

Effective 5/12/2015

76-6-111 Wanton destruction of livestock -- Penalties -- Restitution criteria -- Seizure and disposition of property.

- (1) As used in this section:
 - (a) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
 - (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit, including:
 - (i) cattle;
 - (ii) sheep;
 - (iii) goats;
 - (iv) swine;
 - (v) horses;
 - (vi) mules;
 - (vii) poultry; and
 - (viii) domesticated elk as defined in Section 4-39-102.
- (2) Unless authorized by Section 4-25-4, 4-25-5, 4-25-14, 4-39-401, or 18-1-3, a person is guilty of wanton destruction of livestock if that person:
 - (a) injures, physically alters, releases, or causes the death of livestock; and
 - (b) does so:
 - (i) intentionally or knowingly; and
 - (ii) without the permission of the owner of the livestock.
- (3) Wanton destruction of livestock is punishable as a:
 - (a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;
 - (b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but does not exceed \$1,500;
 - (c) third degree felony if the aggregate value of the livestock is more than \$1,500, but does not exceed \$5,000; and
 - (d) second degree felony if the aggregate value of the livestock is more than \$5,000.
- (4) When a court orders a person who is convicted of wanton destruction of livestock to pay restitution under Title 77, Chapter 38a, Crime Victims Restitution Act, the court shall consider, in addition to the restitution criteria in Section 77-38a-302, the restitution guidelines in Subsection (5) when setting the amount.
- (5) The minimum restitution value for cattle and sheep is the sum of the following, unless the court states on the record why it finds the sum to be inappropriate:
 - (a) the fair market value of the animal, using as a guide the market information obtained from the Department of Agriculture and Food created under Section 4-2-1; and
 - (b) 10 years times the average annual value of offspring, for which average annual value is determined using data obtained from the National Agricultural Statistics Service within the United States Department of Agriculture, for the most recent 10-year period available.
- (6) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in Title 24, Forfeiture and Disposition of Property Act.
- (7) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):
 - (a) upon notice and service of process issued by a court having jurisdiction over the property; or
 - (b) without notice and service of process if:
 - (i) the seizure is incident to an arrest under:
 - (A) a search warrant; or
 - (B) an inspection under an administrative inspection warrant;

- (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or
 - (iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).
- (8)
- (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.
 - (b) A peace officer who seizes a material, device, or vehicle under this section may:
 - (i) place the property under seal;
 - (ii) remove the property to a place designated by the warrant under which it was seized; or
 - (iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Amended by Chapter 172, 2015 General Session

Amended by Chapter 258, 2015 General Session