

# COCKFIGHTING IN GEORGIA

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## BACKGROUND

While birds will often naturally fight over territory, or mates, such fights usually serve only to establish a pecking order and rarely result in serious injury. In cockfights, however, roosters are forced to fight to the death simply for entertainment and gambling.

Cockfighting is an ancient spectator sport that has been around for thousands of years. Industrialized nations, in general, have decided that such activities are an extreme form of animal cruelty. Cockfighting survives as a highly popular spectator sport, however, in places like Mexico, Peru, Brazil, Cuba, India, Indonesia, Iraq, Japan and the Philippines.

Even though cockfighting in the U.S. is presently illegal in all fifty states, cockfighting remains legal in the unincorporated US territories of Puerto Rico, the U.S. Virgin Islands, the Northern Mariana Islands, and Guam. In the past, states involved in raising birds specifically for cockfights, (Ohio, Louisiana, Mississippi and Alabama), have had the weakest laws against cockfighting, enforcing only misdemeanors and minimal fines when caught (\$250). In the heart of the “Cockfighting Corridor,” (Tennessee, Kentucky, Mississippi and Alabama), cockfighting is only punishable as a misdemeanor crime.

Due to passage of recent federal laws, however, it is now considered a felony when animals or paraphernalia for cockfighting are moved across state lines into interstate commerce, or children are allowed to be spectators; and it is a federal misdemeanor when a person knowingly attends a fight. Federal laws, however, have not stopped the popularity or pervasiveness of cockfights in America, causing most fights to become part of a secretive and underground network of enthusiasts.

## DEFINITION

A **cockfight** is a blood sport between two roosters (cocks or more accurately “gamecocks”), held in a ring called a cockpit. Cocks naturally possess an innate and inbred aggression toward all males of the same species. But gamecocks are specifically bred to fight and sometimes are drugged to be more aggressive. Drugs given to the birds to increase their aggression may include steroids, caffeine, strychnine, epinephrine, amphetamines, and methamphetamines. Most of the bird’s feathers are plucked and the breeder cuts off the animal’s wattles (the combs below the beak) so that his opponent cannot tear them off. Their natural spurs are sawed off, and steel blades called “gaffs” are fitted to their legs. A cockspur is a bracelet often made of leather with a curved, sharp spike which is attached to the leg of the bird. The spikes typically range in length from “short spurs” of just over an inch to “long spurs” almost two and a half inches long. The cocks are placed in a small, enclosed space from which they cannot escape. They are often not permitted to stop fighting until one, or both of the animals die.



The winning birds often have many injuries, including broken bones and gauged out eyes. Large cockfighting events can kill up to 1,000 birds in one weekend.

Besides being cruel to animals, cockfighting is closely connected to other crimes such as gambling, drugs and acts of violence. Spectators at cockfights have been found not only to be involved in illegal gambling, but also illegal weapons charges, gang activity and even murder. Raids on animal fighting operations have resulted in the seizure of large-scale drug operations and underground drug manufacturing labs. Cockfighting has been used to launder drug money due to large amounts of cash on hand at cockfights. Pet theft to acquire bait animals is also a common byproduct crime. Cockfights encourage violence, insensitivity to suffering and animal cruelty, especially among children who may be encouraged to participate as spectators.

### FEDERAL LAW

The **Animal Fighting Prohibition Enforcement Act of 2007** made cockfights illegal in all 50 states and the District of Columbia. The **Animal Welfare Act** (AWA, 7 USC §2156) prohibited animal fighting ventures that involved interstate or foreign commerce. Transporting a bird from one state to fight in a pit from another, or the knives and gaffs being made in one state and used in another, became a federal felony. The **Animal Welfare Act** was amended in 2008, toughening the penalties for violations of the AWA related to animal fighting ventures from one to five years depending on the violation.

In the 2014 Farm Bill, the **Animal Fighting Spectator Prohibition Act** (7 U.S.C. §2156) was enacted to close the spectator loophole. Passed by Congress and signed by President Obama, it became 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. The newly enacted Act also made it a **federal misdemeanor to knowingly** attend a fight as a spectator in all 50 states, punishable by up to one year in prison and a \$100,000 fine. (See Appendix I for full Act).

Cockfighting has the potential of being included in a **RICO** conviction (Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §371). Thirty-three states, as well as Puerto Rico and the US Virgin Islands, adopted state **RICO** laws to cover additional state offenses under a similar scheme. Three states, Virginia, Oregon and Utah, list animal (dog) fighting as a **RICO** predicated offense. State offenses under **RICO** could include illegal gambling, drug trafficking, money laundering and murder for hire. (See Appendix I).

Stopping a single animal fighting operation is not as effective as shutting down its entire support network. Federal law provides a way to prosecute the individuals who support animal fighting ventures through supplying animals, equipment or money across state lines and to foreign countries. The federal law also addresses charges related to spectatorship and the presence of minors. State laws only allow for the prosecution of individuals who are most directly involved with a single animal fighting venture, and only the animal cruelty and abuse that ensues from that single episode.



## GEORGIA LAW

In Georgia, legislation to include cockfighting in an anti-animal fighting bill failed in the legislature to become a law that only covered dogfighting. Therefore, there is no current statute in Georgia specifically against cockfighting. However, cockfighting and the protection of birds or fowl from abuse, are still subject to protection under Georgia's **Cruelty to Animals** statute **OCGA §16-12-4**. Under the statute, cockfighting is a felony if the facts fit the **aggravated cruelty** portion of the animal cruelty statute. Otherwise, attendance at a cockfight is still considered a misdemeanor in Georgia. (See Appendix I).

## COCKFIGHTING AND EXOTIC NEWCASTLE DISEASE (END)

Exotic Newcastle Disease (END, or avian flu) is considered one of the most infectious diseases of birds and poultry. Chickens, turkeys, cormorants, parrots, pigeons and a wide variety of other birds, including shorebirds, penguins and other migratory waterfowl are considered natural reservoirs for END. The avian influenza virus can be transmitted through contact among poultry and their droppings, feathers, intestines and blood, and is spread when the bodily discharges of infected birds come in contact with healthy birds.

The greatest risk of infection for humans appears to be through the handling and slaughtering of live infected poultry. Exposure of humans to infected birds can cause mild conjunctivitis and influenza-like symptoms, but the Newcastle disease virus otherwise poses no hazards to human health.

In domestic poultry, END consistently causes high mortality rates approaching 100% in unvaccinated flocks. Surviving birds may suffer permanent neurological damage such as twisted necks or head tremors. An END outbreak can jeopardize a state's poultry production and limit its international trading opportunities.

According to the Georgia Department of Agriculture, in 2003, the disease was confirmed in four states: California, Nevada, Arizona and Texas. Uncontrolled illegal movement of poultry across state lines represent an important route for pathogen introduction and spread of the disease. Secretive underground cockfighting networks have the potential of spreading this virulent disease through illegal movement of birds from infected areas into Georgia.

The Georgia Department of Agriculture restricts entry of birds from Exotic Newcastle Disease (END) quarantined areas. The Georgia Department of Agriculture, USDA APHIS VS, and poultry stakeholder groups developed a Georgia END surveillance plan, which included enhancing (1) passive and active surveillance in commercial poultry, non-commercial poultry, wild birds and pet birds, (2) effective disease reporting, (3) diagnostic laboratory support and (4) extensive outreach and education to the diverse avian stakeholders and to veterinarians.

Georgia bird owners are urged to abide by the END quarantines and not bring any birds or related products into Georgia from the affected areas. Bird owners who experience a large, unexpected death

loss or illness among their birds, should contact their veterinarian and the Georgia Department of Agriculture so samples can be collected for diagnosis ([agr.georgia.gov/exotic-newcastle-disease.aspx](http://agr.georgia.gov/exotic-newcastle-disease.aspx)).

The following are clinical signs of END:

- \*Respiratory: sneezing, gasping for air, nasal discharge, coughing;
- \*Digestive: greenish, watery diarrhea;
- \*Nervous: depression, muscular tremors, drooped wings, twisting of head and neck, circling, complete paralysis;
- \*Partial to complete drop in egg production;
- \*Production of thin-shelled eggs;
- \*Swelling of the tissues around the eyes and in the neck;
- \*Sudden death;
- \*Increased death loss in a flock.

#### REFERENCES

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#### APPENDIX I – LAWS

**Animal Fighting Spectator Prohibition Act** – (amendment to the Animal Welfare Act 7 U.S.C. §2156 passed as part of the 2014 Farm Bill) it became 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. The newly enacted Act also made it a **federal misdemeanor** to knowingly attend a fight as a spectator, punishable by up to one year in prison and a \$100,000 fine.

**OCGA §16-12-4(d)** A person commits the offense of **aggravated cruelty** to animals when he or she: (1) Maliciously causes the death of an animal; (2) Maliciously causes physical harm to an animal by depriving it of a member of its body, by rendering a part of such animal's body useless, or by seriously disfiguring such animal's body or a member thereof.

**OCGA 16-12-4(e)** The provisions of this Code section shall not be construed as prohibiting conduct which is otherwise permitted under the laws of this state or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific, research,

medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

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

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

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

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

#### **Animal Welfare Act, 7 U.S.C. §2156**

**(a)** Sponsoring or exhibiting an animal in an animal fighting venture

(1) In general

Except as provided in paragraph (2), it shall be unlawful for any person to knowingly sponsor or exhibit an animal in an animal fighting venture.

(2) Special rule for certain State

With respect to fighting ventures involving live birds in a State where it would not be in violation of the law, it shall be unlawful under this subsection for a person to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.

**(b)** Buying, selling, delivering, possessing, training, or transporting animals for participation in animal fighting venture It shall be unlawful for any person to knowingly sell, buy, possess, train, transport, deliver, or receive any animal for purposes of having the animal participate in an animal fighting venture.

**(c)** Use of Postal Service or other interstate instrumentality for promoting or furthering animal fighting venture It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any instrumentality of interstate commerce for commercial speech for purposes of advertising an animal, or an instrument described in subsection (e), for use in an animal fighting venture, promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States. **(d)** Violation of State law

Notwithstanding the provisions of subsection (c) of this section, the activities prohibited by such subsection shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

**(e)** Buying, selling, delivering, or transporting sharp instruments for use in animal fighting venture It shall be unlawful for any person to knowingly sell, buy, transport, or deliver in interstate or foreign

commerce a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture.

**(f)** Investigation of violations by Secretary; assistance by other Federal agencies; issuance of search warrant; forfeiture; costs recoverable in forfeiture or civil action The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate judge within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this subsection. Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals (1) if he appears in such forfeiture proceeding, or (2) in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

**(g)** Definitions In this section - (1) the term "animal fighting venture" means any event, in or affecting interstate or foreign commerce, that involves a fight conducted or to be conducted between at least 2 animals for purposes of sport, wagering, or entertainment, except that the term "animal fighting venture" shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal; (2) the term "instrumentality of interstate commerce" means any written, wire, radio, television or other form of communication in, or using a facility of, interstate commerce; (3) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; (4) the term "animal" means any live bird, or any live mammal, except man.

**(h)** Relationship to other provisions The conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this chapter as a dealer, exhibitor, or otherwise.

**(i)** Conflict with State law (1) In general The provisions of this chapter shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this chapter or any rule, regulation, or standard hereunder. (2) Omitted

**(j) Criminal penalties.** The criminal penalties for violations of subsection (a), (b), (c), or (e) are provided in section 49 of title 18.

**18 U.S.C. §49**

(a)In General. —

Whoever violates subsection (a)(1), (b), (c), or (e) of section 26 of the Animal Welfare Act shall be fined under this title, imprisoned for not more than 5 years, or both, for each violation.

(b)Attending an Animal Fighting Venture. —

Whoever violates subsection (a)(2)(A) of section 26 of the Animal Welfare Act (7 U.S.C. 2156) shall be fined under this title, imprisoned for not more than 1 year, or both, for each violation.

(c)Causing an Individual Who Has Not Attained the Age of 16 To Attend an Animal Fighting Venture. —  
Whoever violates subsection (a)(2)(B) of section 26 (7 U.S.C. 2156) of the Animal Welfare Act shall be fined under this title, imprisoned for not more than 3 years, or both, for each violation.

**RICO**

(Racketeer Influenced and Corrupt Organizations Act, (18 U.S.C. § 371), provides for extended criminal penalties and a civil cause of action for acts performed as part of an ongoing criminal organization. It creates an offense "[i]f two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose.

**OCGA § 4-11-13** (2012). Article not applicable to persons raising animals for human consumption.

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

**OCGA § 44-14-494** (2012). Disposal of animal not to constitute cruelty to animals. It shall not constitute a violation of Code Section 16-12-4 if a licensed veterinarian or an operator of a facility for boarding animals or pets disposes of an animal or pet as provided in Code Section 44-14-491.

**APPENDIX II – CASE LAW**

**United States v. Sadler** (N.D. Ohio, 2015)

Defendants have been charged in Count Two of the Indictment with **knowingly** attending an animal fighting venture in violation of 7 U.S.C. § 2156(a)(2)(A). Defendants contend that the statute is vague because it does not define the offense with sufficient definiteness so that an ordinary person would understand what conduct is prohibited. Additionally, they contend it is overbroad because by suggesting that mere presence at an animal fighting venue is illegal, it infringes the constitutional right to association. Motion to dismiss denied.

**United States v. Collins** (4th Cir. 2014) South Carolina

Collins and co-defendant Gene Jeffcoat were named in a five-count indictment charging them with the following: conspiracy to violate the Animal Welfare Act and to engage in an illegal gambling business in violation of 18 U.S.C. § 371 (Count One); participation in an unlawful animal fighting venture in violation of 7 U.S.C. § 2156 and 18 U.S.C. § 2 (Counts Two and Three); and operating an illegal gambling

business in violation of 18 U.S.C. § 1955 and 18 U.S.C. § 2 (Counts Four and Five). We affirm the convictions imposed by the district court.

**Ortega-Lopez v. Lynch** (9th Cir. 2016) California

The panel granted Agustin Ortega-Lopez's petition for review of the Board of Immigration Appeals' published precedential decision, Matter of Ortega-Lopez, 26 I. & N. Dec. 99 (BIA 2013), which held that his conviction for sponsoring or exhibiting an animal in an animal fighting venture under 7 U.S.C. § 2156(a)(1) is a categorical crime involving moral turpitude.

**United States v. Stumbo** (W.D. Va., 2014)

The defendant, Sonya K. Stumbo, was charged along with her husband and son and two others with engaging in a conspiracy to (1) sponsor or exhibit an animal in an animal fighting venture in violation of 7 U.S.C. § 2156(a); and conduct an illegal gambling business in violation of 18 U.S.C. § 1955(a) (Count One). In addition, she was charged with committing specific substantive offenses relating to cockfighting through her participation in the conspiracy. Those other offenses were knowingly transporting in interstate commerce a knife or other sharp instrument, attached or designed or intended to be attached to the leg of a bird for use in an animal fighting venture, in violation of 7 U.S.C. § 2156(e) (Counts Four through Eight), and knowingly transporting in interstate commerce an animal for the purposes of having the animal participate in an animal fighting venture, in violation of 7 U.S.C. § 2156(b). Convictions affirmed and motion for new trial denied.

**White v. United States**, 601 F.3d 545 (6th Cir. 2010)

...sought a declaratory judgment that all provisions of the Animal Welfare Act ("AWA"), 7 U.S.C. §§ 2131-56, are "unconstitutional and void in their entirety" insofar "as they apply to game fowl or activities and products relating to game fowl," and an injunction prohibiting enforcement of these provisions. The targeted provisions of the AWA are contained in §2156, which places restrictions on cockfighting and other "animal fighting ventures," defined as "any event, in or affecting interstate or foreign commerce, that involves a fight conducted or to be conducted between at least 3 animals for purposes of sport, wagering, or entertainment." 7 U.S.C. §2156(g)(1). Affirmed dismissal for lack of standing.

**U.S. v. Gilbert**, 677 F.3d 613 (4th Cir. 2012), whether the Animal Welfare Act exceeded its power under the Commerce Clause in enacting a criminal prohibition against animal fighting. The court held the animal fighting statute prohibits activities that substantially affected interstate commerce and thus, was a legitimate exercise of Congressional power under the Commerce Clause. The court also held that the statute did not require the government to prove defendants' knowledge regarding the particular venture's nexus to interstate commerce. (U.S. v. Lawson, 677 F.3d 629 (4th Cir., 2012) juror misconduct invalidated verdict for violating animal fighting statute...but affirmed conspiracy convictions for violation of Animal Welfare Act and illegal gambling statute....)

– interstate transport of animals for cockfighting spreads avian disease.

**Turner v. McGee, 681 F.3d 1215**, 82 Fed.R.Serv.3d 1406 (10th Cir. 2012) Oklahoma

Michael Turner, a member of the Kiowa Tribe, was charged by Oklahoma state authorities with instituting or encouraging cockfighting. The state court rejected Turner's argument that the crime took place in Indian Country as defined under 18 U.S.C. § 1151. While state prosecution was ongoing, Turner requested that the Court of Indian Offenses for the Kiowa Tribe enjoin the state proceeding. That court dismissed for lack of subject matter jurisdiction. Turner was subsequently convicted in state court. We AFFIRM the district court's dismissal for lack of subject matter jurisdiction on these alternative grounds.

**Morgan v. State**, 195 Ga. App. 52 (1990) ...the evidence was sufficient for a rational trier of fact to find beyond a reasonable doubt that appellants were guilty of both cruelty to animals §OCGA 16-12-4 and commercial gambling OCGA §16-4-22 all of whom were arrested and charged with cruelty to animals for their participation in the illegal cockfights. Appellants were also charged with commercial gambling for their active roles in staging and/or profiting from the event. The gamecocks and assorted cockfighting equipment, such as spurs and sharpening tools, were seized.

**Gonzalez v State**, 376 S.W.3d 141 (Tex. App., 2012) It is accurate to say that the statute does not define the term "fight." How broadly that term should be construed is an interesting question, but it is one we need not determine here. After reviewing all of the facts, we hold that a rational finder of fact could conclude that Appellant caused chickens to fight while wearing knives. Appellant admitted to sparring the chickens' deputies found recently killed chickens that had injuries which were consistent with knife wounds and an array of chicken fighting paraphernalia with the intent to commit animal fighting contests...)

**Clemons v. State**, 987 N.E. 2d 92, (Ind. App. 2013) "sparring" was not distinguished from fighting; finder of fact could have rationally determined that Appellant engaged in the fighting of chickens armed with blades and that such conduct is not a generally accepted animal husbandry or agriculture practice.

**Chaney v. State**, 232 Ga. App. 297 (1998) ...the fact that appellants were not merely spectators but were the persons observed in the pit with the roosters.... violates animal cruelty law OCGA §16-12-4.

### **New York Operation Angry Birds**

On February 8, 2014, law enforcement made New York State's largest cockfighting bust where they seized three thousand birds and arrested roughly seventy people across three counties. The investigation was deemed the name "Operation Angry Birds" and they made three raids: a cockfight in Queens; a pet shop in Brooklyn; and a farm in Platteville. The raids were performed by the task force, along with New York State Police, the Homeland Security Department and the Ulster County sheriff's office. Upon entry of the Queens cockfight, authorities found the birds in small cages with razors attached to them. The seventy individuals who attended the event were taken into custody. All but nine of these men were let go. The nine men were given felony arrests and animal-fighting charges.

*Credit to Kaye Klapper*