



# Animal Law Committee News

South Carolina Bar | January 2024



South Carolina's 'Cost of Care' bill, House version H. 3682 did pass the House in the first part of the 2023-2024 legislative session, and will remain as an item for Senate consideration in the second half of the 2023-2024 session, which began January 9. Government-backed shelters are often forced to bear

the cost of caring for animals rescued in cases that involve fighting, hoarding or neglect while defendants await trial for months or even years. This leads to animals taking up shelter space and finances, impacting the shelter's ability to care for other animals in the community. A 'Cost of Care' law would help alleviate the crowding and financial burden that results from large scale cases while freeing up valuable resources. You can reach out to your state senator to express your views on the legislation at [scstatehouse.gov/legislatorsearch.php](https://scstatehouse.gov/legislatorsearch.php).



Doc Antle of South Carolina's Myrtle Beach Safari was convicted by a Virginia jury for two felony counts of wildlife trafficking and two felony counts of conspiring to traffic wildlife. He later received a suspended two-year prison sentence, a \$10,000 fine, and a five-year ban on possessing, trading or interacting with

wild animals in Virginia. On separate federal charges, Antle pleaded guilty in November to wildlife trafficking under the Lacey Act as well as federal conspiracy to commit money laundering. For each of these counts, Antle faces up to \$250,000 fine and five years imprisonment. On the heels of the Big Cats Public Safety Act, passed in 2022, in a lawsuit against the establishment Tiger Creek of Texas, with which Antle traded tigers, Tiger Creek is accused to violating "take" and "transfer" provisions of the Endangered Species Act.

The U.S. Supreme Court in May 2023 affirmed dismissal of

a case challenging California's 2016 Prop 12 law. The law relevant to *National Pork Producers Council v. Ross* set minimum welfare standards such as space requirements for calves, pigs and chickens. Challengers asserted that the law violated the Constitution's Dormant Commerce Clause by restricting the sale of animal products within the state of California that had been produced in other states. Industrial farms that fail to change their practices by the end of 2023 will not be able to sell products in California from animals raised using intense confinement methods. In July, New Jersey joined eleven other states that have enacted minimum space requirements for farm animals, banning veal crates for dairy calves and gestation crates for pigs.



On February 23, 2023 the Fourth Circuit Court of Appeals upheld a 2016 ruling that North Carolina's Ag Gag law is unconstitutional. The law criminalized and allowed for potential money damages for undercover investigations at places of employment such as animal agriculture facilities as well as nursing

homes and daycares. The Court classified such undercover activities as "newsgathering" and protected by the free speech provisions of the First Amendment. On October 23, the U.S. Supreme Court declined to review the Appellate Court ruling. While Ag Gag laws have been struck down in seven federal courts, this is the first ruling within South Carolina's Federal Appellate Circuit. North Carolina is home to some of the largest pig and chicken farming operations in the country.

Another First Amendment issue arose in 2023 in relation to Wisconsin's "Hunter Harassment Law" which criminalized following, recording or confronting a hunter with the purpose of interfering with a hunt. Plaintiffs were members of an organization that documents hunting activities to ensure state regulatory compliance, which had given rise to encounters with hunters and law enforcement. The 7<sup>th</sup> Circuit Court of Appeals ruled that the law was vague and overbroad in violation of the Plaintiffs' rights.



Animal personhood is a topic within the law that has developed both internationally and nationally in recent years. The Oregon Supreme Court in 2016 recognized that animals, though still treated as property under the law, are of a different category than other inanimate property objects, in that there

are legal consequences to their mistreatment. *Oregon v. Newcomb*. Likewise, under Oregon law, victims of abuse have the right to sue their abusers, and courts have recognized that animals are sentient beings who can be victims of crime. The Oregon Supreme Court, however, in this year's *Justice v. Vercher* refrained from taking it a step further by allowing an animal the ability to bring suit against a person convicted of criminal neglect against them. The Court denied reviewing the lower court's dismissal of the action in which the named Plaintiff was a horse who had been the victim of abuse.

Animals who are retired from the lab are oftentimes killed, despite being healthy and adoptable. In March 2023, Rep. Nancy Mace introduced 'Violet's Law' which would require research facilities to release for adoption any dog, cat, primate, hamster, guinea pig or rabbit which is no longer being used for research purposes nor dangerous to other animals or public health. The bill currently sits in the Agriculture Committee of the House of Representatives.



Avian flu reappeared in South Carolina in 2022, the first time in six years and was reported again in December 2023 after citizens observed numerous deaths in the population of wild wood ducks. People are encouraged to keep any domesticated birds in their care separate from wild bird feeders, habitats, and pop-

ulations as the virus tends to pass back and forth between domestic and wild birds. Intense, indoor confinement methods used by modern chicken farms are considered an underlying cause of avian flu origins and outbreaks. Tens of millions of birds have been killed using controversial and inhumane killing methods to contain the outbreak. SC ranks 13<sup>th</sup> in chicken meat production nationwide at 235 million broiler chickens per year and 17<sup>th</sup> in egg production with 5.5 million layer hens. (scpoultry.org)

The Consolidated Appropriations Act of 2023, Congress' omnibus spending bill, was signed into law incorporating provisions of The FDA Modernization Act to remove the re-

quirement for animal testing in development of new drugs. The Act also provides funding for non-animal testing methods, such as organ-on-chip technologies, 3-D bioprinting, and AI. Proponents of non-animal testing methods assert that they are much more reliable and less expensive than tests conducted using animals. Similarly, the Humane Cosmetics Act of 2023 was introduced in the House and would prevent animal testing for cosmetics as well as the sale or transport of cosmetic products that were developed using animal testing methods.

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### Spotlight On South Carolina Rescue

[Howlmore Animal Sanctuary](https://www.howlmore.org/), founded in 2008, provides a home for animals who are not easily adoptable and may have special needs that require nursing care. The Sanctuary maintains a facility in a rural, wooded setting in Columbia, SC where the aim is to provide residents with the comforts of a home, showered with love and affection, space to interact, and soothing music. More information can be found about this unique rescue center at: [www.howlmore.org](https://www.howlmore.org/).