

1 **WANTON DESTRUCTION OF LIVESTOCK**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ronda Rudd Menlove**

5 Senate Sponsor: _____

6

LONG TITLE

7 **General Description:**

8 This bill establishes penalties for the wanton destruction of livestock.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ defines terms;
- 12 ▶ establishes penalties for the wanton destruction of livestock; and
- 13 ▶ provides for the seizure and disposition of property used in the wanton destruction
- 14 of livestock.

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **41-6a-1406**, as last amended by Laws of Utah 2008, Chapters 226 and 382

22 ENACTS:

23 **76-6-111**, Utah Code Annotated 1953

24

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

25 Section 1. Section **41-6a-1406** is amended to read:



28 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
29 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

30 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
31 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, [~~or~~] 73-18-20.1, or 76-6-111 by an
32 order of a peace officer or by an order of a person acting on behalf of a law enforcement agency
33 or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor
34 shall be at the expense of the owner.

35 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
36 impounded to:

- 37 (a) a state impound yard; or
- 38 (b) if none, a garage, docking area, or other place of safety.

39 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be
40 removed by a tow truck motor carrier that meets standards established:

- 41 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- 42 (b) by the department under Subsection (10).

43 (4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report
44 of the removal shall be sent to the Motor Vehicle Division by:

- 45 (i) the peace officer or agency by whom the peace officer is employed; and
- 46 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
47 operator is employed.

48 (b) The report shall be in a form specified by the Motor Vehicle Division and shall
49 include:

- 50 (i) the operator's name, if known;
- 51 (ii) a description of the vehicle, vessel, or outboard motor;
- 52 (iii) the vehicle identification number or vessel or outboard motor identification
53 number;
- 54 (iv) the license number or other identification number issued by a state agency;
- 55 (v) the date, time, and place of impoundment;
- 56 (vi) the reason for removal or impoundment;
- 57 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
58 outboard motor; and

59 (viii) the place where the vehicle, vessel, or outboard motor is stored.

60 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
61 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

62 (i) collect any fee associated with the removal; and

63 (ii) begin charging storage fees.

64 (5) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the
65 registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner
66 prescribed by Section 41-1a-114.

67 (b) The notice shall:

68 (i) state the date, time, and place of removal, the name, if applicable, of the person
69 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
70 and the place where the vehicle, vessel, or outboard motor is stored;

71 (ii) state that the registered owner is responsible for payment of towing, impound, and
72 storage fees charged against the vehicle, vessel, or outboard motor;

73 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
74 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

75 (iv) inform the registered owner and lienholder of the division's intent to sell the
76 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or
77 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
78 claim for release of the vehicle, vessel, or outboard motor.

79 (c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor
80 Vehicle Division shall make a reasonable effort to notify the registered owner and any lien
81 holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

82 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
83 the vehicle, vessel, or outboard motor is stored.

84 (6) (a) The vehicle, vessel, or outboard motor shall be released after the registered
85 owner, lien holder, or the owner's agent:

86 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
87 the State Tax Commission;

88 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
89 vessel, or outboard motor;

90 (iii) completes the registration, if needed, and pays the appropriate fees;

91 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
92 impound fee of \$330; and

93 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
94 motor is stored.

95 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
96 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

97 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
98 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;
99 and

100 (iii) the remainder of the administrative impound fee assessed under Subsection
101 (6)(a)(iv) shall be deposited in the General Fund.

102 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
103 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
104 owner's agent presents written evidence to the State Tax Commission that:

105 (i) the Driver License Division determined that the arrested person's driver license
106 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
107 or other report from the Driver License Division presented within 30 days of the final
108 notification from the Driver License Division; or

109 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
110 stolen vehicle report presented within 30 days of the impoundment.

111 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered
112 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in
113 accordance with that section and the proceeds, if any, shall be disposed of as provided under
114 Section 41-1a-1104.

115 (b) The date of impoundment is considered the date of seizure for computing the time
116 period provided under Section 41-1a-1103.

117 (8) The registered owner who pays all fees and charges incurred in the impoundment of
118 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and
119 charges, together with damages, court costs, and attorney fees, against the operator of the
120 vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

121 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
122 or outboard motor.

123 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
124 the department shall make rules setting the performance standards for towing companies to be
125 used by the department.

126 (11) (a) The Motor Vehicle Division may specify that a report required under
127 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and
128 retrieval of the information.

129 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the
130 administrator of the database may adopt a schedule of fees assessed for utilizing the database.

131 (ii) The fees under this Subsection (11)(b) shall:

132 (A) be reasonable and fair; and

133 (B) reflect the cost of administering the database.

134 Section 2. Section **76-6-111** is enacted to read:

135 **76-6-111. Wanton destruction of livestock -- Penalties -- Seizure and disposition of**
136 **property.**

137 (1) As used in this section:

138 (a) "Law enforcement officer" is as defined in Section 53-13-103.

139 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit,
140 including:

141 (i) cattle;

142 (ii) sheep;

143 (iii) goats;

144 (iv) swine;

145 (v) horses;

146 (vi) mules;

147 (vii) poultry; and

148 (viii) domesticated elk as defined in Section 4-39-102.

149 (2) A person is guilty of wanton destruction of livestock if that person:

150 (a) injures, releases, or causes the death of livestock; and

151 (b) does so:

152 (i) intentionally, knowingly, or recklessly; and
153 (ii) without the permission of the owner of the livestock.
154 (3) Wanton destruction of livestock is punishable as a:
155 (a) class B misdemeanor if the aggregate value of the livestock is \$300 or less;
156 (b) class A misdemeanor if the aggregate value of the livestock is more than \$300, but
157 does not exceed \$1,000;
158 (c) third degree felony if the aggregate value of the livestock is more than \$1,000, but
159 does not exceed \$5,000; and
160 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.
161 (4) (a) A law enforcement officer may seize a material or device used for the wanton
162 destruction of livestock.
163 (b) Upon a finding by the court on the record that a material, device, or vehicle was
164 used in the wanton destruction of livestock, the material, device, or vehicle is subject to
165 criminal or civil forfeiture under Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.
166 (5) A law enforcement officer may seize and impound a vehicle used for the wanton
167 destruction of livestock to:
168 (a) provide for the safekeeping of the vehicle, if the owner or operator is arrested; and
169 (b) search the vehicle for evidence of the wanton destruction of livestock as provided
170 by law.
171 (6) A law enforcement officer seizing and impounding a vehicle under Subsection (5)
172 shall comply with the provisions of Section 41-6a-1406.
173 (7) The owner of a seized vehicle is not liable for the payment of an impound fee or, if
174 the fee has been paid, is entitled to reimbursement of the fee paid, if:
175 (a) no charges are filed;
176 (b) all charges are dismissed that involve the use of the vehicle for the wanton
177 destruction of livestock;
178 (c) the person charged with using the vehicle for the wanton destruction of livestock is
179 found by a court to be not guilty; or
180 (d) the vehicle was stolen at the time of the impoundment as shown by a copy of the
181 stolen vehicle report presented within 30 days of the impoundment.

Legislative Review Note
as of 1-9-09 9:40 AM

Office of Legislative Research and General Counsel