

**TRANSPLANTS OF WILDLIFE**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Alarik Myrin**

AN ACT RELATING TO WILDLIFE RESOURCES; ALLOWING THE DIVISION OF  
 WILDLIFE RESOURCES TO TRANSPLANT CERTAIN SPECIES ONLY IN  
 ACCORDANCE WITH PLANS OR AGREEMENTS DESIGNATING TRANSPLANT  
 SITES; **h** **AND** **h** CREATING PROCEDURES FOR THE PREPARATION, REVIEW, AND  
 APPROVAL OF PLANS FOR THE TRANSPLANT OF CERTAIN SPECIES **h** [~~;~~**AND**  
~~DEFINING TERMS~~] **h** .

This act affects sections of Utah Code Annotated 1953 as follows:

**h** [AMENDS:

~~———— 23-13-2, as last amended by Chapter 265, Laws of Utah 1996]~~ **h**

ENACTS:

~~23-14-21~~, Utah Code Annotated 1953

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

**h** [Section 1. Section ~~23-13-2~~ is amended to read:

~~———— 23-13-2. Definitions:~~

~~———— As used in this title:~~

~~———— (1) "Activity regulated under this title" means any act, attempted act, or activity prohibited  
 or regulated under any provision of Title 23 or the rules, and proclamations promulgated  
 thereunder pertaining to protected wildlife including:~~

~~———— (a) fishing;~~

~~———— (b) hunting;~~

~~———— (c) trapping;~~

~~———— (d) taking;~~

~~———— (e) permitting any dog, falcon, or other domesticated animal to take;]~~ **h**

- 1           ~~h~~ [(f) transporting;
- 2           ~~— (g) possessing;~~
- 3           ~~— (h) selling;~~
- 4           ~~— (i) wasting;~~
- 5           ~~— (j) importing;~~
- 6           ~~— (k) exporting;~~
- 7           ~~— (l) rearing;~~
- 8           ~~— (m) keeping;~~
- 9           ~~— (n) utilizing as a commercial venture; and~~
- 10          ~~— (o) releasing to the wild.~~
- 11          ~~— (2) "Aquatic animal" has the meaning provided in Section 4-37-103.~~
- 12          ~~— (3) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or~~
- 13          ~~amphibians.~~
- 14          ~~— (4) "Aquaculture facility" has the meaning provided in Section 4-37-103.~~
- 15          ~~— (5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that~~
- 16          ~~one person may legally take during one day.~~
- 17          ~~— (6) "Big game" means species of hoofed protected wildlife.~~
- 18          ~~— (7) "Carcass" means the dead body of an animal or its parts.~~
- 19          ~~— (8) "Certificate of registration" means a document issued under this title, or any rule or~~
- 20          ~~proclamation of the Wildlife Board granting authority to engage in activities not covered by a~~
- 21          ~~license, permit, or tag.~~
- 22          ~~— (9) "Closed season" means the period of time during which the taking of protected wildlife~~
- 23          ~~is prohibited.~~
- 24          ~~— (10) "Conservation officer" means a full-time, permanent employee of the Division of~~
- 25          ~~Wildlife Resources who is POST certified as a peace or a special function officer.~~
- 26          ~~— (11) "Conservation species" means any wildlife species or subspecies, except those species~~
- 27          ~~currently listed under the federal Endangered Species Act of 1973 as threatened or endangered,~~
- 28          ~~that meets the state criteria of endangered, threatened, or of special concern, but is currently~~
- 29          ~~receiving sufficient special management under a conservation agreement developed or~~
- 30          ~~implemented by the state to preclude its listing as endangered, threatened, or of special concern.~~
- 31          ~~— [(11)] (12) "Division" means the Division of Wildlife Resources.] ~~h~~~~

- 1           ~~h~~ ~~[(12)] (13)~~ (a) "Domicile" means the place:
- 2           ~~— (i) where an individual has a fixed permanent home and principal establishment;~~
- 3           ~~— (ii) to which the individual if absent, intends to return; and~~
- 4           ~~— (iii) in which the individual and the individual's family voluntarily reside, not for a special~~
- 5           ~~or temporary purpose, but with the intention of making a permanent home.~~
- 6           ~~— (b) To create a new domicile an individual must:~~
- 7           ~~— (i) abandon the old domicile; and~~
- 8           ~~— (ii) be able to prove that a new domicile has been established.~~
- 9           ~~— [(13)] (14) "Endangered" means wildlife designated as such pursuant to Section 3 of the~~
- 10           ~~federal Endangered Species Act of 1973.~~
- 11           ~~— [(14)] (15) "Fee fishing facility" has the meaning provided in Section 4-37-103.~~
- 12           ~~— [(15)] (16) "Feral" means an animal which is normally domesticated but has reverted to~~
- 13           ~~the wild.~~
- 14           ~~— [(16)] (17) "Fishing" means to take fish or crayfish by any means.~~
- 15           ~~— [(17)] (18) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae,~~
- 16           ~~and Castoridae families, except coyote and cougar:~~
- 17           ~~— [(18)] (19) "Game" means wildlife normally pursued, caught, or taken by sporting means~~
- 18           ~~for human use.~~
- 19           ~~— [(19)] (20) (a) "Guide" means a person who receives compensation or advertises services~~
- 20           ~~for assisting another person to take protected wildlife.~~
- 21           ~~— (b) Assistance under Subsection (a) includes the provision of food, shelter, or~~
- 22           ~~transportation, or any combination of these.~~
- 23           ~~— [(20)] (21) "Guide's agent" means a person who is employed by a guide to assist another~~
- 24           ~~person to take protected wildlife.~~
- 25           ~~— [(21)] (22) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by~~
- 26           ~~any means.~~
- 27           ~~— [(22)] (23) "Intimidate or harass" means to physically interfere with or impede, hinder, or~~
- 28           ~~diminish the efforts of an officer in the performance of the officer's duty.~~
- 29           ~~— [(23)] (24) "License" means the primary document granting authority to engage in~~
- 30           ~~activities under:~~
- 31           ~~— (a) this title; or] h~~

1           ~~h~~ [(b) a rule or proclamation of the Wildlife Board.

2           ~~— [(24)] (25) "Nonresident" means a person who does not qualify as a resident.~~

3           ~~— [(25)] (26) "Open season" means the period of time during which protected wildlife may~~  
4 ~~be legally taken.~~

5           ~~— [(26)] (27) "Pecuniary gain" means the acquisition of money or something of monetary~~  
6 ~~value.~~

7           ~~— [(27)] (28) "Permit" means a secondary document, including a stamp, which:~~  
8           ~~(a) requires a license as a prerequisite to its issuance; and~~  
9           ~~(b) grants authority to engage in specified activities under this title or a rule or~~  
10 ~~proclamation of the Wildlife Board.~~

11           ~~— [(28)] (29) "Person" means an individual, association, partnership, government agency,~~  
12 ~~corporation, or an agent of the foregoing.~~

13           ~~— [(29)] (30) "Possession" means actual or constructive possession.~~

14           ~~— [(30)] (31) "Possession limit" means the number of bag limits one individual may legally~~  
15 ~~possess.~~

16           ~~— [(31)] (32) (a) "Private fish installation" means a body of water where privately owned,~~  
17 ~~protected aquatic wildlife are propagated or kept.~~

18           ~~(b) "Private fish installation" does not include any aquaculture facility or fee fishing~~  
19 ~~facility.~~

20           ~~— [(32)] (33) "Private wildlife farm" means an enclosed place where privately owned birds~~  
21 ~~or furbearers are propagated or kept and which restricts the birds or furbearers from:~~

22           ~~(a) commingling with wild birds or furbearers; and~~  
23           ~~(b) escaping into the wild.~~

24           ~~— [(33)] (34) "Proclamation" means the publication used to convey a statute, rule, policy,~~  
25 ~~or pertinent information as it relates to wildlife.~~

26           ~~— [(34)] (35) (a) "Protected aquatic wildlife" means aquatic wildlife as defined in Subsection~~  
27 ~~(3), except as provided in Subsection (b).~~

28           ~~(b) "Protected aquatic wildlife" does not include aquatic insects.~~

29           ~~— [(35)] (36) (a) "Protected wildlife" means wildlife as defined in Subsection (49), except~~  
30 ~~as provided in Subsection (b).~~

31           ~~(b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel, jack] h~~

1 ~~h~~ [rabbit, muskrat, and raccoon.

2 ~~—— [(36)] (37) "Released to the wild" means to turn loose from confinement.~~

3 ~~—— [(37)] (38) (a) "Resident" means a person who:~~

4 ~~—— (i) has been domiciled in the state of Utah for six consecutive months immediately~~

5 ~~preceding the purchase of a license; and~~

6 ~~—— (ii) does not claim residency for hunting, fishing, or trapping in any other state or country.~~

7 ~~—— (b) A Utah resident retains Utah residency if that person leaves this state:~~

8 ~~—— (i) to serve in the armed forces of the United States or for religious or educational~~

9 ~~purposes; and~~

10 ~~—— (ii) complies with Subsection (a)(ii).~~

11 ~~—— (c) (i) A member of the armed forces of the United States and dependents are residents for~~

12 ~~the purposes of this chapter as of the date the member reports for duty under assigned orders in the~~

13 ~~state if the member:~~

14 ~~—— (A) is not on temporary duty in this state; and~~

15 ~~—— (B) complies with Subsection (a)(ii).~~

16 ~~—— (ii) A copy of the assignment orders must be presented to a wildlife division office to~~

17 ~~verify the member's qualification as a resident.~~

18 ~~—— (d) A nonresident attending an institution of higher learning in this state as a full-time~~

19 ~~student may qualify as a resident for purposes of this chapter if the student:~~

20 ~~—— (i) has been present in this state for 60 consecutive days immediately preceding the~~

21 ~~purchase of the license; and~~

22 ~~—— (ii) complies with Subsection (a)(ii).~~

23 ~~—— (e) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping~~

24 ~~is purchased in any other state or country.~~

25 ~~—— (f) An absentee landowner paying property tax on land in Utah does not qualify as a~~

26 ~~resident.~~

27 ~~—— [(38)] (39) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act~~

28 ~~of selling, bartering, exchanging, or trading.~~

29 ~~—— (40) "Sensitive species" means species designated by the Division of Wildlife Resources~~

30 ~~as state endangered species, state threatened species, species of special concern, or conservation~~

31 ~~species.] h~~

- 1           ~~h~~ ~~[(39)] (41)~~ "Small game" means species of protected wildlife:
- 2           ~~— (a) commonly pursued for sporting purposes; and~~
- 3           ~~— (b) not classified as big game, aquatic wildlife, or furbearers.~~
- 4           ~~— (42) "Species of special concern" means any wildlife species or subspecies that has~~  
5           ~~experienced a substantial decrease in population, distribution, or habitat availability or occurs in~~  
6           ~~limited areas or number due to a restricted or specialized habitat.~~
- 7           ~~— [(40)] (43) "Spoiled" means impairment of the flesh of wildlife which renders it unfit for~~  
8           ~~human consumption.~~
- 9           ~~— [(41)] (44) "Spotlighting" means throwing or casting the rays of any spotlight, headlight,~~  
10           ~~or other artificial light on any highway or in any field, woodland, or forest while having in~~  
11           ~~possession a weapon by which protected wildlife may be killed.~~
- 12           ~~— (45) "State endangered species" means any wildlife species or subspecies that is threatened~~  
13           ~~with extirpation from Utah or extinction resulting from very low or declining numbers, or~~  
14           ~~reduction of habitat, or detrimental environmental changes.~~
- 15           ~~— (46) "State threatened species" means any wildlife species or subspecies that is likely to~~  
16           ~~become an endangered species within the foreseeable future throughout all or a significant part of~~  
17           ~~its range in Utah or the world.~~
- 18           ~~— [(42)] (47) "Tag" means a card, label, or other identification device issued for attachment~~  
19           ~~to the carcass of protected wildlife.~~
- 20           ~~— [(43)] (48) "Take" means to:~~
- 21           ~~— (a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected~~  
22           ~~wildlife; or~~
- 23           ~~— (b) attempt any action referred to in Subsection (a).~~
- 24           ~~— [(44)] (49) "Threatened" means wildlife designated as such pursuant to Section 3 of the~~  
25           ~~federal Endangered Species Act of 1973.~~
- 26           ~~— [(45)] (50) "Trapping" means taking protected wildlife with a trapping device.~~
- 27           ~~— [(46)] (51) "Trophy animal" means an animal described as follows:~~
- 28           ~~— (a) deer - any buck with an outside antler measurement of 24 inches or greater;~~
- 29           ~~— (b) elk - any bull with six points on at least one side;~~
- 30           ~~— (c) bighorn, desert, or rocky mountain sheep - any ram with a curl exceeding half curl;~~
- 31           ~~— (d) moose - any bull;] h~~

1           ~~h [(e) mountain goat - any male or female;~~

2           ~~—— (f) pronghorn antelope - any buck with horns exceeding 14 inches; or~~

3           ~~—— (g) bison - any bull.~~

4           ~~—— [(47)] (52) "Waste" means to abandon protected wildlife or to allow protected wildlife to~~  
5 ~~spoil or to be used in a manner not normally associated with its beneficial use.~~

6           ~~—— [(48)] (53) "Water pollution" means the introduction of matter or thermal energy to waters~~  
7 ~~within this state which:~~

8           ~~—— (a) exceeds state water quality standards; or~~

9           ~~—— (b) could be harmful to protected wildlife.~~

10          ~~—— [(49)] (54) "Wildlife" means:~~

11          ~~—— (a) crustaceans, including brine shrimp and crayfish;~~

12          ~~—— (b) mollusks; and~~

13          ~~—— (c) vertebrate animals living in nature, except feral animals.] h~~

14          Section ~~h [2] 1 h~~ . Section **23-14-21** is enacted to read:

15           **23-14-21. Transplants of big game, turkeys, or sensitive species.**

16           (1) The division may transplant big game, turkeys, or sensitive species only in accordance  
17 with:

18           (a) a list of sites for the transplant of a particular species that is prepared and adopted in  
19 accordance with Subsections (2) through (5);

20           (b) a species management plan, such as a deer or elk management plan adopted under  
21 Section 23-16-7 or a recovery plan for a threatened or endangered species, provided that:

22           (i) the plan identifies sites for the transplant of the species or the lands or waters the  
23 species are expected to occupy; and

24           (ii) the public has had an opportunity to comment and make recommendations on the plan;

25           or

26           (c) a legal agreement between the state and a tribal government that identifies potential  
27 transplants.

28           (2) The division shall:

29           (a) consult with the landowner in determining the suitability of a site for the transplant of  
30 a species;

31           (b) prepare a list of proposed sites for the transplant of species;

1           (c) provide notification of proposed sites for the transplant of species to h :

1a           (i) h local government

2           officials having jurisdiction over areas that be may be affected by a transplant; and

2a           h (ii) THE RESOURCE DEVELOPMENT COORDINATING COMMITTEE CREATED IN SECTION

2b           63-28a-2.

2c           (3) AFTER RECEIVING COMMENTS FROM LOCAL GOVERNMENT OFFICIALS AND THE

2d           RESOURCE DEVELOPMENT COORDINATING COMMITTEE, THE DIVISION SHALL h

3           h [(d)] h submit the list of proposed transplant sites h , OR A REVISED LIST, h to regional

3a           advisory councils for regions

4           that may be affected by the transplants of species.

5           h [(3)] (4) h Each regional advisory council reviewing a list of proposed sites for the transplant

5a           of

6           species may submit recommendations to the Wildlife Board.

7           h [(4)] (5) h The Wildlife Board shall approve, modify, or reject each proposal for the

7a           transplant

8           of a species.

9           h [(5)] (6) h Each list of proposed transplant sites approved by the Wildlife Board shall have a

10           termination date after which a transplant may not occur.

---

**Legislative Review Note**  
**as of 11-20-97 3:31 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Committee Note**

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.