

- 28 (b) Title 4, Chapter 23, Agriculture and Wildlife Damage Prevention Act; or
- 29 (c) Section 23-16-3.
- 30 (3) Wanton destruction of wildlife is punishable:
- 31 (a) as a third degree felony if:
- 32 (i) the aggregate value of the protected wildlife determined by the values in Subsection
- 33 23-20-4(4) is more than \$500; or
- 34 (ii) a trophy animal was captured, injured, or destroyed;
- 35 (b) as a class A misdemeanor if the aggregate value of the protected wildlife, other than
- 36 any trophy animal, determined by the values established in Subsection 23-20-4(4) is more than
- 37 \$250, but does not exceed \$500; and
- 38 (c) as a class B misdemeanor if the aggregate value of the protected wildlife
- 39 determined by the values established in Subsection 23-20-4(4) is \$250 or less.
- 40 (4) Regardless of the restitution amounts imposed under Subsection 23-20-4.5(2), the
- 41 following values shall be assigned to protected wildlife for the purpose of determining the
- 42 offense for wanton destruction of wildlife:
- 43 (a) \$1,000 per animal for:
- 44 (i) bison;
- 45 (ii) bighorn sheep;
- 46 (iii) rocky mountain goat;
- 47 (iv) moose;
- 48 (v) bear; [~~or~~]
- 49 (vi) peregrine falcon; or
- 50 [~~(vi)~~] (vii) endangered species;
- 51 (b) \$750 per animal for:
- 52 (i) elk; or
- 53 (ii) threatened species;
- 54 (c) \$500 per animal for:
- 55 (i) cougar;
- 56 (ii) golden eagle;
- 57 (iii) river otter; or
- 58 (iv) gila monster;

- 59 (d) \$400 per animal for:
- 60 (i) pronghorn antelope; or
- 61 (ii) deer;
- 62 (e) \$350 per animal for bobcat;
- 63 (f) \$100 per animal for:
- 64 (i) swan;
- 65 (ii) sandhill crane;
- 66 (iii) turkey;
- 67 (iv) pelican;
- 68 (v) loon;
- 69 (vi) egrets;
- 70 (vii) herons;
- 71 (viii) raptors, except those that are threatened or endangered;
- 72 (ix) Utah milk snake; or
- 73 (x) Utah mountain king snake;
- 74 (g) \$35 per animal for furbearers, except:
- 75 (i) bobcat;
- 76 (ii) river otter; and
- 77 (iii) threatened or endangered species;
- 78 (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye,
- 79 largemouth bass, smallmouth bass, and wiper;
- 80 [~~(h)~~] (i) \$15 per animal for game birds, except:
- 81 (i) turkey;
- 82 (ii) swan; and
- 83 (iii) sandhill crane;
- 84 [~~(i)~~] (j) \$10 per animal for game fish not listed in Subsection (4)(h);
- 85 [~~(j)~~] (k) \$8 per pound dry weight of processed brine shrimp including eggs; and
- 86 [~~(k)~~] (l) \$5 per animal for protected wildlife not listed.
- 87 (5) For purposes of sentencing for a wildlife violation, a person who has been
- 88 convicted of a third degree felony under Subsection (3)(a) is not subject to the mandatory
- 89 sentencing requirements prescribed in [~~Subsection~~] Section 76-3-203[~~(4)~~].

90 (6) As part of any sentence imposed, the court shall impose a sentence of incarceration
91 of not less than 20 consecutive days for any person convicted of a third degree felony under
92 Subsection (3)(a)(ii) who captured, injured, or destroyed a trophy animal for pecuniary gain.

93 (7) If a person has already been convicted of a third degree felony under Subsection
94 (3)(a)(ii) once, each separate further offense under Subsection (3)(a)(ii) is punishable by, as
95 part of any sentence imposed, a sentence of incarceration of not less than 20 consecutive days.

96 (8) The court may not sentence a person subject to Subsection (6) or (7) to less than 20
97 consecutive days of incarceration or suspend the imposition of the sentence unless the court
98 finds mitigating circumstances justifying lesser punishment and makes that finding a part of the
99 court record.

100 Section 2. Section **23-20-4.5** is amended to read:

101 **23-20-4.5. Illegal taking, possession, or wanton destruction of protected wildlife --**
102 **Restitution -- Reimbursable damages -- Assessment by magistrates -- Disposition of**
103 **monies.**

104 (1) When a person is adjudged guilty of illegal taking, illegal possession, or wanton
105 destruction of protected wildlife, other than any trophy animal, the court may order the
106 defendant to pay restitution as set forth in Subsection (2), or a greater or lesser amount, for the
107 value of each animal taken, possessed, or destroyed, unless the court finds that restitution is
108 inappropriate.

109 (2) Suggested minimum restitution values for protected wildlife are as follows:

110 (a) \$1,000 per animal for:

111 (i) bison;

112 (ii) bighorn sheep;

113 (iii) rocky mountain goat;

114 (iv) moose;

115 (v) bear; [or]

116 (vi) peregrine falcon; or

117 [~~(vi)~~] (vii) endangered species;

118 (b) \$750 per animal for:

119 (i) elk; or

120 (ii) threatened species;

- 121 (c) \$500 per animal for:
- 122 (i) cougar;
- 123 (ii) golden eagle;
- 124 (iii) river otter; or
- 125 (iv) gila monster;
- 126 (d) \$400 per animal for:
- 127 (i) pronghorn antelope; or
- 128 (ii) deer;
- 129 (e) \$350 per animal for bobcat;
- 130 (f) \$100 per animal for:
- 131 (i) swan;
- 132 (ii) sandhill crane;
- 133 (iii) turkey;
- 134 (iv) pelican;
- 135 (v) loon;
- 136 (vi) egrets;
- 137 (vii) herons;
- 138 (viii) raptors, that are threatened or endangered;
- 139 (ix) Utah milk snake; or
- 140 (x) Utah mountain king snake;
- 141 (g) \$35 per animal for furbearers, except:
- 142 (i) bobcat;
- 143 (ii) river otter; and
- 144 (iii) threatened or endangered species;
- 145 (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye,
- 146 largemouth bass, smallmouth bass, and wiper;
- 147 [~~(h)~~] (i) \$15 per animal for game birds, except:
- 148 (i) turkey;
- 149 (ii) swan; and
- 150 (iii) sandhill crane;
- 151 [~~(i)~~] (j) \$10 per animal for game fish not listed in Subsection (2)(h);

152 [~~(j)~~] (k) \$8 per pound dry weight of processed brine shrimp including eggs; and

153 [~~(k)~~] (l) \$5 per animal for protected wildlife not listed.

154 (3) If the court finds that restitution is inappropriate or if the value imposed is less than
155 the suggested minimum value as provided in Subsection (2), the court shall make the reasons
156 for the decision part of the record.

157 (4) The court shall order any person convicted of a third degree felony under
158 Subsection 23-20-4(3)(a)(ii) to pay restitution. Minimum restitution values for trophy animals
159 are as follows:

160 (a) \$30,000 per animal for bighorn, desert, or rocky mountain sheep;

161 (b) \$8,000 per animal for deer;

162 (c) \$8,000 per animal for elk;

163 (d) \$6,000 per animal for moose or mountain goat;

164 (e) \$6,000 per animal for bison; and

165 (f) \$2,000 per animal for pronghorn antelope.

166 (5) Any restitution shall be remitted to the division and deposited in the Wildlife
167 Resources Account.

168 (6) Restitution monies shall be used by the division for activities and programs to help
169 stop poaching, including:

170 (a) educational programs on wildlife crime prevention;

171 (b) acquisition and development of wildlife crime detection equipment;

172 (c) operation and maintenance of anti-poaching projects; and

173 (d) wildlife law enforcement training.

174 (7) If restitution is required it shall be in addition to:

175 (a) any other fine or penalty imposed for a violation of any provision of this title; and

176 (b) any remedial action taken to revoke or suspend a person's license, permit, tag, or
177 certificate of registration.

178 (8) A judgment imposed under this section constitutes a lien when recorded in the
179 judgment docket and shall have the same effect and is subject to the same rules as a judgment
180 for money in a civil action.

Legislative Review Note
as of 1-29-03 4:53 PM

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

Office of Legislative Research and General Counsel

State Impact

Provisions of this bill may increase revenues to the Division of Wildlife Resources as a result of restitution payments for illegal takings of wildlife. It is estimated that new revenues will be less than \$1,000.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
GF Restrict-Wildlife Res.	\$0	\$0	\$1,000	\$1,000
TOTAL	\$0	\$0	\$1,000	\$1,000

Individual and Business Impact

Individuals found guilty of illegally taking wildlife may pay higher fines.
