

Chapter 25 Estraying and Trespassing Animals

4-25-1 Definitions.

For the purpose of this chapter:

- (1)
 - (a) "Estray" means:
 - (i) an unbranded sheep, cow, horse, mule, ass, or domestic mink found running at large;
 - (ii) a branded sheep, cow, horse, mule, ass, or domestic mink found running at large whose owner cannot be found after reasonable search; or
 - (iii) a swine found running at large whose owner cannot be found after reasonable search.
 - (b) "Estray" does not mean any unweaned animal specified in this section that is running with its mother.
- (2) "Feral swine" means any species, or hybrid species:
 - (a) of the family Suidae, including the European boar, the Eurasian boar, the Russian boar, a feral hog, or a domestic pig;
 - (b) that is not conspicuously identified by an ear tag or other form of visual identification; and
 - (c) that is roaming freely upon public land or private land without the permission of the landowner.
- (3) "Swine" means any domesticated species of the family Suidae that is conspicuously identified by an ear tag or other form of visible identification.

Amended by Chapter 105, 2015 General Session

4-25-2 County responsibility for estrays -- Contracts with other local governments authorized.

Each county is responsible for the disposition of all estrays found within its boundaries. Each county in the discharge of its responsibility, however, may contract upon mutually agreeable terms with any city, town, or other county with an animal control office to perform any or all of the functions imposed by this chapter.

Amended by Chapter 7, 1983 General Session

4-25-3 Department authorized to make and enforce rules.

The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are necessary to administer and enforce this chapter.

Amended by Chapter 382, 2008 General Session

4-25-4 Possession of estrays -- Determination and location of owner -- Sale -- Disposition of proceeds -- Notice -- Title of purchaser -- Immunity from liability.

- (1)
 - (a) Except as provided in Section 4-25-5, a county shall:
 - (i) take physical possession of an estray it finds within its boundaries; and
 - (ii) attempt to determine the name and location of the estray's owner.

- (b) The department shall assist a county that requests its help in determining the name and location of the owner or other person responsible for the estray.
- (c)
 - (i) Notwithstanding the requirements of Title 67, Chapter 4a, Unclaimed Property Act, if the county cannot determine the estray's owner, or, if having determined ownership, neither the county nor the department is able to locate the owner within a reasonable period of time, the estray shall be sold at a livestock or other appropriate market.
 - (ii) The proceeds of a sale under Subsection (1)(c)(i), less the costs described in Subsection (1)(c)(iii), shall be paid to the county selling the estray.
 - (iii) The livestock or other market conducting the sale under Subsection (1)(c)(i) may deduct the cost of feed, transportation, and other market costs from the proceeds of the sale.
- (2) A county shall publish notice of the sale of an estray:
 - (a) at least once 10 days before the date of the sale; and
 - (b) in a publication with general circulation within the county where the estray was taken into custody.
- (3) A purchaser of an estray sold under this section shall receive title to the estray free and clear of all claims of the estray's owner and a person claiming title through the owner.
- (4) A county that complies with the provisions of this section is immune from liability for the sale of an estray sold at a livestock or other appropriate market.
- (5) Notwithstanding the requirements of Subsection (1)(c), a county may employ a licensed veterinarian to euthanize an estray if the licensed veterinarian determines that the estray's physical condition prevents the estray from being sold.

Amended by Chapter 282, 2009 General Session

4-25-5 Report of estrays -- Possession -- Relief from liability.

- (1) As used in this section, "division" means the Division of Wildlife Resources.
- (2) A person, other than an official of the county or of an animal control office under contract with the county, who finds an estray shall report it to the county or animal control office immediately.
- (3) Upon receipt of notification under Subsection (2), the county or the animal control office shall:
 - (a) take possession of the estray; or
 - (b) if appropriate, authorize the person in possession of the estray to maintain and care for it pending determination and location of the estray's owner.
- (4) A person who gives notice of an estray and delivers it to the county or animal control office is not liable to third parties on account of the estray to the extent of the value of the animal.
- (5)
 - (a) If an employee of the division, acting in the employee's official capacity, finds an estray, the employee shall:
 - (i) comply with the requirements of Subsection (2); and
 - (ii) make a reasonable attempt to contact the estray's owner.
 - (b) The county or animal control office receiving a report of an estray from an employee of the division shall:
 - (i) take possession of the estray; or
 - (ii) authorize the division in writing or through electronic means to take possession of the estray.
 - (c) If the county or animal control office does not comply with Subsection (5)(b) within 72 hours from the time the division reports an estray, the division may take possession of the estray.
 - (d) If the division takes possession of the estray, the division shall:
 - (i) make a reasonable attempt to return the estray to the estray's owner; or

- (ii) if unable to return the estray to the estray's owner, deliver the estray to the county or animal control office.
- (e) If the division is unable to take possession of the estray after a reasonable attempt, the division may cause the death of the estray if the division determines that the estray presents a material threat to wildlife by:
 - (i) predation;
 - (ii) pathogen transmission; or
 - (iii) genetic introgression.
- (f) If the division causes the death of an estray under Subsection (5)(e), the division shall:
 - (i) compensate the owner of the estray at full market value of the estray; or
 - (ii) if the owner of the estray cannot be determined, deposit an amount equal to the full market value of the estray into the Agricultural and Wildlife Damage Prevention Account created in Section 4-23-7.5.
- (6) Notwithstanding the requirements of Subsection (5), the division may immediately take possession of an estray or cause an estray to move away from wildlife if the estray presents an imminent material threat to wildlife by:
 - (a) predation;
 - (b) pathogen transmission; or
 - (c) genetic introgression.

Amended by Chapter 282, 2009 General Session

4-25-6 Compensation for care of estrays -- Liability of county -- Notice required.

- (1) A person who finds an estray and who, after giving notice is authorized by the county to maintain and care for it, is entitled to compensation from the owner, or from the county, as the case may be, for the reasonable costs of feeding and maintaining the animal; provided, that the county is liable for such cost only if the owner is not located after diligent search.
- (2) No person who finds an estray however, is entitled to reimbursement for feed and maintenance or for any other cost incurred on behalf of the estray before such time as notice of the estray is given to the county or to the appropriate animal control office.

Amended by Chapter 7, 1983 General Session

4-25-7 County legislative body authorized to adopt fence ordinance -- Lawful fence to be specified by ordinance -- Dividing the county into divisions for different fencing regulations.

- (1) A county legislative body may, by ordinance, declare and enforce a general policy within the county for the fencing of farms, subdivisions, or other private property, to allow domestic animals to graze without trespassing on farms, subdivisions, or other private property.
- (2) If an ordinance is adopted under Subsection (1), the county legislative body:
 - (a) shall through ordinance declare and specify what constitutes a lawful fence; and
 - (b) may divide the county into divisions and prescribe different fencing regulations for each division.

Amended by Chapter 196, 2009 General Session

4-25-8 Owner liable for trespass of animals -- Exception -- Intervention by county representative.

- (1) The owner of any neat cattle, horse, ass, mule, sheep, goat, or swine that trespasses upon the premises of another person, except in cases where the premises are not enclosed by a lawful fence in a county or municipality that has adopted a fence ordinance, is liable in a civil action to the owner or occupant of the premises for any damage inflicted by the trespass.
- (2) A county representative may intervene to remove the animal and the county is entitled to fair compensation for costs incurred. If the animal is not claimed within 10 days after written notification is sent to its owner, a county representative may sell the animal to cover costs incurred.
- (3) Notwithstanding Subsections (1) and (2), the owner of any neat cattle, horse, ass, mule, sheep, goat, or swine that trespasses upon the premises of another person is not liable in a civil action to the owner or occupant of the premises for damage inflicted by the trespass if:
 - (a) the animal enters the premises from an historic livestock trail, as defined in Section 57-13b-102; and
 - (b) the premises that was trespassed is not enclosed by an adequate fence at the time the trespass occurs.

Amended by Chapter 118, 2005 General Session

4-25-9 Animals running at large -- Prohibition -- Limited exception.

No person who owns or is in possession of a stallion, jack, or ridgeling over 18 months old, or a ram over three months old, shall permit it to run at large within the limits of, or on the summer range of, any town or settlement; provided, that two-thirds of the voters of any county or isolated part of a county may elect through an election to make this section ineffective in all or part of the county during part of the year.

Enacted by Chapter 2, 1979 General Session

4-25-10 Bulls -- Number required on range during breeding season.

No person during breeding season shall turn loose or range any cattle upon a federal range or forest reserve located in this state without ranging one bull for every 30 head of female breeding cattle ranged; provided, that a person ranging any portion of 30 head of female breeding cattle may arrange for an interest in a bull which is ranging on the federal range or the forest reserve where such breeding cattle are located.

Enacted by Chapter 2, 1979 General Session

4-25-11 Determination and enforcement of bull running policy by range association.

A local range association may determine and enforce a general policy regarding the type and quality of bulls allowed to run at large upon a community allotment of public lands located in this state.

Repealed and Re-enacted by Chapter 139, 1988 General Session

4-25-12 Allowing swine to run at large -- Class B misdemeanor.

- (1) A person is guilty of a class B misdemeanor if the person:
 - (a) is in control of a swine; and
 - (b) allows the swine to run at large.
- (2) A person described in Subsection (1) is liable for damage caused by the swine running at large.

Repealed and Re-enacted by Chapter 331, 2012 General Session

4-25-12.1 Release of swine or feral swine for any purpose.

A person may not release a:

- (1) swine on public or private property for hunting purposes; or
- (2) feral swine on public or private property for any purpose.

Amended by Chapter 105, 2015 General Session

4-25-12.3 Feral swine detrimental to state's interests -- Seizure, capture, or destruction of feral swine.

- (1) Feral swine are detrimental to the state's interests in agriculture and wildlife.
- (2) Feral swine may be seized, captured, or destroyed at any time, in any place, and in any manner by:
 - (a) the department and its authorized agents;
 - (b) the Division of Wildlife Resources and its authorized agents; or
 - (c) a certified peace officer.
- (3)
 - (a) Notwithstanding Section 76-9-301, and subject to the requirements of this section, an individual may kill a feral swine roaming on private or public land.
 - (b) An individual shall obtain the consent of the landowner before killing a feral swine on private land.
 - (c) Feral swine may be killed:
 - (i) year-round;
 - (ii) in any number; and
 - (iii) with a firearm, bow and arrow, or crossbow.
- (4) Feral swine may not be hunted or killed under Subsection (3)(c):
 - (a) with the use of artificial light or night vision equipment, except as authorized by county ordinance; or
 - (b) from or with any airborne vehicle or device, except as provided in Section 4-23-6.
- (5) An individual may not receive compensation, or attempt to receive compensation, from hunting feral swine.
- (6) An individual who kills a swine under this section is not liable to the owner for the loss of the swine, unless:
 - (a) the swine is conspicuously identified by an ear tag or other form of visual identification; and
 - (b) the individual who killed the swine knew the swine was identified by an ear tag or other form of usual identification.

Enacted by Chapter 105, 2015 General Session

4-25-14 Impounded livestock -- Determination and location of owner -- Sale -- Disposition of proceeds -- Notice -- Title of purchaser -- Immunity from liability.

- (1) As used in this section, "impounded livestock" means the following animals seized and retained in legal custody:
 - (a) cattle;
 - (b) calves;
 - (c) horses;

- (d) mules;
 - (e) sheep;
 - (f) goats;
 - (g) hogs; or
 - (h) domesticated elk.
- (2)
- (a) A county may:
 - (i) take physical possession of impounded livestock seized and retained within its boundaries; and
 - (ii) attempt to determine the name and location of the impounded livestock's owner.
 - (b) The department shall assist a county who requests help in locating the name and location of the owner or other person responsible for the impounded livestock.
 - (c)
 - (i) Notwithstanding the requirements of Title 67, Chapter 4a, Unclaimed Property Act, if the county cannot determine ownership of the impounded livestock, or, if having determined ownership, neither the county nor the department is able to locate the owner within a reasonable period of time, the impounded livestock shall be sold at a livestock or other appropriate market.
 - (ii) The proceeds of a sale under Subsection (2)(c)(i), less the costs described in Subsection (2)(c)(iii), shall be paid to the State School Fund created by the Utah Constitution Article X, Section 5, Subsection (1).
 - (iii) The livestock or other market conducting the sale under Subsection (2)(c)(i) may deduct the cost of feed, transportation, and other market costs from the proceeds of the sale.
- (3) A county shall publish the intended sale of the impounded livestock:
- (a) at least 10 days prior to the date of sale; and
 - (b) in a publication with general circulation within the county where the impounded livestock was taken into custody.
- (4) A purchaser of impounded livestock sold under this section shall receive title to the impounded livestock free and clear of all claims of the livestock's owner or a person claiming title through the owner.
- (5) If a county complies with the provisions of this section, it is immune from liability for the sale of impounded livestock sold at a livestock or other appropriate market.
- (6) Notwithstanding the requirements of Subsection (2)(c), a county may employ a licensed veterinarian to euthanize an impounded livestock if the licensed veterinarian determines that the impounded livestock's physical condition prevents the impounded livestock from being sold.

Amended by Chapter 282, 2009 General Session