

PENALTIES FOR DESTRUCTION OF BALD

EAGLE

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Roger E. Barrus

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies protected wildlife and minimum restitution values for certain wildlife.

Highlighted Provisions:

This bill:

- ▶ establishes the value of a bald eagle for the purpose of determining the penalty for the wanton destruction of a bald eagle; and
- ▶ establishes the suggested minimum restitution value for a bald eagle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-20-4, as last amended by Laws of Utah 2004, Chapter 276

23-20-4.5, as last amended by Laws of Utah 2004, Chapter 119

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **23-20-4** is amended to read:

23-20-4. Wanton destruction of protected wildlife -- Penalties.

(1) A person is guilty of wanton destruction of protected wildlife if that person:

30 (a) commits an act in violation of Section 23-13-4, 23-13-5, 23-13-13, 23-15-6
31 through 23-15-9, 23-16-5, or Subsection 23-20-3(1);

32 (b) captures, injures, or destroys protected wildlife; and

33 (c) (i) does so with intentional, knowing, or reckless conduct as defined in Section
34 76-2-103;

35 (ii) intentionally abandons protected wildlife or a carcass;

36 (iii) commits the offense at night with the use of a weapon;

37 (iv) is under a court or division revocation of a license, tag, permit, or certificate of
38 registration; or

39 (v) acts for pecuniary gain.

40 (2) Subsection (1) does not apply to actions taken [~~which are~~] in accordance with [the
41 following]:

42 (a) Title 4, Chapter 14, Utah Pesticide Control Act;

43 (b) Title 4, Chapter 23, [~~Agriculture~~] Agricultural and Wildlife Damage Prevention
44 Act; or

45 (c) Section 23-16-3.1.

46 (3) Wanton destruction of wildlife is punishable:

47 (a) as a third degree felony if:

48 (i) the aggregate value of the protected wildlife determined by the values in Subsection
49 (4) is more than \$500; or

50 (ii) a trophy animal was captured, injured, or destroyed;

51 (b) as a class A misdemeanor if the aggregate value of the protected wildlife, [~~other~~
52 ~~than any trophy animal,~~] determined by the values established in Subsection (4) is more than
53 \$250, but does not exceed \$500; and

54 (c) as a class B misdemeanor if the aggregate value of the protected wildlife
55 determined by the values established in Subsection (4) is \$250 or less.

56 (4) Regardless of the restitution amounts imposed under Subsection 23-20-4.5(2), the
57 following values are assigned to protected wildlife for the purpose of determining the offense

- 58 for wanton destruction of wildlife:
- 59 (a) \$1,000 per animal for:
- 60 (i) bison;
- 61 (ii) bighorn sheep;
- 62 (iii) rocky mountain goat;
- 63 (iv) moose;
- 64 (v) bear;
- 65 (vi) peregrine falcon; [or]
- 66 (vii) bald eagle; or
- 67 [~~(vii)~~] (viii) endangered species;
- 68 (b) \$750 per animal for:
- 69 (i) elk; or
- 70 (ii) threatened species;
- 71 (c) \$500 per animal for:
- 72 (i) cougar;
- 73 (ii) golden eagle;
- 74 (iii) river otter; or
- 75 (iv) gila monster;
- 76 (d) \$400 per animal for:
- 77 (i) pronghorn antelope; or
- 78 (ii) deer;
- 79 (e) \$350 per animal for bobcat;
- 80 (f) \$100 per animal for:
- 81 (i) swan;
- 82 (ii) sandhill crane;
- 83 (iii) turkey;
- 84 (iv) pelican;
- 85 (v) loon;

- 86 (vi) egrets;
- 87 (vii) herons;
- 88 (viii) raptors, except those that are threatened or endangered;
- 89 (ix) Utah milk snake; or
- 90 (x) Utah mountain king snake;
- 91 (g) \$35 per animal for furbearers, except:
- 92 (i) bobcat;
- 93 (ii) river otter; and
- 94 (iii) threatened or endangered species;
- 95 (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye,
- 96 largemouth bass, smallmouth bass, and wiper;
- 97 (i) \$15 per animal for game birds, except:
- 98 (i) turkey;
- 99 (ii) swan; and
- 100 (iii) sandhill crane;
- 101 (j) \$10 per animal for game fish not listed in Subsection (4)(h);
- 102 (k) \$8 per pound dry weight of processed brine shrimp including eggs; and
- 103 (l) \$5 per animal for protected wildlife not listed.
- 104 (5) For purposes of sentencing for a wildlife violation, a person who has been
- 105 convicted of a third degree felony under Subsection (3)(a) is not subject to the mandatory
- 106 sentencing requirements prescribed in Subsection 76-3-203.8(4).
- 107 (6) As part of [~~any~~] a sentence imposed, the court shall impose a sentence of
- 108 incarceration of not less than 20 consecutive days for [~~any~~] a person convicted of a third
- 109 degree felony under Subsection (3)(a)(ii) who captured, injured, or destroyed a trophy animal
- 110 for pecuniary gain.
- 111 (7) If a person has already been convicted of a third degree felony under Subsection
- 112 (3)(a)(ii) once, each separate [~~further~~] additional offense under Subsection (3)(a)(ii) is
- 113 punishable by, as part of [~~any~~] a sentence imposed, a sentence of incarceration of not less than

114 20 consecutive days.

115 (8) The court may not sentence a person subject to Subsection (6) or (7) to less than 20
116 consecutive days of incarceration or suspend the imposition of the sentence unless the court
117 finds mitigating circumstances justifying lesser punishment and makes that finding a part of
118 the court record.

119 Section 2. Section **23-20-4.5** is amended to read:

120 **23-20-4.5. Illegal taking, possession, or wanton destruction of protected wildlife**
121 **-- Restitution -- Reimbursable damages -- Assessment by magistrates -- Disposition of**
122 **monies.**

123 (1) When a person is adjudged guilty of illegal taking, illegal possession, or wanton
124 destruction of protected wildlife, other than ~~[any]~~ a trophy animal, the court may order the
125 defendant to pay restitution;

126 (a) as set forth in Subsection (2)~~];~~ or

127 (b) in a greater or lesser amount~~[- for the value of each animal taken, possessed, or~~
128 ~~destroyed, unless the court finds that restitution is inappropriate]~~ than the amount established
129 in Subsection (2).

130 (2) Suggested minimum restitution values for protected wildlife are as follows:

131 (a) \$1,000 per animal for:

132 (i) bison;

133 (ii) bighorn sheep;

134 (iii) rocky mountain goat;

135 (iv) moose;

136 (v) bear;

137 (vi) peregrine falcon; ~~[or]~~

138 (vii) bald eagle; or

139 ~~[(vii)]~~ (viii) endangered species;

140 (b) \$750 per animal for:

141 (i) elk; or

- 142 (ii) threatened species;
- 143 (c) \$500 per animal for:
- 144 (i) golden eagle;
- 145 (ii) river otter; or
- 146 (iii) gila monster;
- 147 (d) \$400 per animal for:
- 148 (i) pronghorn antelope; or
- 149 (ii) deer;
- 150 (e) \$350 per animal for:
- 151 (i) cougar; or
- 152 (ii) bobcat;
- 153 (f) \$100 per animal for:
- 154 (i) swan;
- 155 (ii) sandhill crane;
- 156 (iii) turkey;
- 157 (iv) pelican;
- 158 (v) loon;
- 159 (vi) egrets;
- 160 (vii) herons;
- 161 (viii) raptors, except those that are threatened or endangered;
- 162 (ix) Utah milk snake; or
- 163 (x) Utah mountain king snake;
- 164 (g) \$35 per animal for furbearers, except:
- 165 (i) bobcat;
- 166 (ii) river otter; and
- 167 (iii) threatened or endangered species;
- 168 (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye,
- 169 largemouth bass, smallmouth bass, and wiper;

- 170 (i) \$15 per animal for game birds, except:
- 171 (i) turkey;
- 172 (ii) swan; and
- 173 (iii) sandhill crane;
- 174 (j) \$10 per animal for game fish not listed in Subsection (2)(h);
- 175 (k) \$8 per pound dry weight of processed brine shrimp including eggs; and
- 176 (l) \$5 per animal for protected wildlife not listed.
- 177 (3) If the court finds that restitution is inappropriate or if the value imposed is less
- 178 than the suggested minimum value as provided in Subsection (2), the court shall make the
- 179 reasons for the decision part of the court record.
- 180 (4) (a) The court shall order [~~any~~] a person convicted of a third degree felony under
- 181 Subsection 23-20-4(3)(a)(ii) to pay restitution in accordance with Subsection (4)(b).
- 182 [~~Minimum~~]
- 183 (b) The minimum restitution [~~values~~] value for a trophy [~~animals are~~] animal is as
- 184 follows:
- 185 [~~(a)~~] (i) \$30,000 per animal for bighorn, desert, or rocky mountain sheep;
- 186 [~~(b)~~] (ii) \$8,000 per animal for deer;
- 187 [~~(c)~~] (iii) \$8,000 per animal for elk;
- 188 [~~(d)~~] (iv) \$6,000 per animal for moose or mountain goat;
- 189 [~~(e)~~] (v) \$6,000 per animal for bison; and
- 190 [~~(f)~~] (vi) \$2,000 per animal for pronghorn antelope.
- 191 (5) [~~Any restitution~~] Restitution paid under Subsection (4) shall be remitted to the
- 192 division and deposited in the Wildlife Resources Account.
- 193 (6) Restitution monies shall be used by the division for activities and programs to help
- 194 stop poaching, including:
- 195 (a) educational programs on wildlife crime prevention;
- 196 (b) acquisition and development of wildlife crime detection equipment;
- 197 (c) operation and maintenance of anti-poaching projects; and

198 (d) wildlife law enforcement training.

199 (7) If restitution is required it shall be in addition to:

200 (a) [~~any other~~] a fine or penalty imposed for a violation of any provision of this title;

201 and

202 (b) [~~any~~] a remedial action taken to revoke or suspend a person's license, permit, tag,

203 or certificate of registration.

204 (8) A judgment imposed under this section constitutes a lien when recorded in the

205 judgment docket and shall have the same effect and is subject to the same rules as a judgment

206 for money in a civil action.