

**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



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

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

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

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

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

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

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

48 (a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less than
49 \$1,000, which is in addition to any term of imprisonment the court may impose;

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

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

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

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

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

59 **76-6-206. Criminal trespass.**

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

61 (2) A person is guilty of criminal trespass if, under circumstances not amounting to
62 burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section
63 76-10-2402 regarding commercial terrorism:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

83 **Part 24. Commercial Terrorism**

84 **76-10-2401. Definitions.**

85 As used in this part:

86 (1) "Building," in addition to its commonly accepted meaning, means any watercraft,
87 aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight accommodations
88 of persons or for carrying on business and includes:

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

- 90 (b) each structure appurtenant or connected to the building or vehicle.
- 91 (2) "Business" means a retail business dealing in tangible personal property.
- 92 (3) "Enter" means:
- 93 (a) an intrusion of any part of the body; or
- 94 (b) the intrusion of any physical object, sound wave, light ray, electronic signal, or other
- 95 means of intrusion under the control of the actor.

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

97 **76-10-2402. Commercial terrorism -- Penalties.**

98 (1) A person is guilty of commercial terrorism if he enters or remains unlawfully on the
99 premises of any business with the intent to:

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

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

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

105 (d) commit an assault on any person;

106 (e) commit any other felony; or

107 (f) interfere with the employees, customers, personnel, or operations of a business through
108 any conduct that does not constitute an assault.

109 (2) A person who violates Subsection (1)(f) is guilty of a class A misdemeanor. A person
110 who violates any other provision in this section is guilty of a felony of the second degree.

Legislative Review Note

as of 2-2-01 8:20 AM

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

Office of Legislative Research and General Counsel