the species and prohibits the destruction of this land.

The ESA is enforced through private lawsuits by citizens and by civil and criminal penalties. For example, a criminal violation may result in imprisonment, a fine of up to $50,000, and confiscation of the equipment and the vehicles that were used to violate the ESA. A civil violation of a major provision may result in a $25,000 fine (knowing violation) or a $12,000 fine. A violation of a minor provision, permit, or regulation may result in a $500 fine.

MARINE MAMMAL PROTECTION ACT

The Marine Mammal Protection Act ("MMPA"), 16 U.S.C. §§ 1361-1423h, addresses concerns that certain marine mammals, such as dolphins, may be in danger of extinction or depletion.
The MMPA has prohibitions, with certain exceptions, on the attempted or actual harassing, hunting, capturing, or killing of marine mammals in the United States, and on the importing of marine mammals and marine mammal products into the United States. The act is enforced by the National Marine Fisheries Service (NMFS).

**MIGRATORY BIRD CONSERVATION ACT**

This Act, 16 U.S.C. § 715, also called the “Duck Stamp Act,” requires each waterfowl hunter 16 years of age or older to possess a valid Federal hunting stamp. Receipts from the stamp’s sale are deposited in a special Treasury account known as the Migratory Bird Conservation Fund.
State Laws - Dogs & Cats

IN THIS SECTION

1. Dogs and Other Domestic Pets
2. Liability to Person Bitten or Otherwise Attacked by Dog
3. Sheep-Killing Dogs
4. Feral Dogs
5. Animal Euthanasia and Tranquilization
6. Sterilization of Dogs and Cats
7. Registration of Dogs
8. Teasing, Maltreating, and Injuring Police Dogs Prohibited

1. DOGS AND OTHER DOMESTIC PETS

Section 47-3-10. Definitions.

For the purpose of this article:

(1) "Animal" is defined as provided for in Chapter 1;

(2) "Animal shelter" includes any premises designated by the county or municipal governing body for the purpose of impounding, care, adoption, or euthanasia of dogs and cats held under authority of this article;

(3) "Dog" includes all members of the canine family, including foxes and other canines;

(4) A dog is deemed to be "running at large" if off the premises of the owner or keeper and not under the physical control of the owner or keeper by means of a leash or other similar restraining device;

(5) A dog is deemed to be "under restraint" if on the premises of its owner or keeper or if accompanied by its owner or keeper and under the physical control of the owner or keeper by means of a leash or other similar restraining device;

(6) "Cat" includes all members of the feline family;

(7) "Vicious dog" means any dog evidencing an abnormal inclination to attack persons or animals without provocation.
Section 47-3-20. Local animal care and control ordinances authorized.

The governing body of each county or municipality in this State may enact ordinances and promulgate regulations for the care and control of dogs, cats, and other animals and to prescribe penalties for violations.

Section 47-3-30. Establishment of animal shelters; funding.

The governing body of the county or municipality is authorized to establish an animal shelter for the county or municipality for the purpose of impounding and quarantining dogs and quarantining cats and shall employ such personnel, including enforcement personnel, as may be necessary to administer the provisions of this article. If an animal shelter is established, funds to establish and operate the shelter and employ necessary personnel may be provided in the annual county or municipal appropriations.

Section 47-3-40. Impoundment or quarantine of cat or dog running at large; release to owner.

The county or municipal animal shelter personnel or governmental animal control officers shall pick up and impound or quarantine any dog running at large or quarantining any cat. To obtain release of his dog or cat, an owner or keeper must satisfy the animal shelter personnel that the dog or cat is currently inoculated against rabies and also pay an impound or quarantine fee determined by the governing body of the county or municipality. Payment of this fee bars prosecution under Section 47-3-50. All fees collected must be delivered to the county or municipal treasurer for deposit in the general fund of the county or municipality.

Section 47-3-50. Allowing dogs or cats to run at large; penalty.

(A) It is unlawful in any county or municipality adopting penalty provisions pursuant to the provisions of this article for any dog or cat owner or other keeper of a dog or cat to:

(1) allow his dog to run at large off of property owned, rented, or controlled by him;

(2) keep a vicious or unruly dog unless under restraint by a fence, chain, or other means so that the dog cannot reach persons not on land owned, leased, or controlled by him;

(3) release or take out of impoundment or quarantine without proper authority any dog or cat or resist county or municipal shelter personnel engaging in the capture and impoundment or quarantine of a dog or quarantining of a cat.

(B) Any person who violates the provisions of this Section is guilty of a misdemeanor and, upon conviction, must be fined fifty dollars for a first offense and not more than one hundred dollars for each subsequent offense.
Section 47-3-55. Animal shelter personnel to contact owner if known; implant of identifying microchip in adopted or redeemed dogs and cats.

(A) If an animal shelter accepts or comes into possession of a dog or cat, the shelter immediately and thoroughly must scan the dog or cat for a tattoo, any implanted microchip, or similar device, which provides evidence of ownership and, upon finding it, immediately must make a good faith effort to contact the identified owner as required by Section 47-3-540.

(B) If an animal shelter or its officers, directors, or staff have made a good faith effort to comply with the provisions of subSection (A), they must be held harmless, as well as the manufacturer, against any action at law or otherwise, civil or criminal, for failure to detect a microchip or similar device and undertake the action specified in subSection (A).

(C) If a dog or cat is adopted or redeemed from an animal shelter, a licensed veterinarian or an animal shelter employee under the direction of a licensed veterinarian may implant a microchip in the dog or cat adopted or redeemed. The animal shelter shall record the date the microchip was implanted, the name, address, and telephone number of the person adopting or redeeming the dog or cat, an identification number unique to the dog or cat adopted or redeemed, the name, address, and telephone number of the animal shelter that sheltered the dog or cat before adoption or redemption, and the date the dog or cat was adopted or redeemed. The animal shelter must keep a record of all microchips implanted pursuant to this subSection.

(D) The animal shelter is not required to adhere to subSection (A), if the necessary scanner is not provided free of charge or at a reasonable cost as determined by the county or municipality.

(E) The owner redeeming his dog or cat must elect to have a microchip implanted.

Section 47-3-60. Disposition of quarantined or impounded animals.

(A) After any animal has been quarantined pursuant to South Carolina Rabies Control Act and is unclaimed by its owner, after the animal shelter employees have made a good faith effort to contact the identified owner as required by Section 47-3-540, the animal shelter employees, unless the animal must be kept pending disposition of a criminal or civil trial involving the animal or unless a hearing on the disposition of the animal is held prior to the trial, may dispose of the animal by adoption or by euthanasia or the animal may be turned over to any organization established for the purpose of caring for animals, such as the Humane Society.

(B) After any animal has been impounded for five days and is unclaimed by its owner, and after the animal shelter employees have made a good faith effort to contact the identified owner as required by Section 47-3-540, the animal shelter employees, unless the animal must be kept pending
disposition of a criminal or civil trial involving the animal or unless a hearing on the disposition of the animal is held prior to the trial, may dispose of the animal by adoption or by euthanasia or the animal may be turned over to any organization established for the purpose of caring for animals, such as the Humane Society.

(C) Complete records must be kept by shelter officials as to the disposition of all animals impounded.

Section 47-3-70. County and municipal powers not limited by article.

Nothing in this article may be construed to limit the power of any municipality or county to prohibit animals from running at large, whether or not they have been inoculated as provided in this article; and nothing in this article may be construed as to limit the power of any municipality or county to regulate and control further in the county or municipality to enforce other and additional measures for the restriction and control of rabies.

Section 47-3-75. Transfer of domestic animal to animal shelter ten days after date owner was to pick up animal; requirements.

(A) An animal delivered to a veterinarian, a dog kennel, a cat kennel, an animal hospital, another animal care facility, or to a person who boards domestic animals on the person’s premises for a fee may be transferred to an appropriate animal shelter ten days after the date the owner failed to pick up the animal as agreed to pursuant to a written contract or agreement. The animal may be transferred only if the written contract or agreement provides for the transfer and if an attempt is made to notify the owner by regular mail and by certified mail at the owner's last known address on the date the owner failed to pick up the animal as agreed.

(B) A person who boards animals of others pursuant to subSection (A) shall post written notice of the provisions of this Section at the person's place of business.

(C) A person who fails to pick up an animal as provided for in subSection (A), who fails to pay his boarding fees in a timely manner, or who abandons an animal at an animal hospital, a dog kennel, a cat kennel, another animal care facility, or boarding facility is guilty of a misdemeanor and, upon conviction, may be imprisoned not more than thirty days or fined not more than two hundred dollars.

2. LIABILITY TO PERSON BITTEN OR OTHERWISE ATTACKED BY DOG

Section 47-3-110. Liability for attacks by dogs, provoked attacks, trained law enforcement dogs.

(A) If a person is bitten or otherwise attacked by a dog while the person is in a public place or is lawfully in a private place, including the property of the dog owner or person having the dog in the person's care or keeping, the dog owner or person having the dog in the person's care or keeping is liable for the damages suffered by the person bitten or otherwise attacked.
For the purposes of this Section, a person bitten or otherwise attacked is lawfully in a private place, including the property of the dog owner or person having the dog in the person's care or keeping, when the person bitten or otherwise attacked is on the property in the performance of a duty imposed upon the person by the laws of this State, the ordinances of a political subdivision of this State, the laws of the United States of America including, but not limited to, postal regulations, or when the person bitten or otherwise attacked is on the property upon the invitation, express or implied, of the property owner or a lawful tenant or resident of the property.

(B) This Section does not apply if, at the time the person is bitten or otherwise attacked:

(1) the person who was attacked provoked or harassed the dog and that provocation was the proximate cause of the attack; or

(2) the dog was working in a law enforcement capacity with a governmental agency and in the performance of the dog's official duties provided that:

(a) the dog's attack is in direct and complete compliance with the lawful command of a duly certified canine officer;

(b) the dog is trained and certified according to the standards adopted by the South Carolina Law Enforcement Training Council;

(c) the governmental agency has adopted a written policy on the necessary and appropriate use of dogs in the dog's official law enforcement duties;

(d) the actions of the dog's handler or dog do not violate the agency's written policy;

(e) the actions of the dog's handler or dog do not constitute excessive force; and

(f) the attack or bite does not occur on a third party bystander.

3. SHEEP-KILLING DOGS

Section 47-3-210. Keeping of sheep-killing dog prohibited.

No persons shall buy, sell, receive, give away or otherwise own, control, have or keep in possession any dog commonly called "sheep-killing" and known to be such. The violation, knowingly, in any one or all respects of the foregoing prohibition shall be a misdemeanor punishable, upon conviction, by a fine not exceeding one hundred dollars or imprisonment for not exceeding thirty days.

Section 47-3-220. Dog found in act of worrying or destroying sheep may be killed.

Any person who may find any dog in the act of worrying or destroying any sheep in this State may kill such dog and such person shall not for so doing be held to answer to any action, civil or criminal.
Section 47-3-230. Liability of owner of sheep-killing dog for payment to owner of sheep killed or injured.

The owner of or person having in his care or keeping any dog shall be liable to pay to the person damaged double the value of any sheep that may be killed or injured by such dog, to be recovered by action at the suit of the person damaged in any court having competent jurisdiction. In all such actions the recovery of ten dollars or more shall carry costs.

4. FERAL DOGS

Section 47-3-310. Disposal or removal of feral dogs from certain property.

On game management areas, state-owned property and property of private landowners and leaseholders, at the request of such landowners and leaseholders, specially trained enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources may enter on such areas and property for the purpose of investigating dogs running at large on the property. If the dogs are determined to be feral dogs (a dog which has reverted to a wild state) and are a threat to the lives or health of livestock, wildlife or humans, the enforcement officers may remove the feral dog from the property or dispose of it in the most humane manner as determined by the department.

Section 47-3-320. Training of conservation officers to remove dogs; liability of officers.

Two enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources from each of the state's twenty-eight law enforcement units shall be trained by the Department in the identification, capture and humane disposal of feral dogs and these officers shall have the responsibility of answering all complaints concerning feral dogs within the geographical boundaries of their respective law enforcement units. Such enforcement officers shall be held harmless of any personal liability that may occur during the lawful execution of their duties under this act except in case of gross negligence.

5. ANIMAL EUTHANASIA AND TRANQUILIZATION

Section 47-3-410. Animal shelter defined.

The term "animal shelter" means any place or premises kept for the care, keeping, impounding, housing or boarding of any animal, whether the premises are owned or operated by a municipality, county, private association, institution, humane organization, or any other business or corporation.

Section 47-3-420. Allowable methods of euthanasia.

(A) Only the following methods of euthanasia may be used to kill animals impounded or quarantined in animal shelters, and the procedure applicable to the method selected must be strictly followed:
(1) Barbituric acid derivatives:

(a) intravenous or intracardial injection of a lethal solution;

(b) intraperitoneal injection of lethal solution when location of an injection into the vein is difficult or impossible;

(c) oral ingestion of powdered barbituric acid derivatives in capsules mixed with food or by manual administration of a solution;

(d) intravenous injection of these solutions must be specifically injected according to the directions of the manufacturers for intravenous injections;

(e) intracardial injection of these solutions must only be administered if the animal has been tranquilized with an approved, humane substance and the animal, at the time of the intracardial injection, is anesthetized or comatose;

(f) the solutions may not be administered via intraperitoneal, intrathoracic, intrapulmonary, subcutaneous, intramuscular, intrarenal, intrasplenic, or intrathecal routes or in any other nonvascular injection route except as provided above;

(g) administration of injections must be done only by a licensed veterinarian or by a euthanasia technician or Department of Natural Resources employee, trained and certified for this purpose in a euthanasia training class taught by a licensed South Carolina veterinarian, which must include training in tranquilizing animals. A person certified pursuant to this subitem must continue to maintain his proficiency by successfully completing a training course taught by a licensed South Carolina veterinarian every five years;

(h) all injections must be administered using an undamaged hypodermic needle of a size suitable for the size and species of animal;

(i) an animal shelter, governmental animal control agency, or the Department of Natural Resources (department) may obtain a barbituric acid derivative or tranquilizing agent by direct licensing. The animal shelter, governmental animal control agency, or department must apply for a Controlled Substance Registration Certificate from the federal Drug Enforcement Administration (DEA) and a State Controlled Substances Registration from the Department of Health and Environmental Control (DHEC). If an animal shelter, governmental animal control agency, or the department is issued a certificate by the DEA and a registration by DHEC pursuant to this subitem, the animal shelter, governmental animal control agency director or his designee, and the department’s applicant are responsible, for maintaining their respective records regarding the inventory, storage, and administration of controlled substances. An animal shelter, governmental animal control agency and its certified euthanasia technician, and the department and its certified employees are subject to inspection and audit by DHEC and the DEA regarding the recordkeeping, inventory, storage, and administration of controlled substances used under authority of this article.
(2) Carbon monoxide gas:

(a) dogs and cats, except animals under sixteen weeks of age, may be killed by bottled carbon monoxide gas administered in a tightly enclosed chamber. The chamber must be equipped with:

(i) internal lighting and a window providing direct visual surveillance of the collapse and death of any animal within the chamber;

(ii) the gas concentration process must be adequate to achieve a carbon monoxide gas concentration throughout the chamber of at least six percent within five minutes after any animal is placed in the chamber. The chamber must have a functioning gas concentration gauge attached to the chamber and a strong airtight seal must be maintained around the door;

(iii) the unit shall include an exhaust fan connected by a gas-tight duct to the outdoors capable of completely evacuating the gas from the chamber before it is opened after each use, except that this provision does not apply to chambers located out-of-doors;

(iv) animals must be left in the chamber for a period of no less than fifteen minutes from the time the gas concentration throughout the chamber reaches six percent.

(b) no person may euthanize an animal by gas emitted from any engine exhaust system.

(c) in all instances where a carbon monoxide chamber is used:

(i) no incompatible or hostile animals, or animals of different species, may be placed in any chamber simultaneously;

(ii) every chamber must be thoroughly cleaned after the completion of each full cycle. No live animals may be placed in the chamber with dead animals;

(iii) all animals must be examined by a veterinarian or certified euthanasia technician to ensure they are dead upon removal from the chamber;

(iv) all chambers must be inspected quarterly by an independent, qualified technician who is thoroughly knowledgeable with the operation and maintenance of the particular euthanasia chamber being used;

(v) an operational guide and maintenance instructions must be displayed in the room with the euthanasia chamber.

(3) Shooting:

Shooting may be used as a means of euthanasia only in an emergency situation to prevent extreme suffering or in which the safety of people or other animal life is threatened or where it is considered necessary by the South Carolina Department of Natural Resources to eliminate or control the population of feral animals.

(B) In any of the previously listed methods, an animal may not be left unattended between the time euthanasia
procedures have commenced and the time death occurs, and the animal's body may not be disposed of until death is confirmed by a certified euthanasia technician.

Section 47-3-430. Provision governing shelters.

All animal shelters are subject to the provisions of Chapter 1 of Title 47.

Section 47-3-440. Penalties; injunction.

No person may kill any animal impounded or quarantined in an animal shelter by any means except as provided by this article. Any person who violates the provisions of this article is guilty of a misdemeanor and, upon conviction, is subject to the penalty provisions in Chapter 1, Title 47 for each animal killed. The Attorney General of South Carolina may bring an action to enjoin a violation of this article.

Section 47-3-450. Exceptions.

The provisions of this article do not apply to persons engaged in scientific endeavors by institutions of higher education.

6. STERILIZATION OF DOGS AND CATS

Section 47-3-470. Descriptions.

As used in this article:

(1) "Animal Shelter" means:

(a) a facility operated by or under contract for the State or a county, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals;

(b) a veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for the purpose set forth in subitem (a) in addition to its customary purposes;

(c) a facility operated, owned, or maintained by an incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

(2) "Humane society" means an unincorporated nonprofit organization existing for the purpose of prevention of cruelty to animals.

(3) "Public or private animal refuge" means harborers of unwanted animals of any breed, including crossbreeds, who provide food, shelter, and confinement for a group of dogs, a group of cats, or a combination of dogs and cats.

(4) "Sexually mature animal" means a dog or cat that has reached the age of one hundred eighty days or six months or more.
"Sterilization" means the surgical removal of the reproductive organs of a dog or cat in order to render the animal unable to reproduce.

Section 47-3-480. Provisions for sterilization; exceptions; payment of costs; subsequent notification of sterilization for animals not sterile when acquired.

(A) A public or private animal shelter, animal control agency operated by a political subdivision of this State, humane society, or public or private animal refuge shall make provisions for the sterilization of all dogs or cats acquired from the shelter, agency, society, or refuge by:

(1) providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or

(2) entering into a written agreement with the person acquiring the animal guaranteeing that sterilization will be performed by a licensed veterinarian within thirty days after acquisition of a sexually mature animal or no later than six months of age except upon a written statement issued by a licensed veterinarian stating that such surgery would threaten the life of the animal.

(B) This Section does not apply to a privately owned animal which the shelter, agency, society, or refuge may have in its possession for any reason if the owner of the animal claims or presents evidence that the animal is his property.

(C) All costs of sterilization pursuant to this Section are the responsibility of the person acquiring the animal and, if performed before acquisition, may be included in the fees charged by the shelter, agency, society, or refuge for the animal.

(D) A person acquiring an animal from a shelter, an agency, a society, or a refuge which is not sterile at the time of acquisition shall submit to the shelter, agency, society, or refuge a signed statement from the licensed veterinarian performing the sterilization required by subSection (A) within seven days after sterilization attesting that the sterilization has been performed.

Section 47-3-490. Failure to comply; remedies.

A person who fails to comply with Section 47-3-480(A)(2) or 47-3-480(D) must forfeit ownership of the dog(s) or cat(s) acquired from the shelter, agency, society, or refuge which adopted the animal to the owner. In addition to forfeiting ownership, the person who acquired the animal must pay to the shelter, agency, society, or refuge the sum of $200.00 as liquidated damages. Such remedies shall be in addition to any other legal or equitable remedies as may be available to the shelter, agency, society, or refuge for breach of the written agreement as provided for in Section 47-3-480(A)(2) or failure to comply with Section 47-3-480(D).

Section 47-3-500. Adoption of additional policies by other entities.
This article does not prohibit the adoption by a political subdivision of this State of shelter policies which are more stringent than the requirements of this article.

7. REGISTRATION OF DOGS

Section 47-3-510. Owner may register dog; fee.

The owner of any dog or kennel may, upon payment of a fee to be determined by the South Carolina Department of Natural Resources (department), not to exceed five dollars a dog or twenty dollars a kennel, have his dog registered by the department and the registration number tattooed in either of the dog’s ears or on any other clearly visible part of the body that would be considered most suitable for the respective species of dog. The department shall maintain records of the names and addresses of the owners of registered kennels.

Section 47-3-520. Availability of registration file.

The department shall have this file available for county, city, or subdivision animal control agencies or departments and individuals. The entire cost must be assessed upon dog owners in registration fees.

Section 47-3-530. Penalties for stealing or killing identifiable dog.

Any person stealing any positively identifiable dog is guilty of a misdemeanor and upon conviction must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not less than thirty days nor more than six months, or both.

Any person killing any dog when owner may be identified by means of a collar bearing sufficient information or some other form of positive identification is guilty of a misdemeanor and upon conviction must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not less than thirty days nor more than six months, or both. This paragraph does not apply to the killing of a dog threatening to cause or causing personal injury or property damage.

Section 47-3-540. Destruction of identifiable dog by animal control officer; prior notification of owner.

Animal control officers must not destroy any positively identifiable dog until they have notified the owner at his last known address by registered mail that they have the dog in their possession. The owner must notify the animal control officer within two weeks that he will pick up his dog. If the owner does not pick up his dog within two weeks of notification to the animal control officer, the dog may be destroyed. Reasonable costs associated with the above extended holding period, including cost of mailing the required notice, must be paid before the dog is returned to its owner, or the owner’s designee, in addition to any other established costs, fines, fees, or other charges.

Section 47-3-550. Promulgation of regulations.
The South Carolina Department of Natural Resources may promulgate regulations to carry out the provisions of this chapter.

8. TEASING, MALTREATING, AND INJURING POLICE DOGS PROHIBITED

Section 47-3-610. Unlawful to taunt, torment, tease, beat, strike, or administer desensitizing drug to police dog or horse.

It is unlawful for a person to wilfully and maliciously taunt, torment, tease, beat, strike, or administer a desensitizing drug, chemical, or substance to a dog or horse used by a law enforcement department or agency in the performance of the functions or duties of the department or agency or when a dog is placed in a kennel off duty or a horse is placed in a stable off duty, or to interfere or meddle with a dog or horse used by a law enforcement department or agency in the performance of the functions or duties of the department or agency.

Section 47-3-620. Unlawful to torture, mutilate, injure, disable, poison, or kill police dog or horse.

It is unlawful for a person to wilfully or maliciously torture, mutilate, injure, disable, poison, or kill a dog or horse used by a law enforcement department or agency in the performance of the functions or duties of the department or agency or when a dog is placed in a kennel off duty or a horse is placed in a stable off duty. However, a police officer or veterinarian may perform euthanasia in emergency situations when delay would cause the dog or horse undue suffering and pain.

Section 47-3-630. Penalties.

A person who violates any of the provisions of this article, except for Section 47-3-620, is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned not less than thirty days nor more than six months, or both. A person who violates the provisions of Section 47-3-620 is guilty of a felony and, upon conviction, must be fined not less than two thousand dollars nor more than five thousand dollars and imprisoned not less than one year nor more than five years.
Section 3
State Laws - Animals, Livestock & Poultry

In This Section
1. State Livestock-Poultry Health Commission
2. Rabies Control
3. Pseudorabies Control and Eradication Act
4. Estrays
5. Livestock Trespassing or Running at Large
6. Livestock Generally
7. Branding or Earmarking
8. Equine Liability Immunity
9. Regulation of Stockyards, Equine Sales Facilities, and Dealers in Livestock
10. Grading and Inspection
11. Sale at Auction
12. Diseases and Infections
13. Brucellosis
14. Tuberculosis and Paratuberculosis
15. Poultry Pullorum and Typhoid
16. Equine Infectious Anemia
17. Feeding of Garbage to Swine
18. Farm Animal, Crop Operation, and Research Facilities Protection Act
19. Animal Facilities
1. STATE LIVESTOCK-POULTRY HEALTH COMMISSION

Section 47-4-10. Purpose; membership.

The State Livestock-Poultry Health Commission is established to execute this chapter, Chapter 6, Article 1 of Chapter 11, Chapter 13, except Sections 47-13-70 and 47-13-80, Chapter 15, Article 1 of Chapter 17, and Chapter 19 of Title 47 and other duties and responsibilities assigned by law. The commission consists of no less than three members of the Agricultural, Natural Resources and Environmental Affairs Committee, or its successor, of the Clemson University Board of Trustees, as designated by the board.

Section 47-4-20. Definitions.

As used in this chapter and all matters assigned to the jurisdiction of the State Livestock-Poultry Health Commission:

(1) "Accredited veterinarian" means a licensed veterinarian approved by the United States Department of Agriculture in accordance with 9CFR Part 160 and 161.

(2) "Commission" means the State Livestock-Poultry Health Commission or an officer or employee of the commission to whom authority to act in its stead is delegated.

(3) "Director" means the Director of the Division of Livestock-Poultry Health Programs, Clemson University.

(4) "Division" means the Division of Livestock-Poultry Health and its agents, employees, and officials.

(5) "Equine sales facility" means a premise where equine including, but not limited to, horses, mules, donkeys, and asses, are assembled to be sold, bartered, or exchanged. It includes a premise where a change of ownership occurs or is part of the procedure.

(6) "Inspector" means an employee or official of the division authorized by the director to carry out inspections or investigations required by law.

(7) "Livestock" means all classes and breeds of animals, domesticated or feral, raised for use, sale, or display.

(8) "Permit" means official authorization to engage in a specific activity.

(9) "Person" means an individual, a trust, a firm, a joint stock company, a corporation including a government corporation, a partnership, an association, a municipality, a commission, or a political subdivision of this or another state.

(10) "Poultry" means all avian species including wildfowl raised for use, sale, or display and domestic fowl.

(11) "Public livestock market" means livestock auction markets, public livestock assembly pens, stockyards, dealers in livestock, cooperative or buying stations, fairs, expositions, livestock shows, or other public places where livestock is assembled for purposes of sale, show, exchange, breeding, or
barter and where the assembled livestock has more than one owner. The market may handle one or more species of livestock according to the terms of the permit. It does not include equine sales facilities or retail pet stores.

(12) "Quarantine" means limitations placed upon the free movement of certain things which include, but are not limited to, animals, poultry, plants, fodder, feed, equipment, products, by-products, machinery, goods, and means of transportation considered reasonably necessary to prevent the spread by whatever means of contagious, infectious, or communicable diseases of animals or poultry.

(13) "Service" means the Veterinary Service, Animal and Plant Health Inspection Service of the United States Department of Agriculture.

(14) "Slaughter assembly point" means a facility where livestock is assembled solely for holding or delivery for immediate slaughter.

(15) "State Veterinarian" means the Director of Livestock-Poultry Health Division, Clemson University, and his agents, assistants, and livestock inspectors.

Section 47-4-30. Promulgation and enforcement of rules and regulations; permitted operations.

(A) The commission, in accordance with the Administrative Procedures Act, may promulgate and enforce reasonable regulations necessary to ensure the continued health and safety of the livestock and poultry industries in the State and to carry out the responsibilities assigned by law to the commission. The commission may regulate or prohibit the shipment within, or the importation into, this State of livestock, poultry, or associated products of any nature or character from a state, territory, or foreign country when, in the opinion of the commission, the regulation or prohibition is necessary to prevent the introduction or distribution of diseased, infirm, or unhealthy livestock or poultry, or both.

(B) The commission may carry out operations including quarantines, destruction of livestock or poultry, or other measures to locate, suppress, control, or eradicate or to retard the spread of diseases of livestock or poultry, or both, independently or in cooperation with counties or their political subdivisions, municipalities, farmers, associations or similar organizations, individuals, federal agencies, or agencies of other states, by regulation, compliance agreement, judicial action, or other appropriate means.

Section 47-4-40. Delegation of duties to director.

The commission shall delegate the duties provided in this chapter and other applicable Sections and chapters of this title to the director who may administer and enforce the provisions and promulgate related regulations.

Section 47-4-50. Promulgation of regulations listing diseases; reporting suspected existence of disease.
The commission may promulgate regulations listing those communicable, contagious, or infectious diseases which, if not properly controlled, may have a serious adverse impact upon the livestock-poultry industry of the State. Persons shall report the suspected existence of these diseases and the diseases listed by Section 71, Title 9, Code of Federal Regulations, to the State Veterinarian within forty-eight hours after discovery.

Section 47-4-60. Certificate of veterinary inspection; requirement for out-of-state livestock or poultry; quarantine of uncertified animals; exceptions.

(A) Livestock or poultry entering this State must be accompanied by a certificate of veterinary inspection, unless otherwise indicated in this Section.

(B) The certificate of veterinary inspection must include:

1. complete names, addresses, and telephone numbers of the consignee and consignor;

2. complete description including age, sex, breed, and premise of origin;

3. permanent identification including, but not limited to, tag, tattoo, brand, leg band, registration name, or number;

4. statement that the livestock or poultry has been examined and is free from the symptoms of an infectious, contagious, or communicable disease or exposure to it;

5. results of specific tests or requirements indicated in law or regulation;

6. signature of the certifying accredited veterinarian;

7. approval by the livestock-poultry health authority of the state of origin.

(C) A certificate is valid for thirty days after the date of the inspection. A copy of the approved certificate, before departure of the consignment, must be forwarded to the commission.

(D) The commission may prescribe additional tests and requirements necessary to ensure the continued health and well-being of the livestock-poultry industry of the State.

(E) Livestock and poultry entering the State without a prior certificate or not otherwise authorized must be held in quarantine at the nearest suitable location while necessary tests or inspections, or both, are conducted. Alternatively, livestock and poultry loaded aboard their transporting vehicle may be allowed to return to its point of origin, with notification to the appropriate state veterinarian. Persons providing goods, services, premises, or tests for the quarantined livestock or poultry have a first lien upon the livestock or poultry for the reasonable value of the goods, services, premises, or tests.

(F) The commission may promulgate regulations for the issuance of health permits.
Certificates are not required for animals consigned directly to slaughter establishments under appropriate provisions of federal law if an accredited veterinary inspector makes ante- and post-mortem examinations in accordance with the regulations of the service.

The Director of the Division of Livestock-Poultry Health may authorize equine interstate event permits that must include a certificate of veterinary inspection, animal identification, and a current negative Coggins test.

Section 47-4-70. Quarantine of livestock or poultry; violation; penalty; segregation of animals; liens; abandoned animals.

(A) When in the judgment of the commission a serious threat, or the potential for it, to the health of the state livestock-poultry industry exists, it may impose an immediate quarantine upon the affected livestock or poultry, or both, or other means whereby the disease may be transmitted or take other appropriate measures. The owner, or his agent, of the livestock or poultry or alternatively the owner or operator of the facility where the livestock or poultry is located or the transport operator must be notified of the exact geographic limit of the quarantine, the means or facilities involved, the anticipated length of the quarantine, and tests or remedial measures known and required. The quarantine is effective as of the date and time of actual notice to the parties provided in this subSection and must be confirmed in writing. The quarantine may be released in writing only by the commission.

(B) A person who moves or causes to be moved quarantined livestock or poultry from its quarantine location without prior written approval of the commission is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.

(C) An authorized representative of the commission may cause suspected diseased livestock or poultry to be segregated from healthy livestock or poultry and withheld from sale pending a final decision by an accredited veterinarian. Segregated animals must not be removed from the premise until the decision is made or other arrangements are made satisfactory to the commission.

(D) The authority to quarantine extends to livestock and poultry contaminated by radioactivity or another cause or source which presents significant health hazard to humans or other livestock and poultry.

(E) A person providing goods, services, tests, or premises for use by quarantined livestock or poultry has a lien upon the livestock or poultry for the reasonable value of the goods, services, tests, or use of premises.

(F) Livestock or poultry quarantined for lack of proper health certification and not claimed by the consignor, consignee, or owner within ten days after notification of clearance is deemed to be abandoned and must be disposed of by sale at
the next sale at the nearest market in accordance with standard market procedures. After satisfaction of all charges, liens, fees, or other costs, the balance of the proceeds must be held in escrow pending written agreement between the consignor, consignee, or owner or court order.

Section 47-4-80. Condemned and destroyed livestock or poultry; indemnification of owner.

(A) Livestock or poultry condemned and destroyed by order of the commission to preclude or prevent spread of disease, exotic or otherwise, are presumed to have been a public nuisance. However, this Section does not apply to animals required or allowed to be sent to slaughter.

(B) The owner of destroyed livestock or poultry, in an action against this State in an appropriate court for the county in which the livestock or poultry was destroyed, may recover just compensation for the value of the livestock or poultry destroyed if he establishes that the livestock or poultry destroyed was not infected with an infectious, communicable, or contagious disease and that destruction was not the only reasonable course of action.

(C) Other indemnification must be paid in accordance with Article 3, Chapter 13 of this title if federal or state funds, or both, specifically appropriated for indemnification payments for a specific disease or condition are available. If in the judgment of the commission sufficient funds are not available, it shall effect pro rata indemnification.

Section 47-4-90. Stop of livestock transport to check for proper documentation.

A municipal, county, or state law enforcement officer or highway patrolman may stop and ascertain whether a conveyance transporting livestock or poultry by whatever means of transportation within the State has the proper certificate of veterinary inspection, permit, receipt, or other documents required by this title.

Section 47-4-100. Penalty for illegal transportation of livestock or poultry; civil liability.

(A) A person transporting livestock or poultry, or both, in violation of this title is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.

(B) A person transporting livestock or poultry, or both, in violation of this title is liable in a civil action to a person injured for the full amount of damages that may result for a violation of this chapter. The action may be brought in the county in which the animals are sold, offered for sale, or delivered to a purchaser or where they may be detained in transit for violation of this chapter.

Section 47-4-110. Police power of commission members and agents; livestock law enforcement officers; employment, removal, duties; bond.
(A) The members of the commission and their assistants, deputies, and agents have police power in executing this chapter and other Sections and chapters assigned by law.

(B) In addition to the other inspectors employed by the commission, it may employ a maximum of six livestock law enforcement officers who must be commissioned by the Governor upon the recommendation of the commission. The commission may remove an officer if it finds he is unfit for that position. The officer shall possess and exercise all of the powers and authority held by constables at common law, and while acting in their official capacity, they have statewide authority for the enforcement of all laws entrusted to the commission.

(C) Before entering upon the duties of his office, each officer shall take and subscribe before an officer authorized to administer an oath to perform faithfully the duties of his office and to execute properly the laws of this State.

(D) Each officer shall execute a bond with a licensed surety company in the amount of not less than ten thousand dollars. The bond must be filed with the commission and must be conditioned for the faithful performance of his duties, for the prompt and proper accounting of funds which may come into his hands, and for the payment of a judgment rendered against him in a court of competent jurisdiction upon a cause of action arising out of breech or abuse of official duty or power and damages sustained by a member of the public from an unlawful act of the officer. Coverage under the bond does not include damage to persons or property arising out of the negligent operation of a motor vehicle. The bond may be individual, schedule, or blanket and must be approved by the Attorney General. The premiums on the bond must be paid by the commission from appropriated funds.

(E) Violations of those provisions of Title 47 assigned to the enforcement authority of the State Livestock-Poultry Health Commission, the maximum punishment for which are within the jurisdictional maximum of the summary court, may be charged by use of the Uniform Traffic Ticket, pursuant to the provisions of Section 56-7-10. A violation of this Section shall not subject the defendant's driving record to assessment of any points, nor shall the violation be considered by any insurance company for automobile insurance or merit rating system and recoupment purposes.

**Section 47-4-120. Inhibition of livestock inspection; penalty.**

A person who seeks to prevent an inspection under the direction of the commission or the director or his deputies, assistants, or agents or who otherwise interferes with the director or his assistants, deputies, or agents while in the performance of their duties under this chapter and other chapters or Sections of this title assigned to the jurisdiction of the commission is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.
Section 47-4-130. Violation of provision of Title 47 is a misdemeanor; penalties; enforcement of commission regulations in court.

(A) A person violating this chapter or another chapter or Section of Title 47 assigned to the jurisdiction of the commission or related regulations is guilty of a misdemeanor and, upon conviction, must be fined not more than that amount authorized as the jurisdictional maximum for a summary court or imprisoned not more than that period of time authorized as the jurisdictional maximum for a summary court, or both, for a first offense and in the discretion of the court for a second offense.

(B) The director, after opportunity for a hearing, may deny, suspend, modify, or revoke a permit for a violation of state or federal law or regulation or duly published requirements of the commission. In addition to denial, suspension, revocation, or modification of a permit or other penalties set forth in this chapter, the permittee who violates the provisions in subSection (A) may be assessed a civil penalty by the director of not more than one thousand dollars for each violation. Each day a violation continues constitutes a separate violation. The director may suspend a permit against which a civil penalty has been imposed if the permittee has not satisfied the penalty within thirty days after the permittee receives notification of the final decision of the director to impose the penalty. The permittee is entitled to a hearing on the suspension, but the suspension remains in effect pending the hearing and the decision of the director. Matters considered by the hearing officer are limited to whether a duly issued final order of the director existed, whether the permittee had notice of the final order, and whether the assessed penalty was paid within thirty days of the notice. A determination by the director is final unless within thirty days after the receipt of the notice of final determination the person adversely affected appeals to the Administrative Law Court as provided in Sections 1-23-380(B) and 1-23-600(D). The filing of a judicial appeal does not act as an automatic stay of enforcement of the suspension.

(C) The commission may enforce its ordinances and regulations in a court of competent jurisdiction by civil as well as criminal proceedings. If it is necessary to issue a writ of injunction, no court in this State has the right previous to a trial upon the merits to set aside the writ on bond. The commission may utilize its own counsel or call upon the Attorney General or the appropriate solicitor, or all of the foregoing. The commission and its agents in the discharge of the duties and in the enforcement of the powers delegated in this chapter may administer oaths and hear witnesses, and to that end the sheriffs of the State shall serve all summons and other papers upon the request of the commission.

Section 47-4-140. Disposition of fines and fees.

(A) Fines resulted from prosecutions under this chapter and other chapters or Sections of this title assigned to the commission must be paid to the State Treasurer and deposited to the credit of the State Treasury.
(B) The commission may establish a fee schedule for the various services provided by the commission. These fees must be retained by the commission and utilized in carrying out the mandates of this chapter and other requirements imposed by law.

**Section 47-4-150. Advisory committees.**

The commission by regulation may establish advisory committees which fairly reflect the particular portion of the industry being regulated as well as other concerned groups or agencies. The members of these committees serve at the pleasure of the commission. In nominating the members of the advisory committees the director shall consult with officials of representative trade associations, the Administrator of the South Carolina Department of Consumer Affairs, the Commissioner of Agriculture, and the Commissioner of the South Carolina Department of Health and Environmental Control. The committee members serve at no cost to the State.

**Section 47-4-160. Livestock and poultry regulation; local laws and ordinances preempted; exceptions.**

(A) For the purposes of this Section, "care and handling" means accepted animal husbandry practices.

(B) Units of local government in this State may not enact ordinances, orders, or other regulations concerning the care and handling of livestock and poultry.

(C) It is the intent of the General Assembly to occupy the field of regulation of care and handling of livestock and poultry. All local laws and ordinances related to the regulation of and the enforcement of the care and handling of livestock and poultry in this State are preempted and superseded by laws enacted by the General Assembly and regulations promulgated by state agencies pursuant to those laws.

(D) The provisions of this Section do not apply to Chapter 45, Title 46 concerning nuisance suits related to agricultural operations, commonly referred to as the Right to Farm Act, and do not affect a local unit of government’s authority to enact ordinances concerning new swine operations and new slaughterhouse operations.

(E) The provisions of this Section do not preclude or limit a unit of local government’s right to exercise its land use and zoning authority.

**Section 47-4-170. Confidential information; exemptions.**

Information prepared, owned, used, submitted to, in the possession of, or retained by the commission or the State Veterinarian related to the exercise of its official duties pursuant to this chapter, including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory reports, or other records that may be used to identify a person or private business activities subject to regulation by the commission is confidential and exempt from disclosure pursuant to Chapter 4, Title 30 unless the State
Veterinarian determines that disclosure is necessary to implement the programs contained in this chapter or the State Veterinarian determines that disclosure is necessary to prevent the spread of animal disease or to protect the public health. Information prepared, owned, used, submitted to, in the possession of, or retained by the commission or the State Veterinarian related to the exercise of its official duties pursuant to this chapter concerning the receipt and expenditure of public funds and summaries of agency activities are not subject to the exemption from Chapter 4, Title 30 provided in this Section.

2. RABIES CONTROL

Section 47-5-10. Short title.

This chapter may be referred to as the "Rabies Control Act".

Section 47-5-20. Definitions.

As used in this chapter:

(1) "Carnivore" means a flesh-eating animal and includes those animals known to be reservoirs of rabies including, but not limited to, raccoons, foxes, skunks, and bobcats and related species including, but not limited to, coyotes, wolves, wolf dogs, weasels, civet cats, spotted skunks, and lynx or the offspring born to any combinations of crossbreeding between these wild animals and domestic dogs or cats.

(2) "Department" means the South Carolina Department of Health and Environmental Control, including county health departments.

(3) "Domesticated animal" means owned or stray cats, dogs, and ferrets or other animals for which there exists a rabies vaccine approved by the department and licensed by the United States Department of Agriculture.

(4) "Inoculation against rabies" means the injection, subcutaneously, intramuscularly or otherwise, of antirabic vaccine as approved by the department and by the United States Department of Agriculture.

(5) "Licensed veterinarian" means a person licensed by law to practice veterinary medicine in this State.

(6) "Owner" means any person who:

(a) has a right of property in a pet;

(b) keeps or harbors a pet or who has it in his care or acts as its custodian; or

(c) permits a pet to remain on or about any premises occupied by him.

(7) "Pet" means only domesticated cats, dogs, and ferrets.

(8) "Quarantine" means a prescribed, restricted confinement of a pet or other animal up to and including a state of enforced isolation. The quarantine is for the purpose of observation of
the animal for signs or symptoms, or both, of rabies and for the prevention of potential rabies transmission by the animal to a person, other pets, or other animals. The location, conditions, and length of the quarantine must be prescribed by the department.

Section 47-5-30. Public health veterinarian; duties.

The department may employ a licensed doctor of veterinary medicine to serve as public health veterinarian of the department. In addition to the duties as public health veterinarian, this person shall aid administratively in the prevention and control of all diseases communicable from animal to man in this State and in combating these diseases in cooperation with the Department of Natural Resources, the extension service of Clemson University, and any other state or federal agencies engaged in similar efforts to combat diseases communicable from animal to man.

Section 47-5-40. Interference with authorized representative carrying out duties.

The enforcement of the provisions of this chapter must be carried out under the direct supervision of the department. It is unlawful for anyone to obstruct or interfere with the authorized representative of the department as he carries out the provisions of this chapter.

Section 47-5-50. Prohibition on sale of wild carnivores as pets; sale of domesticated ferrets.

(A) No carnivores, which normally are not domesticated, may be sold as pets in this State. A carnivore kept by an individual must not be allowed to run at large and then returned to confinement. A normally wild animal indigenous to this State, if held captive for a period of time, may be released to the wild. This Section does not apply to domesticated ferrets. However, no ferret may be sold in this State without proper and current vaccination against rabies. Evidence of rabies vaccination is a certificate signed by a licensed veterinarian. A person who purchases or possesses a domesticated ferret shall maintain proper vaccination treatment for it annually.

(B) Purchasers of a domesticated ferret must be provided with a notice not less than eight inches by eleven inches which shall bear the following inscription in letters not less than three-fourths inch high:

"FERRETS HAVE A PROPENSITY TO MAKE UNPROVOKED ATTACKS THAT CAUSE BODILY INJURY TO A HUMAN BEING".

(C) Each business establishment in this State, to which has been issued a retail sales tax license, which offers ferrets for sale must prominently display a notice not less than eight inches by eleven inches which shall bear the following inscription in letters not less than three-fourths inch high:

"FERRETS HAVE A PROPENSITY TO MAKE UNPROVOKED ATTACKS THAT CAUSE BODILY INJURY TO A HUMAN BEING".
(D) This Section does not apply to the sale, purchase, donation, or transfer of ownership of carnivores between publicly-owned zoos or animal dealers located in this State and licensed by the United States Department of Agriculture (USDA) under the Animal Welfare Act on the effective date of this chapter. These exemptions do not allow for the sale, purchase, donation, or transfer of ownership to private individuals in this State. Any public displays, showings, or exhibitions of wild carnivores, primates, or any other animals for which a USDA licensed rabies vaccine does not exist are allowed only when these displays, showings, or exhibitions prevent any possible contact by these animals with the members of the general public.

Section 47-5-60. Inoculation of pets; certificates and tags.

A pet owner must have his pet inoculated against rabies at a frequency to provide continuous protection of the pet from rabies using a vaccine approved by the department and licensed by the United States Department of Agriculture. The rabies inoculation for pets must be administered by a licensed veterinarian or someone under a licensed veterinarian’s direct supervision, as defined in Section 40-69-20. Evidence of rabies inoculation is a certificate signed by a licensed veterinarian. The rabies vaccination certificate forms may be provided by the licensed veterinarian or by the department or its designee. The veterinarian may stamp or write his name and address on the certificate. The certificate must include information recommended by the National Association of State Public Health Veterinarians. The licensed veterinarian administering or supervising the administration of the vaccine shall provide one copy of the certificate to the owner of the pet and must retain one copy in his files for not less than three years. With the issuance of the certificate, the licensed veterinarian shall furnish a serially numbered metal license tag bearing the same number and year as the certificate with the name and telephone number of the veterinarian, veterinary hospital, or practice. The metal license tag at all times must be attached to a collar or harness worn by the pet for which the certificate and tag have been issued. Annually before February first, the veterinarian shall report to the department the number of animals inoculated against rabies during the preceding year. The department, in conjunction with licensed veterinarians, shall promote annual rabies clinics. The fee for rabies inoculation at these clinics may not exceed ten dollars, including the cost of the vaccine, and this charge must be paid by the pet owner. Fees collected by veterinarians at these clinics are their compensation.

Section 47-5-80. Notice to health department of animal affected or suspected of being affected by rabies.

A pet owner or any other person shall notify the county health department if:

(1) a pet or other animal is affected by rabies;

(2) a pet or other animal is suspected of having rabies; or
(3) a pet has been attacked or bitten by a domesticated or wild animal known or suspected of being affected by rabies.

This notice must include the location where the pet or other animal was last seen or where it may possibly be found, or both.

Section 47-5-90. Reports of animal bites to health department.

Every physician after his first professional attendance upon a person bitten by a pet or other animal, by the end of the next working day, shall report the bite to the county health department and the name, age, sex, weight, address, and telephone number of the person bitten. If no physician attends to the bite, it is the responsibility of the bitten adult or the parent or guardian of a bitten minor child to report the bite by the end of the next working day to the county health department.

Section 47-5-100. Quarantine, examination and destruction of biting or attacking dog, cat, or ferret.

The county health department shall serve notice upon the owner of a dog, cat, or ferret which has attacked or bitten a person to examine the animal at any time, and daily if desired, within the ten-day period of quarantine to determine if the animal shows symptoms of rabies. No person may obstruct or interfere with the rabies control officer or his assistants in making the examination. The removal of the head of an animal suspected of having rabies must be performed by a licensed veterinarian, but the county health department may provide for the removal of the head if there is no veterinarian practicing within the county where the suspected animal is located or if no veterinarian located within the county will remove the head. The department shall serve notice upon the owner of an animal other than a dog, cat, or ferret when the department has knowledge that the animal has attacked or bitten a person. The notice must instruct the owner to have the animal immediately euthanized and have the brain submitted for rabies examination or to have the animal quarantined under conditions specified by the department. The owner shall comply immediately with the instructions in the notice.

Section 47-5-110. Pets bitten or otherwise exposed to animal suspected of having rabies.

The county health department shall serve a written notice to the owner of a pet that has been bitten by or otherwise exposed to any animal affected or suspected of being affected by rabies. The notice must require the owner to have a currently inoculated pet revaccinated immediately and to quarantine the pet for a period of not less than forty-five days. An uninoculated pet must be quarantined for a period of not
less than one hundred eighty days. The uninoculated pet must be inoculated after one hundred fifty days of the quarantine period and released from quarantine thirty days after that if no sign of rabies is observed.

Section 47-5-120. Danger of rabies spread; quarantine and inoculation of pets; reduction of stray and feral animal population.

When there is a danger of rabies spread in a community, and it is necessary in the interest of the public's health and safety, the commissioner of the department or his designee may issue an order to include the general quarantine or immediate inoculation, or both, of pets against rabies within the affected community whether or not these pets have been previously inoculated. The order may require that efforts to reduce the stray and feral animal population be undertaken.

Section 47-5-150. Department to provide or insure availability of human vaccine; reimbursement.

The department must ensure the availability of antirabic (human) vaccine and globulin products for persons bitten by or otherwise exposed to a pet or other animal found or suspected to be affected by rabies. The provision of such products shall be in accordance with departmental guidelines. The department is authorized to seek reimbursement for the cost of such products from sources to include, but not limited to, personal/medical insurance and/or Medicaid/Medicare coverage of the person receiving the products.

Section 47-5-180. Enforcement.

The department shall enforce this chapter. The sheriff and his deputies, the police officers in each incorporated municipality, and animal control officials in each county and municipality shall assist and cooperate with the county health department in enforcing this chapter.

Section 47-5-190. Liability for accident or subsequent disease from inoculation.

The county health departments, the county rabies control officers, their assistants, the department, the public health veterinarian or anyone enforcing the provisions of this chapter are not responsible for any accident or subsequent disease that may occur in connection with the inoculation of any animal as provided in this chapter.

Section 47-5-200. Violation; penalty.

A person refusing to comply with the provisions of this chapter or violating any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction, must be punished up to the maximum penalties that may be imposed in magistrate's court.

Section 47-5-210. Power of political subdivisions to prohibit pets running at large and impose additional control measures.

Nothing in this chapter may be construed to limit the power of any political subdivision within the State to prohibit pets from
running at large, whether or not they have been inoculated as provided in this chapter; this chapter may not be construed to limit the power of any political subdivision to regulate and control further and to enforce other and additional measures for the restriction and control of rabies.

3. PSEUDORABIES CONTROL AND ERADICATION ACT

Section 47-6-10. Citation of Chapter.

This chapter may be referred to as the "Pseudorabies Control and Eradication Act" and must be administered by the State Livestock-Poultry Health Commission in accordance with this chapter and Chapter 4 of this title.

Section 47-6-20. Definitions.

Unless otherwise stated, for the purposes of this chapter:

(1) "person" includes an individual, firm, corporation, partnership, association, or other legal entity;

(2) "swine" includes all animals of the Sus scrofa species;

(3) "herd" means all swine on one premises except that, at the discretion of the state veterinarian, other animals may be included in this group;

(4) "state veterinarian" is the veterinarian of Clemson University as defined in Section 47-13-20;

(5) "assistant" means a licensed veterinarian appointed by the state veterinarian;

(6) "pseudorabies" refers to the disease of swine caused by the pseudorabies virus. The disease may be acute, subacute, chronic, or latent;

(7) "official test" means any test for the detection of pseudorabies approved by the state veterinarian and licensed or approved by the United States Department of Agriculture;

(8) "approved herd plan" means an individually-negotiated plan developed by and agreed to between the state veterinarian and the swine herd owner for elimination of pseudorabies infection from a swine herd. The plan may include, but not be limited to, procedures for testing, segregation, cleanup, repopulation, depopulation, retesting, and the necessary timetables for implementing the plan, or the plan may follow the procedures recommended by the Livestock Conservation Institute or other nationally recognized livestock association for the elimination of pseudorabies.

Section 47-6-30. Authority of state veterinarian and Livestock-Poultry Health Service of Clemson University.

The state veterinarian and the Livestock-Poultry Health Service of Clemson University are vested with the authority to develop and institute programs to provide for the control and eradication of pseudorabies in this State and to adopt
regulations necessary to carry out the programs and the provisions of this chapter. The state veterinarian may also appoint assistants to assist him with his duties.

**Section 47-6-40. Notification; investigation; public notice; elimination of disease from herd.**

(A) Whenever a veterinarian or other person in this State performing disease diagnostic services has knowledge or reason to suspect a swine or herd of swine has pseudorabies, he shall notify, within forty-eight hours, the state veterinarian of this fact.

(B) Upon receipt of a report of pseudorabies, the state veterinarian shall conduct an immediate investigation to determine the origin and avenue of transmission of the infection. Assistants to the state veterinarian may enter the place or premise for the investigation and inspection as may be necessary for these determinations provided they follow any reasonable request of the owner in regard to protective clothing, sanitized boots, etc.

(C) Whenever the state veterinarian has reason to believe that the pseudorabies may spread within a county or the geographical area, the state veterinarian may serve public notice by publication in a newspaper of general circulation in the county or geographical areas requiring the owners of swine to confine their animals for any period necessary to prevent the spread of pseudorabies.

(D) Herds that are infected with pseudorabies must be quarantined by the state veterinarian. Quarantined herds must not be removed from the premise where the infection was detected except with the written authorization of the state veterinarian or an assistant.

(E) An approved herd plan for the elimination of the disease from the infected herd must be developed within ninety days.

**Section 47-6-50. Imported swine.**

(A) All swine imported into this State must be accompanied by a certificate of veterinary inspection. All swine must be identified to the herd of origin with an ear tag or other acceptable method of permanent identification approved by the commission. Purebred swine, if not ear-tagged, must be identified by registry name and number and a description sufficient to identify the animal.

(B) The following is the procedure for importing swine for other than feeding purposes. The swine:

(1) have been tested and found negative for pseudorabies within thirty days before movement; or

(2) originated from a Qualified Pseudorabies Negative Herd as defined in Title 9, Part 85 of the Code of Federal Regulations; or

(3) originated from a Stage V state as defined by USDA-APHIS 91-55-022, Pseudorabies Eradication Program Standards.
(C) The following is the procedure for importing swine for feeding purposes. The swine:

(1) have been tested and found negative for pseudorabies within thirty days before movement; or

(2) originated from a Qualified Pseudorabies Negative Herd as defined in Title 9, Part 85 of the Code of Federal Regulations; or

(3) originated from a Stage V or Stage IV state as defined in USDA-APHIS 91-55-022, Pseudorabies Eradication Program Standards. Swine entering the State from Stage V or Stage IV states must remain under quarantine on the farm of destination as designated on the certificate of veterinary inspection until they are moved directly to slaughter or moved with the permission of the State Veterinarian or an assistant; or

(4) originated from a monitored feeder pig herd. For purposes of this Section, in order to qualify as a monitored feeder pig herd, testing must have been performed in accordance with the following standards:

(a) In herds of ten or less breeding swine, the swine must test negative within twelve months before movement.

(b) In herds of eleven to thirty-five breeding swine, ten randomly-selected breeding animals including gilts, sows, and boars must test negative within twelve months before movement.

(c) In herds of more than thirty-five breeding swine, either thirty or thirty percent of the total herd, whichever is less, randomly-selected breeding gilts, sows, and boars must test negative within twelve months before movement.

(d) Swine entering the State through the monitored feeder pig herd procedure remain under quarantine on the farm of destination as designated by the certificate of veterinary inspection until they are moved directly to slaughter or moved with written permission of the State Veterinarian or an assistant.

Section 47-6-60. Violation of chapter as misdemeanor; penalties.

A person violating this chapter or a regulation promulgated by authority of the state veterinarian is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130. Each day's violation is considered a separate offense. The court may enjoin a person from continued violations of this chapter.

4. ESTRAYS

Section 47-7-10. "Estray" defined.

Any domestic or domesticated animal found wandering at large or abandoned in the public ways or on the lands of any person other than its owner shall be an "estray."
Section 47-7-20. Public sale of estrays.

Any person finding an estray may take possession thereof and shall, if the owner is not found and no claim to such estray is made within three days, deliver or report the finding and taking up of such estray to the nearest magistrate, who shall sell such estray at public sale after ten days' notice posted in three public places in the county, one of which shall be the courthouse door.

Section 47-7-30. Application of proceeds of sale.

The proceeds of sale of an estray shall be applied first to costs of sale and next to costs of care and feeding of the estray, including a reasonable compensation as determined by the magistrate for the finder's labor for care and feeding. Any balance remaining shall be paid into the county treasury as general county funds.

Section 47-7-40. Penalties for violations or for appropriating estrays.

Any person violating the provisions of this article, or attempting to conceal or appropriate an estray to his own use, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned not more than thirty days for each offense.

5. LIVESTOCK TRESPASSING OR RUNNING AT LARGE

Section 47-7-110. Permitting domestic animals to run at large unlawful.

It shall be unlawful for the owner or manager of any domestic animal of any description wilfully or negligently to permit any such animal to run at large beyond the limits of his own land or the lands leased, occupied or controlled by him. Any owner, manager or person violating the provisions of this Section shall be subject to a fine for each offense of not more than twenty-five dollars or to imprisonment for not more than twenty-five days.

Section 47-7-120. Stock coming into State shall not be permitted to run at large.

It shall be unlawful for any person to drive, cause to be driven or in any other manner permit to come into this State any horse, mule, hog, cattle, sheep or other livestock and suffer it to run at large in any marsh, forest lands or range in this State. Any person so offending shall be subjected to a penalty of five dollars for each head so permitted to run at large, to be recovered for the benefit of anyone who may sue for it, or the offender shall be proceeded against by attachment in case he cannot be found in this State. But this Section shall not apply to any person owning lands in this State who permits such stock to run at large, as aforesaid, upon his own lands, nor to
any person driving or causing to be driven any such stock to or from market or for breeding purposes.

**Section 47-7-130. Liability of owners of trespassing stock.**

Whenever any domestic animals shall be found upon the lands of any other person than the owner or manager of such animals, the owner of such trespassing stock shall be liable for all damages sustained and for the expenses of seizure and maintenance. Such damages and expenses shall be recovered, when necessary, by action in any court of competent jurisdiction. And the trespassing stock shall be held liable for such damages and expenses, in preference to all other liens, claims or encumbrances upon it.

**Section 47-7-140. Right to seize trespassing stock.**

Any freeholder or tenant of land, his agent or representative, may seize and hold possession of any domestic animal which may be trespassing upon his premises and as compensation for such seizure may demand of the owner of every such horse, mule, ass, jennet, bull, ox, cow, calf, swine, sheep, goat, or other animal not herein named, just damages for injuries sustained. Such claim shall, when possible, be laid before the owner of the trespassing stock within forty-eight hours after seizure of the stock.

**Section 47-7-150. Liability of owner for maintenance; bond; recovery of possession.**

In case the claim shall not be amicably or legally adjusted and the trespassing animals recovered by the owner within twelve hours after the receipt of such notification, the owner shall further become liable in a sum sufficient to cover the maintenance and care of his stock up to the time of its removal. But the owner shall be entitled to recover immediate possession of his stock on due execution of such bond to cover expenses and claimed damages as any magistrate shall decide to be good and sufficient.

**Section 47-7-160. Rescuing animal from custody of person impounding it unlawful.**

Whenever any animal shall be taken up under the provisions of this article, it shall be unlawful for any person to rescue it or deliver it from the custody of the person impounding it; and whoever shall violate this provision shall be guilty of a misdemeanor and be punished by a fine of not less than five nor more than thirty dollars or by imprisonment in the county jail not less than five nor more than thirty days.

**Section 47-7-170. Satisfaction as defense in criminal prosecutions.**

In any criminal prosecution for violation of the provisions of Section 47-7-160, the defendant may plead, as a matter of defense, the full satisfaction of all reasonable demands of the party or parties aggrieved by such violation; and upon such plea being legally established and upon payment of all costs accrued up to the time of such plea he shall be discharged from further penalty.
6. LIVESTOCK GENERALLY

Section 47-9-10. Marking, branding or disfiguring large animals of another.

Whoever shall be lawfully convicted of wilfully and knowingly marking, branding or disfiguring any horse, mare, gelding, filly, ass, mule, bull, cow, steer, ox or calf of any other person shall, for each and every such animal which he shall be convicted of marking, branding or disfiguring as aforesaid, be subject to a penalty of one hundred dollars or to imprisonment for a term not exceeding six months or both, in the discretion of the court. In case such offender shall afterwards repeat the same or commit a like offense, on conviction thereof he shall be liable to a fine of two hundred dollars or to imprisonment for a term not exceeding one year or both, in the discretion of the court, for each animal by him so marked, branded or disfigured.

Section 47-9-20. Marking, branding or disfiguring small animals of another.

Whoever shall be lawfully convicted of wilfully and knowingly marking, branding or disfiguring any sheep, goat or hog of any other person shall, for each and every sheep, goat or hog which he shall be convicted of marking, branding or disfiguring as aforesaid, be subject to a penalty of twenty-five dollars or to imprisonment for a term not exceeding twenty days. In case such offender shall afterwards repeat the same or commit a like offense, on conviction thereof he shall be liable to a fine of fifty dollars or to imprisonment for a term not exceeding thirty days for each and every sheep, goat or hog by him so marked, branded or disfigured.

Section 47-9-30. Use of horse, mare or mule without permission.

Whoever knowingly and wilfully shall take and use any horse, mare or mule without the consent of the owner thereof, but without intent to steal, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars or by imprisonment for a period of not more than one year or both fine and imprisonment, in the discretion of the court.

Section 47-9-40. Alterations of teeth of horses or mules.

Any person who files down or drills, bores holes or otherwise makes alterations in the teeth of any horse or mule for the purpose of deception as to the age of such animal shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not exceeding thirty days or by a fine not to exceed one hundred dollars.

Section 47-9-50. Permit required for hauling cattle or swine at night by truck.

It shall be unlawful for any person to load or haul by truck any cattle or swine between the hours of sunset and sunrise, unless such person shall have first applied to the sheriff or
magistrate of the district in which it is desired to load such cattle or swine to be hauled or shipped and obtained a written permit to do so. Such permit shall show the name of the permittee, the name of the person from whom the cattle or swine have been purchased or otherwise acquired and a description of such cattle or swine, including marks and brands. All such persons loading or hauling cattle or swine under such permits shall keep the permits on their person during such time and upon signal to stop given by any county or State officer shall stop and upon request shall exhibit such permit. Provided, that a permit shall not be necessary when a bill of sale is issued within twenty-four hours after a purchase at an organized auction sale. Provided, further, that livestock moving intrastate or interstate that has a freight bill or bill of sale shall not be required to obtain a permit. Loading or transporting any cattle or swine in violation of the provisions of this Section shall be a misdemeanor punishable by a fine of not more than one hundred dollars or by a sentence on the public works of the county not exceeding thirty days.

Section 47-9-65. Polo horse performance enhancing mineral or drug compounds; certification by compounding pharmacist; penalty.

The compounding pharmacist who fills an order for performance enhancing mineral or drug compounds which are not FDA approved for polo horses prior to a polo match must certify the compound with his signature accompanied by a complete listing of the components contained in the compound. A person who violates the provisions of this Section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

7. BRANDING OR EARMARKING


The following words and phrases, as used in this article, shall have the following meanings, unless the context otherwise requires:

1) "Livestock" includes neat cattle, horses, mules, asses, hogs, sheep and goats; and

2) "Owner" and "stock owner" mean any person who owns livestock.

Section 47-9-220. Branding is lawful.
It is lawful to brand livestock with the owner's brand in accordance with the provisions of this article.

Section 47-9-230. Earmarking.

In addition to, or as an alternative to, a brand, any person may have an earmark for marking livestock. All provisions of this article relating to brands shall apply to earmarks.

Section 47-9-240. One brand per person.

No person shall have or use more than one brand.

Section 47-9-250. Separate brands of wife or minor.

A wife who owns livestock separate from her husband or a minor who owns livestock separate from his father or guardian may have a brand. The father or guardian of any minor who has a brand shall be responsible for the proper use thereof.

Section 47-9-260. Application and fee for adoption of brand.

Any person desiring to adopt any brand for branding livestock, which brand is not then the recorded brand of another, shall forward to the Secretary of State a facsimile of the desired brand together with a written application to adopt the brand. The application shall state where the brand will appear on the livestock. A fee of three dollars shall be enclosed with the application.

Section 47-9-270. Issuance of certificate.

Upon receipt of the application and the fee, the Secretary of State shall register the brand and issue to the applicant a certificate showing that his brand has been registered, unless the brand is already registered as the brand of another or unless the brand would probably be mistaken for a brand already registered, in either of which cases the Secretary of State shall return the facsimile and the fee to the applicant. The certificate shall show on its face the brand which has been registered and the place where the brand will appear on the livestock.

Section 47-9-280. Recording certificate.

Upon receipt of the certificate provided for in Section 47-9-270 from the Secretary of State, the owner shall record the certificate with the clerk of court in every county where he has livestock. For each recording the clerk of court shall receive a fee of one dollar. He shall record the brands in a book for the purpose and the book shall be open to inspection by the public.

Section 47-9-290. Certificate as evidence of ownership of livestock; foreign certificates.

In any criminal or civil action in which title to livestock is involved or proper to be proved, the certificate provided for in Section 47-9-270 shall, when recorded as provided for in Section 47-9-280, be prima facie evidence of ownership of any livestock bearing the brand shown on the face of the
certificate. When livestock is brought into this State from another state or territory in transit beyond the boundaries of this State, a copy of a brand granted or held in the other state or territory, when certified to by the proper officer in that state, shall be received in evidence under the same circumstances, and shall have the same effect, as a certificate issued under the provisions of this article.

Section 47-9-300. Registered brands for livestock.

A registered brand for livestock is the property of the person adopting and registering the brand, his heirs and assigns, until and unless the brand is cancelled or revoked as provided in this article.

Section 47-9-330. Transfers of brands.

Any brand registered under the terms of this article may be conveyed to another by an instrument in writing, in duplicate, duly executed, but the conveyance shall not be complete until the instrument has been registered with the Secretary of State. Upon registration of the instrument and payment of a fee of three dollars, the Secretary of State shall issue to the purchaser, in his name, a new certificate for the remainder of the term of registration. The certificate shall be recorded, and the fee shall be paid, as provided for in Section 47-9-280.

Section 47-9-340. Cancellation of registration.

The Secretary of State shall cancel the registration of any brand:

(1) at the written request of the owner; or
(2) upon the order of any court of competent jurisdiction.

Section 47-9-350. Revocation of registration.

The registration of any brand granted under this article may be revoked by the order of any court in this State upon a showing of improper use of the brand.

Section 47-9-360. Age at which livestock should be branded.

If livestock are branded by the owner, they shall be branded as follows: Neat cattle, horses, mules and asses shall be branded before they are twelve months old; hogs, sheep and goats shall be branded before they are six months old. The ages specified herein shall not apply to livestock which have passed those ages at the time they are acquired by the owner or at the time the owner is granted a brand under this article; but all such livestock, if branded by the owner, shall be branded within one month after the time they are acquired by the owner or the time the owner is granted a brand under this article.

Section 47-9-370. Witnesses required when branding purchased or acquired livestock.
If any owner who purchases or acquires livestock from another brands the livestock with his own brand, he shall do so in the presence of at least two disinterested parties. The disinterested parties shall certify in writing that they witnessed the branding of the livestock. The certificate shall also state (a) where the branding occurred, (b) with what brand, if any, the livestock were previously branded and (c) with what brand the livestock were branded or rebranded. The certificate shall be retained by the owner. It shall be unlawful to brand any livestock purchased or acquired from another other than in the manner required by this Section.

Section 47-9-380. Unlawful branding.

It is unlawful for any person to brand, or to cause to be branded, any livestock:

(1) With any brand unless it has been registered with and certified by the Secretary of State as his brand and has been recorded with the clerk of court in each county where he has livestock;

(2) With any brand which is registered, certified and recorded as the brand of another; or

(3) With any brand which has been abandoned or the registration of which has been canceled, unless the brand has thereafter been granted to him.

Section 47-9-390. Brand records.

The Secretary of State shall keep an accurate record of all brands registered under the terms of this article and the names and addresses of the owners of the brands, which records shall be open to inspection by the public.

Section 47-9-400. Rules and regulations.

The Secretary of State may promulgate rules and regulations which, in his judgment, may be necessary or proper to supplement or clarify the provisions of this article. The violation of any rule or regulation made and promulgated hereunder shall constitute a violation of this article.

Section 47-9-410. Violations.

Any person convicted of a violation of this article shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for not less than thirty days nor more than one year, or by both such fine and imprisonment.

8. EQUINE LIABILITY IMMUNITY

Section 47-9-710. Definitions.

As used in this chapter:

(1) "Engages in an equine activity" means riding, training, providing, or assisting in providing medical treatment of, driving, or being a passenger upon an equine, mounted or unmounted, or a person assisting a participant or show management. It does not include being a spectator at an
equine activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the equine activity.

(2) "Equine" means a horse, pony, mule, donkey, or hinny.

(3) "Equine activity" means:

(a) an equine show, fair, competition, performance, parade, or trail riding that involves a breed of equine and an equine discipline, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and Western performance riding, trail riding and Western games, and hunting.

(b) equine training or teaching activities, or both;

(c) boarding equines;

(d) riding, inspecting, or evaluating an equine belonging to another, whether the owner has received monetary consideration or another thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;

(e) a ride, trip, hunt, or other equine activity, however informal or impromptu, that is sponsored by an equine activity sponsor;

(f) placing or replacing a horseshoe on an equine;

(g) examining or administering medical treatment to an equine by a veterinarian.

(4) "Equine activity sponsor" means an individual, a group, a club, a partnership, or a corporation, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, a pony club, 4-H club, hunt club, riding club, school and college-sponsored class, program, and activity, therapeutic riding program, and an operator, instructor, and promoter of an equine facility, including, but not limited to, a stable, clubhouse, ponyride string, fair, and an arena at which the activity is held or a landowner who has given permission for the use of his land in an equine activity either by easement or other means.

(5) "Equine professional" means a person engaged for compensation in:

(a) instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine;

(b) renting equipment or tack to a participant; or

(c) examining or administering medical treatment to an equine as a veterinarian.

(6) "Inherent risk of equine activity" means those dangers or conditions which are an integral part of equine activities, including, but not limited to:
(a) the propensity of an equine to behave in ways that may result in injury, harm, or death to a person on or around the equine;

(b) the unpredictability of an equine's reaction to sound, sudden movement, an unfamiliar object, a person, or another animal;

(c) certain hazards such as surface and subsurface conditions;

(d) collisions with other equines or objects; and

(e) the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, as failing to maintain control over the animal or not acting within the participant's ability.

(7) "Participant" means a person, amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

Section 47-9-720. Equine liability immunity; exceptions to grant of immunity.

(A) Except as provided in subSection (B), an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant resulting from an inherent risk of equine activity, and no participant or participant's representative may make a claim against, maintain an action against, or recover from an equine activity sponsor, or an equine professional, for injury, loss, damage, or death of the participant resulting from an inherent risk of equine activity.

(B) Nothing in subSection (A) prevents or limits the liability of an equine activity sponsor, or an equine professional, if the equine activity sponsor, or equine professional:

(1)(a) provided the equipment or tack and knew or should have known that the equipment or tack was faulty, and the equipment or tack was faulty to the extent that it caused the injury; or

(b) provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and to manage safely the particular equine based on the participant's representations of his ability;

(2) owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the equine activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted;

(3) committed an act or omission that constitutes wilful or wanton disregard for the safety of the participant and that act or omission caused the injury; or

(4) intentionally injured the participant.

(C) Nothing in subSection (A) prevents or limits the liability of an equine activity sponsor or an equine professional under liability provisions as set forth in the products liability laws.
(D) The provisions of this article shall not cover or apply to any liability arising from the ownership, maintenance, or use of any motor vehicle.

Section 47-9-730. Warning signs; contract to contain warning notice; immunity revoked for failure to comply.

(A) An equine professional and an equine activity sponsor shall post and maintain signs which contain the warning notice specified in subSection (B). These signs must be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities or once at the primary entrance to any riding trail maintained or operated by the activity sponsor. The warning notice specified in subSection (B) must appear on the sign in black letters with each letter a minimum of one inch in height. A written contract entered into by an equine professional or by an equine activity sponsor to provide professional services, instruction, or rental of equipment, tack, or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the business of the equine professional or the equine activity sponsor, must contain in clearly readable print the warning notice specified in subSection (B).

(B) A sign and contract described in subSection (A) must contain the following warning notice:

WARNING

Under South Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in an equine activity resulting from an inherent risk of equine activity, pursuant to Article 7, Chapter 9 of Title 47, Code of Laws of South Carolina, 1976.

(C) Failure to comply with the requirements concerning warning signs and notices provided in this Section prevents an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this article.

9. REGULATION OF STOCKYARDS, EQUINE SALES FACILITIES, AND DEALERS IN LIVESTOCK

Section 47-11-10. Administration of article.

The State Livestock-Poultry Health Commission shall administer this article in accordance with Chapter 4 of this title.

Section 47-11-20. Permits; fees; operation without a permit is a misdemeanor.

(A) A person operating a public livestock market or an equine sales facility, as defined in Section 47-4-20, shall obtain from the commission a permit authorizing the operation. Issued permits are effective until the next March first, unless sooner revoked or canceled.
(B) The permit fee is five dollars annually or for a part of a year. The permit year is March first to the last day of February. The commission by regulation may increase the fee to not more than one hundred dollars.

(C) The commission may retain the fees.

(D) A person operating a public livestock market or an equine sales facility without a current permit is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.

Section 47-11-30. Application for permit; approval of changes in operating, ownership, etc.

(A) Application for a permit must be made on forms furnished by the commission and must show the:

1. full name and address of all persons having a financial interest in the market. This requirement is not necessary for publicly-owned joint stock corporations;

2. name, address, and telephone number of the officer, manager, or other person in charge;

3. name under which the market will operate;

4. operating days and hours;

5. location and type facilities for holding and segregating animals.

(B) Changes in operating days or hours require the prior written approval of the commission. The commission must be advised in writing within ten days of all other changes in the required information. However, a change of ownership or management must be reported to the commission in writing within thirty days after occurrence.

Section 47-11-60. Bond.

The operator of a public livestock market or an equine sale facility shall file with his application for a permit a two thousand dollar surety bond acceptable to the commission to secure the performance of all obligations incident to the operation of the livestock market under this title. The commission may waive the requirements of this Section. No bond is required of a livestock market association organized under a law which requires the association to be bonded or a market operating under the Federal Packers and Stockyards Act.

Section 47-11-70. Facilities regulations; inspections; penalties.

The commission shall promulgate regulations to provide requirements necessary for facilities for holding livestock, such as proper and adequate pens for holding and segregating, proper protection from the weather, adequate water supply, access to medical treatment, sanitation, disinfection, and cleanliness and other equipment or procedures necessary and appropriate. The commission shall conduct periodic inspections of the various livestock markets.
in this State and may take remedial action or require remedial action appropriate under the law. The commission may invoke civil or criminal penalties, or both, provided in Section 47-4-130 for violations.

**Section 47-11-80. Records; identification required of persons selling at market; livestock haulers exempt from licenses.**

(A) The public livestock market or equine sales facility shall keep records required by this chapter and the regulations promulgated pursuant to it including, but not limited to, from whom the animals were received, to whom sold, necessary tests and results, and certificates of veterinary inspection or permits when required. The records must be retained by the market operator for two years and are subject to inspection by the commission or Commissioner of Agriculture upon reasonable notice.

(B) No person may sell at a public livestock market or an equine sales facility without first identifying himself by a driver's license or other photographic identification, a truck or trailer license plate number, or other means of identification acceptable to the market or facility operator. The records of the market or facility operator must reflect this identification.

(C) No person engaged in the hauling of livestock from farm to market is required to have a license from the Public Service Commission.

**Section 47-11-85. Identification of animals sold in public livestock market or equine sales facility.**

Animals sold in a public livestock market or equine sales facility must bear identification including, but not limited to, ear tags, ear notches accompanied by purebred papers, back tags, mane and tail tags, tattoos, brands, or other permanent means authorized by state or federal regulations.

**Section 47-11-90. Brucellosis testing.**

When considered advisable by the commission, all animals except those for immediate slaughter must be tested for brucellosis before the animals are removed from the stockyards or other premises where the animals are being held for sale.

**Section 47-11-100. Tuberculosis and paratuberculosis tests required for all animals except those for immediate slaughter.**

All animals except those for immediate slaughter must be tested for tuberculosis and paratuberculosis when considered advisable by the commission before they are released from the stockyards.

**Section 47-11-110. Establishment of slaughter assembly points.**

The commission, by regulation, may establish slaughter assembly points.
Section 47-11-120. Liability of person removing livestock for slaughter.

A person who removes from a public livestock market or equine sales facility equine, cattle, swine, or other livestock for immediate slaughter shall use them for immediate slaughter only in accordance with this article and the regulations issued in accordance with it. The owner of the animals is charged with the responsibility of having the animals slaughtered and is liable for all damages resulting from diverting them to other uses by failing to have them slaughtered.

Section 47-11-130. Infected or exposed animals or poultry.

Animals or poultry known to be infected with or exposed to one or more of the diseases provided in Section 47-4-50 or that reacts to a test indicating the presence of the diseases must be held separate and apart from healthy animals and must not be sold, traded, moved off premises, or otherwise disposed of except for immediate slaughter only in accordance with applicable state and federal regulation or with the prior approval of the commission.

Section 47-11-140. Services of veterinarians provided for auctions; cost of tests and the like.

The commission may provide the service of competent veterinarians to attend auction sales at the various public livestock markets on the day of the sale. The costs, exclusive of the pay of a veterinarian provided by the commission, of all tests, serums, vaccine, treatments, and labor furnished by the livestock auction market necessary for the enforcement of this chapter and the protection of livestock against contagious and infectious diseases must be paid for by the buyer of the livestock, and the costs constitute a lien against the animals.

Section 47-11-150. Promulgation and enforcement of regulations.

The commission may promulgate and enforce regulations necessary to carry out this article.

Section 47-11-160. Enforcement.

A municipality, county, or state law enforcement officer or highway patrolman may stop and ascertain whether a conveyance transporting livestock along the highways and streets within the State have proper receipts or certificates in accordance with this article.

Section 47-11-170. Violations.

A person who knowingly violates this article or a regulation promulgated by the commission or wilfully fails to comply with this article is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.
10. GRADING AND INSPECTION

Section 47-11-310. Declaration of purpose.

The intent and purpose of this article is to improve, further develop and expand livestock production and marketing in South Carolina by encouraging livestock producers to produce a better grade and quality of livestock in order that such agricultural commodity may sell in competition with livestock produced in other areas. The livestock industry is of great economic importance, not only to the agricultural economy of this State but to the general economy of the State as well, and it is hereby determined that to encourage the production of livestock of higher quality will more fully utilize our potential of land productivity, favorable climatic conditions and other natural resources for the expansion of this important industry. Therefore, it is deemed to be in the best interest and for the advancement of the agricultural economy and the general welfare of this State to provide for the grading and inspection of livestock marketed at public livestock markets in the manner hereinafter provided.

Section 47-11-320. Definitions.

For the purpose of this article, the following words and terms shall have the meaning indicated, unless the context clearly indicates a different meaning:

(a) "Person" means any individual, firm, partnership, corporation or association;

(b) "Public livestock market" means a place where livestock may be assembled for sale by any means generally recognized by the farm community and the trade;

(c) "Livestock" means cattle or swine;

(d) "Grade" means the standard by which the quality of livestock may be determined;

(e) "Department" means the South Carolina Department of Agriculture.

Section 47-11-330. Grading of livestock for quality and pooling for sale.

All livestock offered for sale in South Carolina may be graded for quality and pooled for sale with the consent of the seller.

Section 47-11-340. Grading service conducted by Department of Agriculture.

The grading service herein provided shall be conducted by the Department of Agriculture at a cost to be established by the Department and the proceeds shall be used for the purpose of paying salaries, travel and related expenses of grading personnel. These proceeds shall be deposited with the State Treasurer to the account of the Department to be expended for the purposes authorized in this chapter. The grading shall be conducted only by personnel who are certified by the Department and who have successfully completed tests and examinations to determine proficiency in grade application which are administered by the Livestock Division, Consumer
and Marketing Service, United States Department of Agriculture. Grading personnel are responsible only for placing animals for sale into the proper grade categories as determined by standards promulgated by the Department.

Section 47-11-350. Department authorized to adopt standards and grades.

The Department of Agriculture is authorized to promulgate and adopt the standards or grades which shall be used for the grading of livestock and it shall be authorized to adopt, as official standards for such grading, the standards and grades which have been promulgated by the United States Department of Agriculture as feeder and slaughter livestock grades.

Section 47-11-360. Department authorized to adopt identification method or system.

The Department is hereby authorized to adopt an identification method or system by the use of marks, tags, paint or other methods to be affixed to livestock whereby such livestock may be identified with respect to their grade and physical condition in order that the prospective buyers or bidders may determine the grade and condition of the livestock at the time of sale.

Section 47-11-370. Department authorized to adopt rules and regulations and designate effective date of grading and inspection requirements; notice and hearing on rules.

The Department is hereby authorized and empowered to promulgate and adopt such rules and regulations as are reasonably necessary to carry out the provisions and requirements of this article. The Department shall also be authorized to designate the effective date on which the grading and inspection requirements of this article shall become effective which shall not be later than January 1, 1973. Before any rules and regulations, including grading requirements shall be approved and adopted, every public livestock market in this State shall be given at least fifteen days notice that such rules and regulations will be considered by the Department for approval in order that livestock market operators may appear and be heard concerning the adoption of such rules and regulations. Following adoption and approval of any and all rules and regulations, the Department, within thirty days, shall give notice to the livestock market operators of such rules and regulations approved and adopted and such rules and regulations shall not become effective until thirty days after notice has been given to the livestock market operators.

Section 47-11-380. Participation in grading and inspection program shall be voluntary.

Participation in this program of grading and inspection of livestock shall be completely voluntary on the part of all persons so affected by the provisions of this article. Any person, in his discretion, may elect not to have his livestock graded and inspected as provided herein and nothing herein shall give the Department authority to compel any person to
have his livestock so graded and inspected. A person may elect
to include any or all classes of cattle and swine, or either of
them, under the provisions of this article.

Section 47-11-390. Violations; penalties and injunctions.

Any person, or his agent, servant or employee, after
voluntarily entering this program, who operates a public
livestock market and violates or refuses to comply with any of
the provisions herein or who violates any rules or regulations
duly approved and adopted by the Department or any person
who shall refuse, resist, prevent or interfere with the
Department or its authorized agents or employees in the
performance of their duties, shall be guilty of a misdemeanor
and, upon conviction, shall be fined not less than fifty dollars
nor more than five hundred dollars or imprisoned for not
more than six months. Each day any person operates a public
livestock market in violation of this article shall constitute a
separate offense.

Any circuit court of this State in equity or any other court of
competent jurisdiction shall have jurisdiction to grant a
temporary or permanent injunction, or both, restraining or
enjoining any person who voluntarily enters this program
from violating any of the provisions of this article. Such
injunctions shall be issued without bond. The Attorney
General shall bring in a court of competent jurisdiction all
actions arising out of a violation of this article.

11. SALE AT AUCTION

Section 47-11-510. Commissioner authorized to
regulate sales and license public livestock sales
establishments.

The Commissioner of Agriculture, hereinafter referred to as
"Commissioner," shall regulate, as provided herein, the sale of
livestock at auction and shall license for a fee of one dollar per
year all public livestock sales establishments.

Section 47-11-520. Procedure for payment of
livestock purchased at auction.

Payment for livestock purchased at auction shall be made on
the same date of purchase of the livestock, and the proceeds
therefrom shall be deposited by the public livestock sales
establishment in a custodial account not later than the next
banking day following the date of sale. Payment for livestock
purchased at auction shall be made by cash, check or draft.
There shall be no loans made from the custodial account of
any public livestock sales establishment to any purchaser of
livestock at such sales establishment.

Section 47-11-530. Notification of dishonored check
or draft.

It shall be the duty and responsibility of each public livestock
sales establishment to report to the Commissioner within
twenty-four hours after having knowledge that a check or
draft issued in payment for livestock has been dishonored,
and it shall be the duty and responsibility of the Commissioner to notify all licensed sales establishments of the fact of such dishonor of any such check issued in payment for livestock.

**Section 47-11-540. Rules and regulations.**

The Commissioner is authorized to issue and promulgate rules and regulations pertaining to the purchase and payment of livestock sold at auction in this State and to the licensing of public livestock sales establishments. The Commissioner in addition is authorized to provide penalties, including, but not limited to, the revocation of any license issued by the Commissioner, for the violation of such rules and regulations. The Commissioner shall also be authorized to prescribe that such information or records be kept by public sales establishments as may be necessary for the enforcement of this article, and such sales establishments shall make such records available for inspection by the Commissioner or his agents during any business hours.

**Section 47-11-550. Article applies only to public sales establishments.**

The provisions of this article shall only apply to public sales establishments. For the purpose of this article, "public sales establishments" shall mean any livestock sales establishment which conducts more than two livestock auction sales in any one calendar year.

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**12. DISEASES AND INFECTIONS**

**Section 47-13-10. Provisions on diseases and infections to be administered by State Livestock-Poultry Health Commission.**

This chapter must be administered, unless otherwise indicated, by the State Livestock-Poultry Health Commission in accordance with this chapter and Chapter 4 of this title.

**Section 47-13-20. Powers and duties of commission.**

The commission and its agents, employees, livestock law enforcement officers, and livestock inspectors may visit all Sections of this State where contagious, infectious, or communicable disease among animals including poultry and domesticated fowl is believed to exist and shall determine according to law whether affected animals are worthy of remedial treatment or, considering the animal industry, must be destroyed. The commission shall conduct scheduled and unscheduled inspections of premises operating under permit issued by him and conduct solely or in conjunction with other appropriate agencies necessary investigations involving matters assigned by law to its jurisdiction.

**Section 47-13-30. Penalties for violations of chapter.**

A person who violates this chapter or the regulations promulgated pursuant to it is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.
Section 47-13-60. Sale of diseased livestock or fowl unlawful.

It shall be unlawful to sell or offer for sale in this State any horse, mule, cattle, hog or any other livestock or any poultry or domesticated fowl of any kind that is known to be affected with any contagious disease, the tendency of which is to cause the death of any such livestock; and any person violating the provisions of this Section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in a sum not exceeding one hundred dollars or be imprisoned in the county jail not exceeding thirty days.

Section 47-13-70. Selling flesh of diseased or injured animals.

Any person who shall knowingly sell or expose for sale the flesh of any animal which (a) was diseased or seriously injured at the time of slaughtering, (b) died a natural death or (c) may be found dead from a cause unknown to such person shall be guilty of a misdemeanor and, on conviction, shall be fined not less than five dollars nor more than one hundred dollars or imprisoned not less than ten nor more than thirty days; provided, that this Section shall not apply to the sale of the flesh of any animal which is accidentally killed when the same is immediately prepared for market and the seller informs the buyer of the time, place and nature of the death of such animal.

Section 47-13-80. Commissioner of Agriculture charged with enforcement of Section 47-13-70.

The Commissioner of Agriculture and his assistants designated for the purpose shall be charged with the enforcement of Section 47-13-70.

Section 47-13-110. Sale of biological products containing living disease-producing agent.

It is unlawful for a person to possess, sell, or distribute biological products containing a viable, living agent capable of producing disease in livestock and poultry, except with the prior written consent of the commission.

Section 47-13-130. Appropriation of funds in event of outbreak of diseases in animals and poultry.

Whenever the commission certifies to the Governor that an outbreak of disease in animals or poultry has occurred within the State and that state or federal law has established an eradication program for the disease concerned, there must be appropriated out of the general fund of the State amounts necessary to cover indemnity payments provided for in Section 47-13-360. The amounts appropriated must be made available to the State Livestock-Poultry Health Commission and used for the payment of destroyed animals and poultry and for other expenses necessary and incident to the eradication of the diseases.
Section 47-13-150. Quarantine against importing slaughtered meat or poultry from disease-affected areas.

The commission shall impose a quarantine against the importation of slaughtered meat or poultry from an area of the country affected by a contagious, an infectious, or a communicable disease when the raw meat or poultry poses a serious threat to the animal or poultry industry or the general public.

Section 47-13-160. Fitness of registered companion dog or cat for sale; definitions; certifications; remedies.

(A) No pet dealer, pet shop, or pet breeder shall sell a registered companion dog or cat without providing to the purchaser a statement certifying that the dog or cat has received an infectious disease inoculation suitable for the specific animal's age and species within the previous fourteen days for an animal under six months of age or within the previous ninety days for an animal six months of age or older. Proof of vaccination must be provided to the purchaser at the time of sale. The purchaser also must be provided with a copy of the "ELECTION OF OPTIONS" as contained in subSection (D).

(B) If at any time within fourteen days following the sale and delivery of a registered companion dog or cat to a purchaser, a licensed veterinarian certifies the animal to be unfit for purchase due to a noncongenital cause or condition or within six months certifies an animal to be unfit for purchase due to a congenital or hereditary cause or condition, a purchaser has the right to elect one of the following options:

(1) the right to return the animal and receive a refund of the purchase price, including sales tax, and reimbursement of the veterinary fees incurred before the purchaser's receipt of the veterinary certification. The seller's liability for veterinary fees under this option must not exceed fifty percent of the purchase price, including sales tax, of the animal;

(2) the right to retain the animal and to receive reimbursement for veterinary fees incurred before the purchaser's receipt of the veterinary certification and the future cost of veterinary fees to be incurred in curing or attempting to cure the animal. The seller's liability under this option must not exceed fifty percent of the purchase price, including sales tax, of the animal;

(3) the right to return the animal and to receive in exchange an animal of the purchaser's choice, of equivalent value, and reimbursement of veterinary fees incurred before the purchaser's receipt of the veterinary certification. The seller's liability for veterinary fees under this option must not exceed fifty percent of the purchase price, including sales tax, of the animal;

(4) the right to receive a full refund of the purchase price, including sales tax, for the animal or, in exchange, an animal of the purchaser's choice of equivalent value, and reimbursement of veterinary fees incurred before the death of
the animal if the death occurs within fourteen days of the date the purchaser takes possession, except where death occurs by accident or injury sustained during that period. The seller's liability for veterinary fees under this option must not exceed fifty percent of the purchase price, including sales tax, of the animal.

(C) The seller shall accept the veterinary certification of unfitness delivered by the purchaser within five days following the purchaser's receipt of it. The certification must contain:

(1) the name of the owner;
(2) the date or dates of examination;
(3) the breed, color, sex, and age of the animal;
(4) a statement of the veterinarian's findings;
(5) a statement that the veterinarian certifies the animal to be unfit for purchase;
(6) an itemized statement of veterinary fees incurred as of the date of the certification;
(7) where the animal is curable, the estimated fee to cure the animal;
(8) where the animal has died, a statement setting forth the probable cause of death; and
(9) the name and address of the certifying veterinarian and the date of the certification.

(D) When a purchaser presents a veterinary certification of unfitness to the seller, the seller must confirm the purchaser's election in writing. The election must be in the following form and a copy must be given to the purchaser upon signing:

"UNFITNESS OF ANIMAL - ELECTION OF OPTIONS

I understand that, upon delivery of my veterinarian's certification of unfitness, I have the right to elect one of the following options. I am aware of those options and I understand each of them. I have chosen the following option:

_ 1. Return of the animal and receipt of a refund of the purchase price, including sales tax, for the animal and reimbursement of the veterinary fees incurred before the date I received the veterinarian's certification of unfitness. The reimbursement for veterinarian's fees must not exceed fifty percent of the purchase price, including sales tax, of the animal.

_ 2. Detention of the animal and reimbursement for the veterinary fees incurred before the date I received the veterinarian’s certification of unfitness and the future cost to be incurred in curing or attempting to cure the animal. The total reimbursement for veterinarian's fees must not exceed fifty percent of the purchase price, including sales tax, of the animal."
3. Return of the animal and receipt of an animal of my choice of equivalent value in exchange and reimbursement of veterinary fees incurred before the date I received my veterinarian's certification of unfitness. The reimbursement for veterinarian's fees must not exceed fifty percent of the purchase price, including sales tax, of the animal.

4. DEATH OF ANIMAL ONLY. Receipt of a full refund of the purchase price, including sales tax, for the animal or, in exchange, an animal of my choice of equivalent value and reimbursement of the veterinary fees incurred before the death of the animal. The reimbursement for veterinarian's fees must not exceed fifty percent of the purchase price, including sales tax, of the animal.”

(E) Where the animal has died, the veterinarian shall hold the carcass or forward it to the Clemson University Diagnostic Laboratory.

(F) If the seller refuses to refund the purchase price and fees pursuant to subSection (B), the purchaser may initiate a civil action to recover damages. The court, upon a finding that the seller violated the provisions of this Section, shall award the purchaser two times the amount of the purchase price and fees, attorney's fees as determined by the court, and costs.

(G) As used in this Section:

(1) "Pet dealer" is a person engaged in the ordinary course of business and sale to the public for profit of a companion animal described as being registered or being capable of being registered with an animal pedigree organization.

(2) "Pet shop" means an establishment where companion animals are bought, sold, exchanged, or offered for sale or exchange to the public.

(3) "Pet breeder" means a person engaged in the business of breeding companion animals for profit. The term does not include a person who, not in the ordinary course of business, owns an animal which occasionally is bred or produces a litter from which animals are sold.

Section 47-13-310. Notice to disinfect; violation is a misdemeanor.

The commission may give written notice to a person owning, possessing, or controlling livestock which may be found infested or infected with, or exposed to a carrier of an infectious, a contagious, or a communicable disease, or a barn, shed, yard, or field which is capable of conveying the infection or contagion to disinfect the livestock or premises or have them disinfected within five days from the service of the notice. A person who refuses or neglects for five days from the service of the notice to disinfect the animals, livestock, or premises in the manner and method prescribed, to commence the treatment prescribed, or to complete the treatment prescribed is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.
Section 47-13-320. Orders to disinfect animals exposed to cattle fever tick.

Any person, owning, possessing or controlling any cattle, horse, mule or ass which may be found infested or infected with or exposed to the cattle fever tick (margaropus annulatus) when served with a disinfection notice by the State Veterinarian, his assistant or any livestock inspector appointed by the Veterinarian, shall disinfect or have such cattle, horse, mule or ass disinfected, under the supervision of the State Veterinarian, his assistant or a livestock inspector appointed by the Veterinarian, in or with a disinfectant approved by the Veterinarian, in the manner and at the time and place specified in the disinfection notice within five days from the service of the notice and every fourteen days thereafter, if the notice so provides, until notified by the State Veterinarian, his assistant or livestock inspector appointed by the Veterinarian, in or with a disinfectant approved by the Veterinarian, in the manner and at the time specified in the disinfection notice, that it is no longer required or necessary to disinfect such cattle, horse, mule or ass.


A person owning, possessing, or controlling animals, livestock, or poultry which may be found infested or infected with or exposed to a carrier of an infectious, a contagious, or a communicable disease in a county within this State other than the county in which the person resides may be tried for a violation of Section 47-13-310 in the county where the animal, livestock, or poultry is kept or the county in which the person owning, possessing, or controlling the animal, livestock, or poultry resides.

Section 47-13-360. Indemnity payments for killing of certain animals.

To obtain indemnity payments pursuant to this Section, cattle infected with tuberculosis, paratuberculosis or brucellosis, or glandered horses, mules or asses shall not be killed until they have been inspected by the State Veterinarian, or his designee, or another veterinarian licensed by the State Board of Veterinary Examiners and determined by him to be so infected.

When any such animal is killed because of any of the above-mentioned diseases, the actual cash value of the diseased animal immediately prior to killing shall be fixed within twenty-four hours thereafter by appraisers chosen in the manner described in Section 47-13-380. Indemnity payments, less salvage value, which in no case shall exceed the appraised value of the animal, shall be made by the State to the owner from State or other available sources but in no case shall the State's share of indemnity payments exceed one hundred fifty dollars for a horse, mule or ass nor in the case of cattle shall such share exceed two hundred dollars for any single animal. No animal shall be indemnified for under this Section which was imported into the State within six months of the time it is killed.

The provisions of this Section and the indemnity herein provided may be extended to include individual animals or
entire herds exposed to but not yet infected with disease when in the judgment of the officials responsible for disease control and indemnity payments the killing of such exposed animals would contribute substantially to the eradication of the disease to which such animals have been exposed.

Section 47-13-370. Blank forms used to certify test results.

The State Veterinarian shall, upon request, furnish to the persons needing them, suitable blank forms to be used in certifying the result of any test made under the provisions of Section 47-13-360.

Section 47-13-380. Appointment of appraisers of animals to be killed.

Whenever the State Veterinarian or an assistant of his shall, pursuant to Section 47-13-360, decide upon the killing of an animal he shall notify the owner of such decision in writing. If satisfactory to the owner three appraisers shall then be chosen in the following manner: One shall be appointed by the State Veterinarian or an assistant of his; one shall be appointed by the owner, and the third shall be the State Veterinarian or an assistant of his. The persons so appointed must be practical stock men and their services shall be rendered free of charge.

Section 47-13-390. Procedure in event prescribed appraisal method is unsatisfactory to owner.

If the method of appraisal prescribed by Section 47-13-380 is unsatisfactory to the owner, within twenty-four hours after receipt of notice from the State Veterinarian, the owner may file with the State Livestock-Poultry Health Commission a protest stating under oath, to the best of his knowledge and belief, the animal is not infected with tuberculosis or glanders. If the animal is killed an autopsy must be held by three experts who must be graduate veterinarians of a recognized college. One must be appointed and paid by the owner, one must be appointed by the State Veterinarian and paid by the State, and one must be the State Veterinarian or his assistant. These three experts shall appraise the animal before it is killed at its actual cash value, and if the autopsy shows the animal is free entirely from the disease, the cash value of the animal immediately before the killing must be paid to the owner by the State, less the value of the carcass.

Section 47-13-400. Form and payment of appraisements.

Appraisements made under Sections 47-13-360 and 47-13-390 shall be in writing and shall be signed by the appraisers and certified by the local board of health and the State Veterinarian, respectively; these appraisements shall be paid from annual appropriations to Clemson University.

Section 47-13-410. Procedure when animal killed because exposed to contagion or infection.

If any animal be killed by the order of the State Veterinarian or an assistant of his for the sole reason that it has been
exposed to contagion or infection, the provisions of Sections 47-13-390 and 47-13-400 as to autopsy, appraisal and payment shall apply except that no protest need be filed.

Section 47-13-420. Expenses of appraisal.

The expert appointed by the commission to assist in appraising animals, in cases of protest, shall receive from the State fifty dollars a day and traveling expenses while on actual duty. An itemized bill of expenses of this veterinarian, certified by the local board of health, must be transmitted to the commission. Upon certification by the commission the bill must be paid from its annual appropriations.

Section 47-13-430. Indemnity for animals condemned for foot and mouth disease, vesicular exanthema or rinderpest.

Should an outbreak of any of the diseases which are commonly known as "foot and mouth disease," "vesicular exanthema," or "rinderpest" occur, the value to be placed on animals condemned and destroyed on account of being affected with, or having been exposed to, any of such diseases shall be fixed in accordance with the provisions of Section 47-13-360 and funded in accordance with Section 47-13-130; provided, however, that the limitation on indemnity for animals imported into the State within six months shall not apply to the diseases mentioned above in this Section.

13. BRUCELLOSIS

Section 47-13-510. "Brucellosis" defined; declaring animal infected.

"Brucellosis" (Bang's disease) shall mean the disease wherein an animal is infected with the Brucella organisms, irrespective of the occurrence or absence of an abortion. An animal shall be declared infected with brucellosis if it reacts to a serological test made in an approved laboratory or if the Brucella organisms have been found in the body or its secretions or discharges.

Section 47-13-520. "Approved accredited veterinarian" defined.

The words "approved accredited veterinarian" shall be construed to mean a graduate veterinarian approved by the State Veterinarian and the Director of the Animal Disease Eradication Division, United States Department of Agriculture, for the testing of cattle intended for interstate shipment.

Section 47-13-530. Conduct of control.

The control and eradication of brucellosis in the herds of the State shall be conducted as far as the funds of the State Livestock-Poultry Health Commission will permit and in accordance with the rules and regulations promulgated by the State Livestock-Poultry Health Commission.
Section 47-13-540. Exposed or suspected animals subject to quarantine.

Animals infected with or exposed to the disease of brucellosis, or suspected of being carriers of that disease, shall be subject to quarantine and the rules and regulations of the State Livestock-Poultry Health Commission.


The State Veterinarian may set up a program for the vaccination of calves between the ages of four and twelve months, and older cattle, with Brucella vaccine in accordance with the recommendations of the Animal Disease Eradication Division, United States Department of Agriculture. Such vaccination shall be done under the rules and regulations promulgated by the State Livestock-Poultry Health Commission.

Section 47-13-560. Tattooing or branding of vaccinated animals.

Such vaccinated animals shall be permanently identified by tattooing or other methods approved by the State Veterinarian and no indemnity shall be paid on any such vaccinated animal. All such vaccinated animals that show a positive reaction to an official brucellosis test eighteen months or more after vaccination shall be considered as infected with brucellosis and shall be branded with the letter "B" in accordance with the law covering such branding.

Section 47-13-570. Sale of vaccine.

It shall be unlawful to sell, offer for sale, distribute or use Brucella vaccine or any other product containing living Brucella organisms, except as provided for in this article.


No female cattle or breeding bulls more than six months of age shall be sold or moved except for slaughter, unless such cattle either (a) have been tested for brucellosis and found negative within thirty days prior to the date of sale, (b) are dairy cattle and breeding cattle under thirty months of age and were vaccinated against brucellosis with an approved vaccine when they were not less than four months nor more than twelve months of age and were identified as provided under rules and regulations promulgated by the State Livestock-Poultry Health Commission and reported at the time of vaccination to State and Federal cooperating agencies or (c) are in brucellosis-free accredited herds or areas at the time of sale.

Section 47-13-590. Sale of infected animals.

No animal infected with brucellosis shall be sold, traded or otherwise disposed of except for immediate slaughter or as designated by the State Veterinarian and the person disposing of such infected animals shall see that they are promptly slaughtered and that a written report thereof is made to the State Veterinarian.
But the State Veterinarian may permit the sale of valuable purebred, registered animals that have reacted to an official brucellosis test or are suspected of such reaction, provided such animals go direct to infected herds that have been vaccinated with Brucella vaccine, as provided for in this article, and are held under quarantine in accordance with the law and regulations covering such quarantine.

**Section 47-13-600. Liability for sale of infected animal except for slaughter.**

Any person who knowingly sells or otherwise disposes of an animal infected with brucellosis to another, except for immediate slaughter, shall be liable in a civil action to any person injured and for all damages resulting therefrom and shall be equally responsible for violation of this article and the regulations promulgated by the State Livestock-Poultry Health Commission.

**Section 47-13-610. Veterinarian shall require testing of suspected animals.**

When the State Veterinarian receives information or has reason to believe that brucellosis exists in any animal he shall promptly notify the owner and require that a test be applied to such animal and that if the animal be found to be diseased it shall be properly disposed of and the premises disinfected under the supervision of the State Veterinarian or his authorized representative.

**Section 47-13-620. Compulsory tests of cattle.**

When the director of the State Livestock-Poultry Health Commission shall deem it advisable to test all cattle in any specified county within the State, in accordance with the provisions of this article or upon receipt of a petition containing at least seventy-five per cent or more of the livestock owners holding ninety-five per cent or more of the cattle in the county, the test of all cattle in such county shall become compulsory and the cattle owners or persons in charge, upon notification from the livestock and poultry health department or one of the department's inspectors, shall assemble or have assembled such animals at the times and places designated by an inspector of the livestock and poultry health department or the Animal Disease Eradication Division, United States Department of Agriculture, and give such assistance as may be necessary for the proper testing of the cattle. Inspectors engaged in the area testing of cattle for brucellosis shall have due authority to enter premises. No cattle, except for immediate slaughter, shall be brought into the county in which area work is being or has been conducted, unless accompanied by a proper test chart and health certificate issued by an approved accredited veterinarian, showing that the cattle have passed a proper test for brucellosis.

**Section 47-13-630. Blood samples shall be drawn by veterinarian.**

All blood samples for brucellosis tests shall be drawn by an approved accredited veterinarian or other person specifically authorized in writing by the State Veterinarian.
Section 47-13-640. Report and branding of infected animals.

Any animals found infected with brucellosis shall be reported in writing to the State Veterinarian within five days after the test and the infected animal and all other animals exposed to such animal shall be quarantined on the owner's premises. Animals infected with brucellosis shall be branded with the letter "B" on the left jaw, not less than three nor more than four inches high, and be tagged with a suitable ear tag.

Section 47-13-650. Cooperation with United States; inspectors.

The State Livestock-Poultry Health Commission may cooperate with the United States Department of Agriculture in the control and eradication of brucellosis. The livestock and poultry health department may appoint and commission, without salary from the State, as its inspectors, representatives of the Animal Disease Eradication Division, United States Department of Agriculture, and may accept from the United States Government such assistance, financial and otherwise, for carrying out the purpose of this article, as may be available from time to time.

Section 47-13-660. Reports.

Reports, made in duplicate, of all activities of all personnel engaged in the testing or vaccination of cattle in connection with brucellosis are compulsory and shall be made promptly to the State Livestock-Poultry Health Commission, such reports to be made on forms furnished by the department.


The State Veterinarian may enforce such rules and regulations promulgated by the State Livestock-Poultry Health Commission as may be necessary to carry out the provisions of this article and for the effective control and eradication of brucellosis.

Section 47-13-680. Violations.

A person violating this article or regulations promulgated under it by the State Livestock-Poultry Health Commission is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.

Section 47-13-690. Cooperation of State with federal government in paying indemnity for infected cattle.

The State shall cooperate with the federal government in paying indemnity for cattle owned in this State known to be infected with brucellosis as a result of a test made by the Animal and Plant Health Inspection Service, United States Department of Agriculture, or by a graduate veterinarian licensed by the State Board of Veterinary Examiners of the State and the commission cooperating, in accordance with regulations prescribed by the service and the commission, and whose owners agree to cooperate with the federal government.
and the State in the control and eradication of the disease. Payments on the part of this State must be made in accordance with the amounts and procedures prescribed in Section 47-13-360.

14. TUBERCULOSIS AND PARATUBERCULOSIS

Section 47-13-810. Tuberculosis and paratuberculosis declared contagious and infectious; animals subject to quarantine.

It is hereby declared that the diseases of animals known as tuberculosis and paratuberculosis are of a contagious and infectious character, and animals affected with or exposed to these diseases, or suspected of being carriers of these diseases, shall be subject to quarantine and the rules and regulations promulgated by the State Livestock-Poultry Health Commission.

Section 47-13-820. Tuberculin and paratuberculin tests; observation.

When the State Livestock-Poultry Health Commission shall be conducting tuberculosis or paratuberculosis eradication work in any county, in cooperation with the Animal Disease Eradication Division, United States Department of Agriculture, under the area plan or under its general authority, to eradicate, control and prevent contagious and infectious diseases of animals, all persons owning or having animals in their charge shall upon notice assemble or have assembled such animals at a time and place designated by an inspector or veterinarian of the State Livestock-Poultry Health Commission or of the Animal Disease Eradication Division, United States Department of Agriculture, in order that tuberculin or paratuberculin tests may be applied. Assistance shall be given in confining these animals in order that the test may be administered properly, and the same animals shall be returned for observation at a time and place designated by such inspector or veterinarian. Any herd or animals or all animals in the modified accredited area or other areas shall be tuberculin or paratuberculin tested or retested at such times as deemed advisable by the State Livestock-Poultry Health Commission.

Section 47-13-830. Quarantine of herds in which reactors are found.

All animals in which tuberculosis or paratuberculosis reactors have been found shall be quarantined and no animal in quarantined herds shall be disposed of until all of the remaining animals in such herds shall have passed at least three negative tuberculin or paratuberculin tests applied, not less than sixty days apart, by an approved accredited veterinarian, and the records of such tests shall be filed with the State Veterinarian; provided, however, animals from such herds for immediate slaughter may be moved on special permit issued under the authority of the State Veterinarian.
Section 47-13-840. Branding and slaughtering of reacting animals; disinfecting quarters and equipment.

All animals reacting to the tuberculin or paratuberculin test shall be branded immediately with the letter "T" not less than three inches high on the left jaw by the veterinarian applying the test. All reacting animals shall be identified with suitable ear tags and shall be slaughtered under either State or Federal supervision and may be disposed of according to the Federal Meat Inspection Regulations, or shall be either burned or the body placed at least four feet beneath the surface of the earth, covered with live lime and the hole filled with soil. Barns, stalls, lots and all places and articles that have been used by the reactor animals shall be thoroughly cleaned and disinfected or destroyed according to the direction of the State Veterinarian.

Section 47-13-850. Liability for disposing of affected animal except for immediate slaughter.

Any person or persons who knowingly sells or otherwise disposes of to another, except for immediate slaughter, an animal affected with tuberculosis or paratuberculosis shall be liable in a civil action to any person injured, and for any and all damages resulting therefrom and shall be equally responsible for violation of this article and the regulations promulgated by the State Livestock-Poultry Health Commission.

Section 47-13-860. Official tests.

The intradermal and thermal tuberculosis test for tuberculosis and the intradermal test for paratuberculosis will be recognized as official tests when applied by an approved accredited veterinarian, under the direction of the State Livestock-Poultry Health Commission and when the certificate is filed with the State Veterinarian immediately after the completion of the test.

Section 47-13-870. Inspectors; accepting assistance from United States Government.

The State Livestock-Poultry Health Commission is vested with authority to appoint and commission, without salary from the State, as its inspectors, representatives of the Animal Disease Eradication Division, United States Department of Agriculture, and to accept from the United States Government such assistance, financial and otherwise, for carrying out the purpose of this article, as may be available from time to time.

Section 47-13-880. Violations.

A person violating this article or regulations of the State Livestock-Poultry Health Commission promulgated under it is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.

15. POULTRY PULLORUM AND TYPHOID

Section 47-13-1210. Definitions.
Except where the context otherwise requires, for the purposes of this article the following terms shall be construed, respectively, to mean:

(a) Person. A natural person, firm or corporation.

(b) Poultry. Live fowl, including chickens, turkeys, waterfowl and game birds which are propagated and maintained under the control of any person for any purpose.

(c) Hatching eggs. Eggs for use in a hatchery to produce young poultry or embryonated eggs.

(d) Hatchery. Incubators, hatchers and auxiliary equipment on one premise operated and controlled by any person for the hatching of poultry.

(e) Flock. All of the poultry on one premise, except that, at the discretion of the State Livestock-Poultry Health Commission, any group of poultry which is segregated from other poultry and has been so segregated for a period of at least twenty-one days may be considered as a separate flock.

(f) Pullorum disease or pullorum. A disease of poultry caused by salmonella pullorum.

(g) Fowl typhoid or hyphoid. A disease of poultry caused by salmonella gallinarum.

Section 47-13-1220. Authority and functions of commission.

Full authority for the control, suppression, and eradication of pullorum and typhoid in poultry in this State is vested in the commission. The commission shall administer the following:

(1) Poultry hatcheries and hatchery supply flocks within the State must qualify as United States Pullorum-Typhoid Clean or meet equivalent requirements for pullorum-typhoid control under official supervision.

(2) Shipments of poultry and eggs not destined for slaughter other than United States Pullorum-Typhoid Clean, or equivalent, into the State are prohibited.

(3) Whenever a veterinarian or other person performing poultry disease diagnostic services has knowledge or reason to suspect that pullorum or typhoid exists in a poultry flock or hatchery, within forty-eight hours, he shall give notice of the fact to the commission.

(4) Upon receipt of a report of pullorum or typhoid in poultry, the commission shall direct an immediate investigation by an authorized representative to determine the origin and avenue of transmission of the infection. Authorized representatives of the commission may enter a place or premise for inspections or investigations reasonably necessary for these determinations.

(5) Flocks deemed to be infected with pullorum or typhoid must be quarantined by the commission. Quarantined flocks or a portion of them must not be removed from the premise
where the infection was detected except with the written permission of the commission.

(6) Poultry shown in public exhibitions in this State must have originated from United States Pullorum-Typhoid Clean, or equivalent, flocks or have had a negative pullorum-typhoid test within ninety days of the movement to the public exhibition.

Section 47-13-1230. Promulgation of regulations by commission; poultry advisory committee.

The State Livestock-Poultry Health Commission shall promulgate reasonable regulations consistent with this article. The commission must be advised by a poultry advisory committee consisting of five members as follows: one from the commercial hatching industry, one from the commercial egg industry, one from the commercial broiler industry, one from the commercial turkey industry, and one representing the exhibition poultry interest. The members must be nominated by the respective industry and appointed for terms of two years by the commission.

Section 47-13-1240. Penalties.

A person violating this article or regulations promulgate by its authority is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130. Each violation constitutes a separate offense.

16. EQUINE INFECTIONOUS ANEMIA

Section 47-13-1310. Definitions.

As used in this article:

(1) "Equine infectious anemia" means a widely spread, virus-caused disease of the horse, commonly known as swamp fever, which is infectious in nature and spreads by improper use of hypodermic needles, other instruments, and insects. The disease may be acute, subacute, chronic, or inapparent.

(2) "Horse" means a member of the equine family over six months of age including horses, mules, asses, zebras, or other equidae.

(3) "State veterinarian" means the state veterinarian as defined by Section 47-13-20.

(4) "Accredited veterinarian" means a licensed veterinarian approved by the United States Department of Agriculture and the state veterinarian.

(5) "Reactor" means a horse that reacts positively to an approved serological test performed by an approved laboratory.

(6) "Date of test" means date blood sample is collected from the horse.

(7) "Exposed horse" means a horse which the state veterinarian or his authorized representative has reasonable
grounds to believe has been exposed to equine infectious anemia.

(8) "Quarantine" means confinement of an exposed horse to an area not less than two hundred yards from another unaffected horse, with no horses being admitted or leaving the premises.

(9) "Isolation" means confinement of a reactor horse to an area not less than two hundred yards from another unaffected horse until a blood sample submitted from the reactor horse provides a negative Coggins test from a laboratory approved within the State or death.

Section 47-13-1315. State veterinarian and Livestock-Poultry Service to develop and institute programs for control of equine infectious anemia.

The state veterinarian and the Livestock-Poultry Health Service of Clemson University are vested with the authority to develop and institute programs to provide for the control of equine infectious anemia in this State and to adopt and provide for enforcement regulations necessary to carry out the program and the provisions of this article. This authority includes, but is not limited to, the power to make regulations requiring the testing of a horse, pony, mule, and ass for equine infectious anemia, in any change of ownership, before sale, exhibition, or assembly at public stables or other public places, and authority to require the owner, operator, or person in charge of shows, sales, public stables, and other public places to require proof of freedom from equine infectious anemia before an animal is permitted to remain on the premises.

Section 47-13-1330. Official tests.

The official test for equine infectious anemia is:

(1) the agar gel immunodiffusion (AGID) blood test or any other test approved by the United States Department of Agriculture accomplished by a laboratory approved by the United States Department of Agriculture on blood samples collected by accredited veterinarians. Only antigen produced by or standardized by the United States Department of Agriculture may be used in official testing of animals for equine infectious anemia by the AGID method;

(2) other tests as may be devised and approved by the United States Department of Agriculture and the state veterinarian.

Section 47-13-1340. Reporting of tests.

All positive tests for equine infectious anemia must be reported to the state veterinarian including tests conducted in approved laboratories within the State and tests from veterinarians submitting blood samples for testing to laboratories outside this State.

Section 47-13-1350. Unlawful for horse to enter State unless tested; rules and regulations.

It is unlawful to enter the State with a horse unless the horse has been tested for equine infectious anemia and is
accompanied by an official Equine Infectious Anemia test chart showing that the horse reacted negatively to an official Equine Infectious Anemia test within twelve months before entry. The state veterinarian, with the advice of the commanding officer of the State Highway Patrol, shall promulgate regulations to provide for the enforcement of this Section.

Section 47-13-1360. Quarantine of exposed horses.

(A) When a reactor horse is identified on a premises, the state veterinarian shall quarantine all horses on that premises. All exposed quarantined horses tested must be properly identified by a mane or tail tag or other type of identification authorized by the state veterinarian. The reactor may be isolated not less than two hundred yards from other unaffected equines with the knowledge of the testing accredited veterinarian and state veterinarian and only may be moved with the permission of the state veterinarian. A sign must be displayed prominently at the location of the quarantined and isolated premises of the exposed and reactor horses indicating that the premises are quarantined for exposed horses or isolated for reactor horses at the expense of the horse owner.

(B) Before a quarantine for equine infectious anemia may be lifted by the state veterinarian, all exposed animals must be tested negative no sooner than forty-five days after the reactor has been removed from the herd.

Section 47-13-1365. Disposition of animal after second confirmatory test.

After a second confirmatory test of the reactor equine, the animal must be either:

(1) euthanized;

(2) identified and sold to slaughter or research, or

(3) permanently isolated not less than two hundred yards from other unaffected horses. If the owner of the reactor equine chooses to have the animal "permanently isolated not less than two hundred yards from other unaffected horses", the reactor must be permanently identified with a visible freeze brand (or other visible brand at the discretion of the administering accredited veterinarian) on the hip or neck of the reactor horse in a manner as specified by regulation promulgated under this chapter.

Section 47-13-1370. Proof of tests required for public assembly of horses.

(A) All horses must be accompanied by written proof of an approved negative test for equine infectious anemia when entering any public assembly of horses. These public assemblies include, but are not limited to, shows, fairs, organized trail rides, rodeos and other exhibitions, as well as organized sales. Animals moving directly to a slaughter plant or assembly point for slaughter which has been specifically approved by the state veterinarian are not subject to the
negative test requirement. The owner, operator, or person in charge of these shows, fairs, organized trail rides, rodeos and other exhibitions, organized sales, and other public places where horses are assembled shall require that each animal be accompanied by an official certificate showing that it has been negative to an approved test for equine infectious anemia within the last twelve months.

(B) Horses which are permanently maintained at a public stable or other public facility must be tested for equine infectious anemia each twelve months.

(C) The Coggins Test or other test for equine infectious anemia, whether administered within or without this State, is required to be administered only once each twelve months to a horse or an animal regardless of the number of times the animal is shown, sold, exhibited, or housed in a public stable or place in this State during that period. The state veterinarian and the Livestock-Poultry Health Service of Clemson University may require proof of annual test administrations as they consider necessary.

Section 47-13-1380. Preventive measures for race tracks, horse shows, rodeos, horse owners and veterinarians.

(A) Officials at race tracks, horse shows, and rodeos are requested to:

(1) see that sanitary and other protective measures prescribed by the state veterinarian are carried out;

(2) ensure that tattoo instruments and saliva collecting equipment are adequately sterilized before being used on any horse;

(3) enforce rules preventing the use of hypodermic syringes and needles on horses by other than accredited veterinarians;

(4) require provision for and operation of adequate isolation facilities.

(B) Horse owners and practicing veterinarians are requested to:

(1) report immediately any suspect horse to the state veterinarian;

(2) use disposable hypodermic needles and syringes (one needle - one horse);

(3) institute and carry out proper sanitary and preventive measures, including control of biting insects.

(C) Organizations representing particular breeds of horses should recommend to individual farms and owners that the test for equine infectious anemia be administered to all animals and preventive measures as set forth in this article be instituted.

Section 47-13-1390. False certificates unlawful; penalties.
It is unlawful for any person to have in his possession a false certificate showing a negative Coggins test for any horse. A person convicted of having a false or forged certificate as set forth above must be punished in accordance with the provisions of Section 47-4-130.

Section 47-13-1400. Additional penalties for violation of article.

A person violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130.

17. FEEDING OF GARBAGE TO SWINE


As used in this chapter:

(a) "Garbage" means any animal wastes resulting from handling, preparation, cooking, or consumption of foods, including animal carcasses, parts of animal carcasses, or contents of offal. Unpasteurized milk and unpasteurized milk products are animal waste.

(b) "Person" means the State, any municipality, political subdivision, institution, public or private corporation, individual, partnership, or any other entity.

(c) "Garbage dump" means a place or area where ordinary household garbage is disposed of from two or more families.

Section 47-15-20. Unlawful to feed garbage to swine.

It shall be unlawful for any person to feed garbage to swine.

Section 47-15-30. Unlawful to sell hogs consuming garbage; unlawful to permit hogs on garbage dumps.

(a) It shall be unlawful for anyone to sell or offer for sale hogs which have consumed any garbage within a period of thirty days prior to date of sale.

(b) It shall be unlawful for any person to permit hogs on any garbage dump.

Section 47-15-40. Notification required from certain persons disposing of garbage.

Any person who sells, gives away or otherwise disposes of garbage to any person, except those persons whose garbage is collected by municipalities or persons who have a permit to collect garbage or to those who sell, give away or otherwise dispose of their ordinary household garbage, shall notify the State Livestock-Poultry Health Commission, giving the name and address of the person who obtained the garbage.

Section 47-15-50. Inspection of premises where swine are kept.

Any authorized representative of the State Livestock-Poultry Health Commission is authorized to enter at reasonable times upon any private or public property where swine are kept for
the purpose of inspecting and investigating conditions relating to the feeding of garbage to swine.

Section 47-15-60. Exemptions.

This chapter shall not apply to any person who feeds his own household garbage to swine, except that no person shall sell or offer for sale any hogs which have consumed any garbage within thirty days of sale.

Section 47-15-70. Administration and enforcement.

The State Livestock-Poultry Health Commission is charged with administration and enforcement of this chapter in accordance with the terms of this chapter and Chapter 4 of Title 47.

Section 47-15-80. Penalties; injunctions.

A person who violates this chapter or regulations promulgated under it is guilty of a misdemeanor and, upon conviction, must be punished in accordance with Section 47-4-130. The person may be enjoined from continuing the violation. Each day on which a violation occurs constitutes a separate violation.

18. FARM ANIMAL, CROP OPERATION, AND RESEARCH FACILITIES PROTECTION ACT

Section 47-21-10. Short title.

This chapter may be cited as the "Farm Animal, Crop Operation, and Research Facilities Protection Act".

Section 47-21-20. Definitions.

As used in this chapter:

(1) "Actor" means a person accused of any of the offenses defined in this chapter.

(2) "Animal" means a warm- or cold-blooded animal used in food or fiber production, agriculture, research, testing, or education, including poultry, fish, and insects.

(3) "Animal facility" includes a vehicle, building, structure, or premises where an animal is kept, tested, handled, housed, exhibited, bred, or offered for sale and includes a research facility where research or testing on animals is conducted.

(4) "Consent" means assent in fact, whether express or apparent.

(5) "Crop operation" includes a vehicle, building, structure, or premises where a crop is raised, maintained, tested, handled, housed, exhibited, or offered for sale and includes a research facility where research on or testing of crops is conducted.

(6) "Deprive" means:

(a) to withhold an animal or other property from the owner permanently or for such an extended time that a major
portion of the value or enjoyment of the animal or property is lost to the owner;

(b) to restore the animal or other property only upon payment for reward or other compensation; or

(c) to dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.

(7) "Effective consent" includes consent by a person legally authorized to act for the owner. Consent is not effective if:

(a) induced by force, threat, false pretenses, or fraud;

(b) given by a person the actor knows is not legally authorized to act for the owner;

(c) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions; or

(d) given solely to detect the commission of an offense.

(8) "Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor.

(9) "Person" means an individual, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership, two or more persons having a joint or common interest, or other legal entity.

(10) "Possession" means actual care, custody, control, or management.

19. ANIMAL FACILITIES

Section 47-21-30. Unlawful acquisition or exercise of control.

Without the effective consent of the owner, it is unlawful for a person to acquire or otherwise exercise 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 the facility, animal, or property, and to disrupt or damage the enterprise conducted at the animal facility.

Section 47-21-40. Unlawful damage or destruction.

Without the effective consent of the owner, it is unlawful for a person to damage or destroy an animal facility, an animal, or property in or on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility.

Section 47-21-50. Unlawful entry or concealed presence.

Without the effective consent of the owner, and with the intent to disrupt or damage the enterprise conducted at the animal facility, it is unlawful for a person to:

(1) enter an animal facility, not then open to the public, with intent to commit an act prohibited by this Section;
(2) remain concealed, with intent to commit an act prohibited by this Section, in an animal facility; or

(3) enter an animal facility and commit or attempt to commit an act prohibited by this Section.

Section 47-21-60. Unlawful entry or presence with notice to not enter or leave.

(A) Without the effective consent of the owner, it is unlawful for a person to enter or remain in an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility, and the person:

(1) had notice that the entry was forbidden; or

(2) received notice to depart but failed to do so.

(B) For purposes of this Section, "notice" means:

(1) oral or written communication by the owner or someone with apparent authority to act for the owner;

(2) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(3) 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.

Section 47-21-70. Exemptions.

This chapter does not apply to, affect, or otherwise prohibit actions taken by:

(1) the Department of Agriculture, any other federal, state, or local department or agency, or an official or employee of these entities while in the exercise or performance of a power or duty imposed by law or regulation;

(2) a licensed veterinarian practicing veterinary medicine pursuant to Chapter 69, Title 40 and according to customary standards of care; or

(3) a person holding a legal interest in an animal facility, an animal from an animal facility, or other property in or on an animal facility who has an interest in the facility, animal, or other property superior to the interest held by the person incurring damages.

Section 47-21-80. Violations; penalties.

(A) A person violating Sections 47-21-30, 47-21-40, and 47-21-50 is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both.

(B) A person violating Section 47-21-60 is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

Section 47-21-90. Damages; attorney fees and costs.
A person who suffers damages resulting from the commission of an act prohibited by this article has a civil cause of action for treble the amount of his actual damages, for consequential damages, for punitive damages, an injunction, and any other appropriate relief in law or equity. Upon prevailing in the civil action, the plaintiff may recover reasonable attorney's fees and costs.
As I mentioned earlier in this book, for many of us, our pets are like members of our family. Just as we try to take care of our spouses, our children, and other members of our family by planning for our death or disability (estate planning), many people can do the same for their pets.
One of the dogs my wife and I have, Jasper, came to us because his previous owner was transitioning into assisted living and the owner couldn’t care for him. Although many of us make plans to take care of our families through estate plans, trusts, or wills, we oftentimes overlook the need to make similar arrangements for our pets. In fact, only 9% of dog owners in the U.S. actually make provisions in their wills for their pets.

In the case of my dog Jasper, one person’s misfortune was a blessing for my family and me. But Jasper is one of the lucky pets. Some pets wind up abandoned or worse. As loving pet owners, we should continue to care for our pets after we pass instead of leaving their future to chance. With just a little bit of effort and planning, you can ensure that your pet is well cared for even when you’re no longer able to do it yourself.

There are three straightforward ways that you can plan for your pet’s care after you are gone: 1) giving your pet to another person through your will (a bequest); 2) creating a testamentary trust; or 3) creating a lifetime arrangement.

**WILLS**

In your will, you can “bequest” that your pet be given to a specific person such as a family member or a friend. Also, you may leave a cash bequest to cover your pet’s expenses.

There are some limitations to making a bequest of your pet to another person. First, a bequest doesn’t address what happens if the person you chose passes away before you do. To cover that potential situation, you should designate an alternate person to take your pet. Also, when you make a bequest, you have no control over how that person actually cares for your pet. Obviously you need to choose that person wisely. You should talk with that person first to see whether they are willing to take on the responsibility of caring for your pet after you pass. If, however, you have doubts about the person’s ability to care for your pet in the same way that you did, then creating a testamentary trust may be the best option for you.

**TESTAMENTARY TRUST**

A testamentary trust is a trust that you can create in your will to arrange for your pet’s care after you pass. Not all states recognize trusts created specifically for pets, but South Carolina does. South Carolina Code Section 62-7-408 provides that, “[a] trust may be created to provide for the care of an animal or animals alive or in gestation during the settlor’s lifetime, whether or not alive at the time the trust is created. The trust terminates upon the death of the last surviving animal.” The statute allows the court to decrease the amount of money set aside for the care of the pet if the court deems the amount to be excessive of what is necessary.

**LIFETIME ARRANGEMENT**

Unlike a will or a testamentary trust that both take effect after you pass, a “lifetime arrangement” is a “free-standing” trust that you can create to provide for your pet during your lifetime and beyond. In other words, a lifetime arrangement
provides the benefits of the testamentary trust, but doesn’t require your death to be effective, nor will it be delayed by any legal contests concerning your will or estate. In fact, the trust can be partially funded during your lifetime to provide for interim care if you are disabled or incapacitated or while your estate is being probated, and it can be more fully funded after your death.

There can be certain tax consequences to providing for the care of your pet in a trust versus your will. Death, gift, and estate tax law is an ever-changing field of the law, and you should consult with an attorney familiar with these laws to determine what structure will be most beneficial for your estate and to achieve your goals.

PLANNING FOR YOUR PETS

Regardless of whether you provide for your pets by way of a will or a trust, there are two primary questions you should answer as you make your plan to provide for your pets:

1) **Are you choosing the “right” person to care for your pet?** Although friends or family members may love your pet and express their best intentions to help, they may not be the right fit. For example, does that person have small children that may present a problem for some pets? Are there other pets in their home that may be incompatible? Do they have a busy work schedule that would limit their time to care for your pet? These are just a few of the things you should consider before placing your pet with someone else. Also, you should choose a backup designee if your first choice is unable to care for your pet. Finally, if both your primary and secondary designees can’t care for your pet (or if you have no one you can choose), then you should consider whether sanctuaries, rescue organizations, or other shelters may be well-suited for and able to take your pet.

2) **How much money does it cost to maintain your pet on an annual basis?** You should spend some time going back through your expenditures to come up with a budget that includes food, grooming, veterinary care, medicines, toys and bedding, and whatever else you may spend on your pet each year. After you’ve come up with an annual budget, you should then consider your pet’s life expectancy based on age, breed, and health. Finally, you should add extra funds to your budget to account for increased health care expenses as your pet ages.
Hopefully you’ll never be in the position of having to go to court to in South Carolina. However, if you do, you need to understand what the lawyer for the other side is trying to do and to know the best means of sharing the truth while you’re on the witness stand.
For most persons, court can be an intimidating experience. Here are some pointers for anyone who has to go to court in South Carolina.

1. BEFORE YOU GO TO COURT

Try to get a good night’s rest before you go to court. Furthermore, most courts don’t allow food or drink, but they do have water fountains. Don’t go on an empty stomach. When you are tired, hungry, or thirsty, you aren’t at your best!

2. DRESSING FOR COURT

Dress properly and conservatively for each court hearing. Dress “business casual” or “dress like you are going to church.” Failure to dress appropriately could result in your case being continued or you being excluded from the courtroom during the case. The judge hearing your case will associate your attire with the level of respect you are giving to the court.

Women should wear dresses which are knee length or longer or tailored slacks and a blouse. Men should wear tailored slacks and a shirt with a collar. Clothing should be clean.

Some examples of clothing that are not allowed include baseball caps, sleeveless tops, halter tops, backless dresses, low cuts dresses, miniskirts, shorts, blue jeans, t-shirts, flip-flops, and sandals. Tuck in your shirt.
Remove any piercings other than one pair of ear rings for women, covering any tattoos if possible, and having a conservative hair style and color. Even if you feel these things represent a particular belief or who you are, remember that you are presenting in front of a judge who may be deciding your fate. A “middle-of-the-road” appearance will minimize the chance of offending the court or jeopardizing your credibility. While most people don’t like being “judged,” that is exactly what going to court is all about.

3. WHAT TO BRING & NOT TO BRING TO COURT

Bring your entire file, which includes every document, CD-ROM, or thumb drive that relates to your case. You never know what could happen, and it’s best to be prepared. Even if you have a lawyer, some portion of your lawyer’s file may have accidentally stayed on his or her desk at the office, and you can actually save the day by having a copy of some document handy.

In some counties, you aren’t allowed to bring your cell phone, so it’s best to just leave it in your car if you’re unsure. If you’re allowed to have your phone, turn it off or put it on silent! If your cell phone goes off in the courtroom, the judge can take your phone and can possibly hold you in contempt (put you in jail). In fact, one Charleston County judge made the local headlines by putting a participant in a holding cell because her phone rang during court. At a minimum, the judge may take a ringing cell phone as a sign of disrespect.

For security reasons, you can’t bring any knives, scissors, nail files, tweezers, or other sharp objects into court. Also, you can’t bring in any mace.

You can bring a friend or a family member for moral support if it would make you more comfortable. Although this person won’t be able to sit at the table with you, he or she will at least be there in the courtroom to talk to you before and after.

4. ARRIVE EARLY TO COURT

The court won’t wait on you if you’re late. Talk to court staff upon arrival to make sure you’re in the right place and waiting outside of the right courtroom.

Another advantage of arriving early is that you’re able to sit down, to relax, and to gather your thoughts as you wait on your hearing. You’re more likely to present well in court if you walk inside in a relaxed state than if you’re running down the hallway trying to make your hearing on time.

5. HOW TO BEHAVE IN AND AROUND THE COURTHOUSE

You may find yourself waiting in a hallway outside of the courtroom. Be aware that people around you could be lawyers, witnesses, jurors, or others involved in your case. Don’t talk about your case because you never know who might overhear you. Also, don’t “cut up” or joke around (as many nervous people will do) as it could give someone a bad impression of you.
Even when parking your car, be polite and let other cars in front of you. Don’t cut people off or exhibit frustration towards other drivers. You never know when your judge is in the other car.

If you find yourself waiting inside of the courtroom, just sit there, watch, and be silent. Judges may take whispering to your neighbor, sleeping, or certain other acts as a sign of disrespect. Your sincerity, or lack thereof, will be noticed. If the judge isn’t telling a joke or laughing at a joke from one of the lawyers, you shouldn’t be laughing either. Also, don’t chew gum in the courtroom.

When your case is up, meaning you and your lawyer are addressing the court, continue to maintain a sincere demeanor at the table even if you don’t like what others are saying. I’ve seen people scolded by judges on numerous occasions for making facial expressions, talking, or shaking their head in protest of what a lawyer or a witness is saying about their case. If you must speak, do it through your lawyer. Showing respect is of utmost importance. If you don’t have a lawyer, be very careful of how you make any objections and be sure not to be disruptive to the proceedings.

6. HOW TO SPEAK TO THE JUDGE

Be humble, respectful, and polite. Address the judge as “Your Honor,” “Sir,” or “Ma’am.” Address parties, witnesses, and lawyers as “Mr.” or “Ms.” I can’t emphasize enough – show absolute respect, and it will likely be returned. Don’t speak unless the judge asks you to. Stand up when you speak to the judge unless he or she tells you that you can keep your seat. If the judge cuts you off, let it happen. I’ve seen numerous instances of people attempting to “talk over” judges, and it doesn’t usually go well for that person. I’ve also seen people penalized by the judge for being too argumentative.

**IMPORTANT**

One BIG pet peeve of many judges is when a witness doesn’t directly answer the question asked. If the question calls for a "yes" or "no" answer, don’t beat around the bush. Answer yes or no. If you feel that your answer needs some explanation, first answer the question and then explain it.
**Section 2**

**You as a Witness**

In this Section

1. What the Lawyer for the Other Side is Trying To Do
2. How the Other Lawyer Will Do It
3. Golden Rules of Testifying

**1. WHAT THE LAWYER FOR THE OTHER SIDE IS TRYING TO DO**

The goal of the other side’s lawyer on cross-examination is threefold:

1. To establish facts favorable to the other side through defense witnesses;
2. To discredit your testimony through other evidence or other witnesses; and
3. To discredit your witnesses’ through their own testimony.

**2. HOW THE OTHER LAWYER WILL DO IT**

**Filling in the Gaps** - Generally, the other side’s case is made up of sketchy information from a few witnesses. The lawyer for the other side (the opposing lawyer) will try to fill in the gaps in the case by using your testimony and the testimony of your witnesses to establish facts favorable to the other side.

**Prior Inconsistent Statements** - You must understand what a prior inconsistent statement is, how it is used, why it is used, and what to do when faced with one. Ideally, prior inconsistent statements are best explained away by simple testimony that a subsequent answer is based on more information and a better understanding of the facts and the law.

**Memory** - Witnesses will never remember all details. The opposing lawyer may ask specific questions about details.
Some will be irrelevant except to show that your witnesses’ memories are not as great as we want the jury to believe. Some questions are designed to set your witnesses up to disagree with each other. Others are to elicit from your witnesses favorable facts, i.e., those which reinforce the testimony of the other side’s witnesses or fill in gaps in the other side’s case. Finally, if you remember too many details or witnesses remember all the same details, the opposing lawyer can argue that it is unnatural to remember so much and it was likely made up.

**Bias** - If you’re in court, you obviously have something to lose. Friends, relatives and loved ones will, of course, help you. The opposing lawyer will attempt to insinuate that you and your friends are willing to lie (perjure themselves) to help you. Unprepared witnesses can be caught off guard with questions of this nature.

Some typical reactions of unprepared witnesses on which the opposing lawyer can capitalize on include:

- **The reluctant witness:** A nervous or overcautious witness may too often repeat phrases, such as “Please repeat your question,” or “I don’t understand your question,” or “as best as I can recall.” These phrases are common stalling devices to allow the witness time to formulate a well-reasoned response to a difficult or a tricky question and make the witness appear too cautious and less truthful. If you know what to expect and what types of questions the opposing lawyer will ask, there will be minimal need to clarify questions and you will not have to hesitate and appear reluctant to answer.

- **The volunteering witness:** Not only is this objectionable, it often gives the opposing lawyer food for more cross-examination. It is natural to want to explain some answers, but too much explaining may cause the jury to see you or your witnesses as insincere, biased and/or prejudiced. A prepared witness not only knows what to volunteer, but when to do it.

- **The excessively opinionated, hostile, or belligerent witness:** A witness should be prepared to remain firm in his or her position. However, the witness must remain calm, cooperative and seemingly objective. The last thing you want the jury to see is that you or your witnesses are not objective and reasonable—translation: “believable,” as opposed to biased and/or prejudiced.

- **The “questioning” witness:** Answering a question with a question makes the witness appear sarcastic, insincere and evasive. The jury will see this as an unwillingness to answer the question. This type of excessively biased defense witness defeats the purpose of his or her testimony by losing credibility.

- **The professional witness:** Experts are “hired guns” and have generally been paid to testify. The expert must be properly prepared for testimony.
Prior Convictions - Many witnesses don’t have admissible prior convictions. If you have prior convictions, you should bring these to the attention of your lawyer so you can discuss their admissibility and how to handle that issue at trial.

3. GOLDEN RULES OF TESTIFYING

1. Tell the truth.

2. Think about the question asked, then answer it. Don’t avoid the question, but do not be afraid to say “I don’t know.”

3. Ask the opposing lawyer to clarify the question, if necessary. Remember not to ask repeatedly merely to stall for time.

4. Pause slightly before answering to give your lawyer time to object, if necessary. Silence can be an attention getter, too! Listen carefully to objections. They signify that the question is potentially misleading or the response can be potentially damaging to your case.

5. Don’t argue; remain calm and cooperative.

6. Don’t be afraid to say “I don’t remember” or “I’m not sure, it has been a long time since then.”

7. Don’t attempt to “match wits” with the opposing lawyer.
If you have legal problems, then it’s time to give some thought to reviewing and to comparing lawyers. Being involved in any type of legal dispute can be a legally confusing process. Choosing from the many available attorneys also can be confusing. Here are some suggestions for how to choose the best attorney for you.

“If there were no bad people there would be no good lawyers.”

~ Charles Dickens
Choosing Your Lawyer

If you’ve never hired a lawyer, you may not know where to start. If you know someone who recently hired an attorney, then they may have a personal recommendation for you. However, you may feel uncomfortable asking for recommendations or discussing your legal problems with people close to you. That’s why the Internet can also be a valuable resource to research and to compare lawyers and their professional backgrounds. Sites such as Avvo, LinkedIn, and others can help you compare the experience and the reputation of various lawyers.

1. **ASK YOURSELF . . .**

When you are meeting with potential lawyers, you must remember that not all attorneys are created equal. Here are some questions you should ask yourself before making your decision as to which lawyer to hire:

1) **Does the lawyer pay attention to you while you’re talking?** You need an attorney who’ll be compassionate and dedicated to your needs. If the lawyer is distracted, taking other calls, checking emails, and so on, perhaps that lawyer isn’t the best for you.

2) **Does the lawyer try to educate you and to answer your questions?** A skilled lawyer knows that educating the client is important so that the client can make sound and informed decisions about the future.

3) **Is the lawyer assertive without being arrogant?** Some clients believe that having a “pit-bull” for a lawyer is
their best move. Obnoxious and egotistical doesn’t mean better or skilled. You need an attorney that will calmly assert your rights and who will always act professionally.

4) **Is the lawyer guaranteeing you results?** If so, be cautious! Litigation in any court is risky and the outcome can’t be predicted with any certainty. The outcome of your case depends on many things such as the present circumstances, future developments, and the decisions and the attitudes of judges. You need a lawyer who shoots straight with you and who tells you like it is and not what you want to hear.

2. **YOUR LEGAL BUDGET VS. YOUR LEGAL NEEDS**

As a general rule, well-seasoned attorneys charge higher fees, and newer lawyers are cheaper. You pay higher fees for experience. If you have a simple case and you’re on a budget, then a recent law school graduate may fit the bill. However, if you are facing complex legal challenges, then your needs may justify the costs of a more knowledgeable attorney. Additionally, although younger lawyers may charge a lower hourly rate, it may actually take them longer to do the work (meaning more fees) than a veteran attorney who has been performing the same service for years.

3. **DO YOUR HOMEWORK**

When you’re searching for lawyers on the Internet, you should read beyond the marketing rhetoric if you really want to know who you’re hiring. Here are some examples:

- If you visit a website that has plenty of descriptions of the lawyer’s services but little information about the lawyer, then you may be missing the most important part of the picture – the lawyer’s experience.

- If the lawyer’s biography doesn’t include the year that the lawyer graduated from law school, then chances are likely that the lawyer hasn’t been practicing for very long and he or she has left this information out of their website for “marketing” purposes. This doesn’t necessarily mean that the lawyer isn’t able to handle your case, but it may mean that the lawyer is still “learning the ropes.”

Here are some resources to learn more about a lawyer’s background and experience:

- **Martindale Hubbell** - Look for the lawyer's Martindale Hubbell Rating. The Martindale Hubbell® Directory has been rating lawyers for the past 140 years. According to Martindale, "Peer Review Ratings™ help buyers of legal services identify, evaluate and select the most appropriate lawyer for a specific task at hand." Using information supplied by other lawyers and judges, Martindale rates lawyers based on performance in the areas of: (1) legal knowledge, (2) analytical capabilities, (3) judgment, (4) communication ability, and (5) legal experience. The highest rating a lawyer or law firm may have is AV Preeminent. For more information about how the rating system works and to search for a lawyer’s rating, visit [www.martindale.com](http://www.martindale.com).
Avvo - A newcomer to the business of rating lawyers is Avvo. Avvo rates lawyers by “using a mathematical model that considers elements such as years of experience, board certification, education, disciplinary history, professional achievement, and industry recognition—all factors that are relevant to assessing a lawyer's qualifications.” Their ratings rank from the highest of 9 – 10 (Superb) to the lowest of 1.0 – 1.9 (Extreme Caution). Also, Avvo posts reviews and comments by both other lawyers and by clients. Avvo's website can be found at www.avvo.com.

4. INTERVIEW YOUR LAWYER

Often when people meet with a lawyer for the first time, they’re under significant stress because of their legal problems, and the conversation tends to focus solely on those problems. While you’re discussing your case and seeking answers to your questions, take the time to ask the lawyer about his or her background and experience such as:

• How long they have practiced;
• Whether the lawyer has handled any cases similar to yours;
• How many similar cases has the lawyer handled;
• Who'll handle the case (sometimes other lawyers within a firm besides the one you meet with will handle some of your work, and you should know more about the legal team working on your case); and
• Whether the attorney has malpractice insurance (malpractice insurance isn’t required for many lawyers).

Here are two common questions that clients ask that WON'T help you to choose the right lawyer for you:

• "How many cases have you won?" - As any seasoned lawyer will tell you, "You can't win them all." Even if the lawyer has won every case up to that point, your case may be the first that they lose. So, if the lawyer boasts about their track record or gives you the impression that you can’t lose, then perhaps you aren’t dealing with the most straightforward attorney.

• "What are the odds of winning my case?" - Although a lawyer may comfort you by telling you what you want to hear, you’re better off getting a straight answer from the very beginning. The honest answer is - "It depends." Every case is unique, and your case’s outcome depends on many variables which, realistically, cannot be predicted from "day one."

5. HOW YOU FEEL

The final, and perhaps the most important, thing you should consider when you hire your attorney is how you feel about your first meeting. The bottom line is that if, for any reason, you don’t feel comfortable with the lawyer you met with, then go interview others (and there are many) until you are satisfied that you are choosing the best lawyer to represent you.
One of problem is that many people try to oversimplify their situation. There are many aspects of any type of case or legal problems, so the more your attorney knows about your case, the better it is for you.

1) Tell your lawyer the ENTIRE truth. Some folks are embarrassed about their situation. Some are concerned that they’ll be criticized or judged by their lawyer if they share all of the truth. If you don’t tell your lawyer the truth, you’re hurting your chances of a favorable outcome. The more your lawyer knows about the “bad stuff,” the more your lawyer can prepare to deal with any claims thrown your way. Remember, your lawyer took an oath of confidentiality. EVERYTHING you tell your lawyer stays with your lawyer. Don’t hold back; tell the entire truth to your lawyer.

2) Explain without venting. There are many ways you can make your lawyer’s job easier and to keep your legal fees and costs down. First, you should tell your lawyer as much as you can about your current situation. However, you shouldn’t spend too much time venting about your situation. Lawyers understand that their clients are going through an emotionally difficult time in their lives. Often, however, you would do better to talk to your friends, family, or a counselor to address these issues (and the cost is usually much less than paying your lawyer to listen).

3) Read everything your lawyer sends you. Another way to work better with your attorney is to read carefully everything that is sent to you. Some paperwork requires that you respond to the other party or the court within a certain time period, otherwise you may jeopardize your case. In all, there is no substitute for early, thorough preparation. Do all that is required of you within the time frames that your lawyer gives you, and your case may run smoother.

4) Don’t contact a judge about your case. If you’re represented by a lawyer, let all official communications come through and from your lawyer. Additionally, there are rules that prohibit one side or another from communicating directly with a judge.

5) Be patient. As a final note, you should understand that legal cases take time. First, it will take some time for your lawyer to gather all the information needed to proceed with your case. Part of this time depends on how quickly you provide the information your attorney requests. Then, your attorney may need to request information from the other side.
through “discovery.” Afterward, it will take some time, depending on the court’s schedule, before your case is resolved. So, try to have patience with your attorney and with the courts. Impatience will not speed up the process but it will cause you more concern and could cost you more money.
Are “Aggressive” Lawyers “Effective” Lawyers?

Practicing law in South Carolina is remarkably genteel. In fact, the practice of law in Charleston, where I practice, is so well-mannered that in 2001 the ABA Journal ran, as its cover story, an article regarding southern collegiality and practicing law here in the Lowcountry. Of course, there are always exceptions, but overall our Bar prides itself on supporting one another and acting as professional colleagues and not as professional antagonists. To echo that sentiment, members of the South Carolina Bar must take an “Oath of Civility” toward one another and to members of the public. Unfortunately, lawyers throughout the country are not exactly revered for their congenial nature or their civility toward each other. To make matters worse, TV, movies, and dramatic fiction play to an audience that expects lawyers to shout at the witness during cross-examination - “YOU CAN’T HANDLE THE TRUTH!” The unfortunate “truth” is that even in the real world, many lawyers market themselves as being “aggressive” or are endorsed by other lawyers as such.

If you look up the word “aggressive,” you will find definitions that include “ready or likely to attack or confront,” “pursuing one’s aims and interests forcefully, sometimes unduly so,” or “characterized by or tending toward unprovoked offensives or attacks.” Being “aggressive” is not the same thing as being “zealous.” “Zeal” is defined as “great energy or enthusiasm in the pursuit of a cause or an objective.” Zealousness is an admirable attribute; aggressiveness is not. Here is why:

1) Aggressive Lawyers Are On The “Short-List” - Judges don’t care for “aggressive” lawyers. Ask any judge, and they’ll tell you that they are worn out from baby-sitting lawyers who can’t get along with one another, who quibble over the most mundane aspects of their case, who accuse other lawyers of misdeeds, who complain about imagined slights, who hold hard-and-fast to deadlines without accommodation or courtesy, and the list goes on. Lawyers who place themselves on a judge’s “short list” of intolerable lawyers are doing a great disservice to their clients. Regrettably, many of the lawyers who place themselves on the “short-list” are either oblivious to (or “willfully dense” to) how their attitude negatively impacts upon the court’s scheduling of matters, the court’s receptiveness to the lawyer’s concerns (“Cry Wolf Syndrome”) or even, at times, the court’s rulings.

2) Aggressive Lawyers Get As Good As They Give - I’ve let other lawyers out of default or extended firm deadlines as a professional courtesy. I can unequivocally state that in those cases, the outcome was positive for the clients and, in some cases, made more positive by acting professionally. Of course,
there will always be those parties, or their lawyers, who foster a hard-line approach to the case. However, perhaps a better practice is to set a positive tone from the beginning before you come out swinging the day the client walks into your door. If you’re a lawyer who sets negative, aggressive tone from the outset, then don’t be shocked when opposing counsel doesn’t return your phone calls, doesn’t grant you any extensions you request, doesn’t work with you to complete discovery, etc. In all, what goes around does, indeed, come around. In the end, it would be best to have a reputation as being respected and a “lawyer’s lawyer” than to be the attorney to whom everyone else is looking to dish out a little “payback.”

3) Good Lawyers Don’t Just “Try” Cases; Good Lawyers Try to “Resolve” Cases - Before we hop down off of our soapbox, there is one last point to be made. “Scorched earth” policies and aggressive behaviors don’t benefit clients (except in the movies). Aggressive behaviors run up legal fees. Sparring with opposing counsel or writing threatening “paper tiger” letters or emails is, in a word, useless. As we say here in the South, “you catch more flies with honey than with vinegar.”
Chapter 11

The Best Answer to Every Legal Question

Over the years, I’ve been asked THOUSANDS of legal questions. Of course, there’s also the most important question asked most often by any client – “What are my chances of winning or losing?”
No matter what the legal question might be, here is the BEST ANSWER TO EVERY LEGAL QUESTION. Ready? Here it is:

“IT DEPENDS.”

Disappointed? Please don’t be; this is NOT a trick answer or a joke. It truly is the BEST answer that any lawyer can ever give to any client. It’s also the most important thing about any case a client needs to understand. Please read on, and I’ll explain why:

When I was a law professor, I’d ask my students questions about different legal problems. Their answers (much like young lawyers’ answers to their clients) were always the same – “statute blah blah blah says X, Y, and Z” or “in the case of so and so, the court said A, B, and C.” Technically, their answers may have been correct, but they missed the point. The best answer to any legal question depends on many more things besides statutes or case law. The answer to any legal question, and more importantly the question of whether you win or lose in family court, always depends on a combination of the following 4 things: The judge, the facts, the client, and the lawyer.

There is Nothing “Absolute” About the Law

Very rarely is the law black or white; it works in shades of gray. In family court, many things depend on “factors.” Alimony depends on “factors” such as the spouses’ ages, their health, their assets and debts, whether they caused the breakup of the marriage, and many more factors. Custody depends on “factors” such as has who’s been the primary caretaker for the children, the financial resources of each one of the parties, and whatever the court considers to be in the children’s best interests. On top of factors, family court judges are given much “discretion” in their decision-making. Between “factors” and “discretion,” if we took the same case and put it in front of 10 different family court judges, we’d get 10 different outcomes. Many of the outcomes may meet “in the middle,” but some of the outcomes will be at one extreme or another. This example brings us back to the best answer to any legal question, including the outcome of any case. It depends on the judge, the facts, the client, and the lawyer:

1) The Judge – Despite what statutes or higher courts may have to say about the law, judges interpret the law as they see fit. Because judges are human, sometimes they’re mistaken about the law. That’s why we have higher courts (appellate courts), to correct any mistakes (hopefully) made by the lower courts. On top of that, judges have their own personal views about the cases they hear, the parties and the witnesses involved, and so on. Some judges do very little to hide the fact that they don’t like certain types of cases. So, as you can see, the answers to any legal question, and in particular the outcome of a case, depends on who the judge might be.

2) The Jurors – Every juror is unique. Some are rich and some are poor. Some are liberal and some are conservative. The list of differences goes on. In the end, you wind up with a mix of jurors from all walks of life who bring their own personal views into the court room. This too should come as
no big surprise—many jurors don’t care for plaintiffs lawyers, criminal defense lawyers, or their clients. From the minute you walk into the courtroom with your lawyer, it is an uphill challenge for both you and your lawyer to convince the jurors of your sincerity and the righteousness of your case. Although the jurors don’t decide the law (that’s the judge’s job) they do decide whether you win or lose.

There is another thing that you should know about jurors. No matter how well-crafted the presentation of your case may be, they’re all going to hear and see your case differently. I’ll give you a real world example of how this happens all the time—Hollywood movies. In bringing a movie to the theaters, incredible amounts of time, effort, and money are put into creating a single production. Despite all these efforts, not everyone sees the film the same way. Some audience members liked it and some didn’t. Some laughed at parts that weren’t funny and others didn’t laugh at all at the punch lines. Some missed parts of the movie by fiddling around with their popcorn or talking to the person next to them. In other words, although the audience all saw and heard the same movie, they all had a different view of it. The same is true for a number of jurors sitting in a box together and listening to the lawyers and their clients present their case. So, as you can see, the answer to the question of whether you win or lose depends on who your jurors might be on any given day.

3) The Facts – To prove your case, you must establish the facts. Facts can be documents, witnesses, physical evidence, and all sorts of things. Some of the facts are established by “direct evidence” and some by “circumstantial evidence.” Let’s say at trial you are trying to prove that it was raining outside. If you took the judge outside and into the rain, that’s “direct evidence” of the fact that it’s raining. If, instead, you pointed out to the judge that everyone walking into the courtroom was carrying an umbrella and was dripping wet, that’s “circumstantial evidence” that it’s raining. Unfortunately, many cases are based on circumstantial evidence which makes it more difficult to “connect the dots” before a judge. Furthermore, if you’re proving your facts by other witnesses’ testimony, not everyone says the same thing, some don’t have a good recollection of events, and some will contradict the testimony of other witnesses. So, when it comes to the important question of whether you win or lose, the answer depends on the facts of the case.

4) The Client – Every client is unique. Some clients are capable of doing a great job of testifying before a judge. Some clients are nervous when they speak in public and need a lot of work to be able to share their story. Some clients are more sympathetic than others. Some clients are well-prepared and well-organized and very helpful to their lawyer. Some clients aren’t so helpful. The list of differences goes on and on, but the point is that the answers to your questions and the outcome of your case depend on you the client.

5) The Lawyer – The answers you get to your legal questions and the outcome of your case also depends on who you choose as your lawyer. Just like judges do, lawyers differ in their views and their interpretations of the law. So, it’s not
surprising that when some clients speak to more than one lawyer about their situation, they get different answers. Some lawyers tell their clients what they want to hear to make the client feel better. These lawyers aren’t necessarily trying to be sneaky or dishonest; they do it out of compassion for the client. But at the end of the day, clients need to hear real, truthful answers from their lawyer and not just the things that are going to make them feel better about their case. As a client, you need to know the positives and the negatives about your case so you can make the best informed decision about how to move forward such as whether to settle your claim or to take your case to trial.

Some lawyers have an excellent understanding of the law, but they’re not familiar with judges. Some lawyers are very prepared for court, and some lawyers fly by the seat of their pants (there’s no substitute for preparation). Some lawyers, despite all their efforts, just can’t seem to connect with judges. Good trial lawyers must be good storytellers. They must present your case to a judge or a jury, including the facts and the law, in a way that is understandable, compelling, sincere, and convincing. Just like a great, best-selling novel can be ruined by the movie director who brings the book’s adaption to the big screen, the wrong lawyer can take the best set of facts and favorable law and turn it into a jumbled mess before a judge or a jury. So, the answers to your legal questions, including whether you win or lose, depend on who you choose as your lawyer.

Final Thoughts

As much as lawyers would love to give their clients a definite answer to all of their questions, the truthful and the BEST answer is – “it depends.” When a lawyer tells you this, that means that the lawyer is considering ALL of the circumstances and not just what is written in a statute or a text book on case law. That’s a good thing because, in the end, whatever the answers to your questions might be, it’s the results that count.