

DOMESTIC TERRORISM OF COMMERCIAL ENTERPRISES

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Gerry A. Adair

This act modifies the Criminal Code by creating a specific offense of commercial terrorism, concerning the interference with the operation of a retail business establishment, by providing the elements of the offense, and providing penalties. This act also modifies the Criminal Code by enacting provisions regarding enhanced penalties for criminal offenses committed against animal enterprises.

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

AMENDS:

76-6-206, as last amended by Chapter 132, Laws of Utah 2000

ENACTS:

76-6-110, Utah Code Annotated 1953

76-10-2401, Utah Code Annotated 1953

76-10-2402, Utah Code Annotated 1953

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

Section 1. Section **76-6-110** is enacted to read:

76-6-110. Offenses committed against animal enterprises -- Definitions -- Enhanced penalties.

(1) As used in this section:

(a) "Animal enterprise" means a commercial or academic enterprise that:

(i) uses animals for food or fiber production;

(ii) is an agricultural operation, including a facility for the production of crops or livestock, or livestock products;

(iii) operates a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

(iv) any fair or similar event intended to advance agricultural arts and sciences.

(b) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept

for profit.

(c) "Property" includes any buildings, vehicles, animals, data, or records.

(2) (a) A person who commits any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise, is subject to an enhanced penalty under Subsection (3).

(b) Subsection (2)(a) does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.

(c) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(3) If the trier of fact finds beyond a reasonable doubt that the defendant committed any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise, the penalties are enhanced as provided in this Subsection (3):

(a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less than \$1,000, which is in addition to any term of imprisonment the court may impose;

(b) a class B misdemeanor is a class A misdemeanor, with a fine of not less than \$2,500, which is in addition to any term of imprisonment the court may impose;

(c) a class A misdemeanor is a third degree felony, with a fine of not less than \$5,000, which is in addition to any term of imprisonment the court may impose;

(d) a third degree felony is a second degree felony, with a fine of not less than \$7,500, which is in addition to any term of imprisonment the court may impose; and

(e) a second degree felony is subject to a fine of not less than \$10,000, which is in addition to any term of imprisonment the court may impose.

Section 2. Section **76-6-206** is amended to read:

76-6-206. Criminal trespass.

(1) For purposes of this section, "enter" means intrusion of the entire body.

(2) A person is guilty of criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial terrorism:

(a) he enters or remains unlawfully on property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti as defined in Section 76-6-107;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether his presence will cause fear for the safety of another;

(b) knowing his entry or presence is unlawful, he enters or remains on property as to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders; or

(c) he enters a condominium unit in violation of Subsection 57-8-7(7).

(3) (a) A violation of Subsection (2)(a) is a class C misdemeanor unless it was committed in a dwelling, in which event it is a class B misdemeanor.

(b) A violation of Subsection (2)(b) is an infraction.

(4) It is a defense to prosecution under this section that the:

(a) property was open to the public when the actor entered or remained; and

(b) actor's conduct did not substantially interfere with the owner's use of the property.

Section 3. Section **76-10-2401** is enacted to read:

Part 24. Commercial Terrorism

76-10-2401. Definitions.

As used in this part:

(1) "Building", in addition to its commonly accepted meaning, means any watercraft, aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight accommodations of persons

or for carrying on business and includes:

(a) each separately secured or occupied portion of the building or vehicle; and

(b) each structure appurtenant or connected to the building or vehicle.

(2) "Business" means a retail business dealing in tangible personal property.

(3) "Enter" means:

(a) an intrusion of any part of the body; or

(b) the intrusion of any physical object, sound wave, light ray, electronic signal, or other

means of intrusion under the control of the actor.

Section 4. Section **76-10-2402** is enacted to read:

76-10-2402. Commercial terrorism -- Penalties.

(1) A person is guilty of commercial terrorism if he enters or remains unlawfully on the premises or in a building of any business with the intent to interfere with the employees, customers, personnel, or operations of a business through any conduct that does not constitute an offense listed under Subsection (2). A violation of this Subsection (1) is a class A misdemeanor.

(2) A person is guilty of commercial terrorism if he enters or remains unlawfully on the premises or in a building of any business with the intent to interfere with the employees, customers, personnel, or operations of a business and also with the intent to:

(a) obtain unauthorized control over any merchandise, property, records, data, or proprietary information of the business;

(b) alter, eradicate, or remove any merchandise, records, data, or proprietary information of the business;

(c) damage, deface, or destroy any property on the premises of the business;

(d) commit an assault on any person; or

(e) commit any other felony.

(3) A person who violates any provision in Subsection (2) is guilty of a felony of the second degree.

(4) This section does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.

(5) It is the intent of the Legislature that this section does not prohibit or interfere with a person's exercise of the rights under the First Amendment to the Constitution of the United States or under Article I, Sec. 15 of the Utah Constitution.