

DESTRUCTION OF LIVESTOCK

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding destruction of livestock.

Highlighted Provisions:

This bill:

▶ establishes a guideline for a court when ordering a person convicted of wanton destruction of livestock to pay restitution for cattle and sheep that are destroyed.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-111, as last amended by Laws of Utah 2010, Chapter 193

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

Section 1. Section **76-6-111** is amended to read:

76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria -- Seizure and disposition of property.

(1) As used in this section:

(a) "Law enforcement officer" [~~is~~ as] means the same as that term is defined in Section



28 53-13-103.

29 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit,
30 including:

31 (i) cattle;

32 (ii) sheep;

33 (iii) goats;

34 (iv) swine;

35 (v) horses;

36 (vi) mules;

37 (vii) poultry; and

38 (viii) domesticated elk as defined in Section 4-39-102.

39 (2) Unless authorized by Section 4-25-4, 4-25-5, 4-25-14, 4-39-401, or 18-1-3, a
40 person is guilty of wanton destruction of livestock if that person:

41 (a) injures, physically alters, releases, or causes the death of livestock; and

42 (b) does so:

43 (i) intentionally or knowingly; and

44 (ii) without the permission of the owner of the livestock.

45 (3) Wanton destruction of livestock is punishable as a:

46 (a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;

47 (b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but
48 does not exceed \$1,500;

49 (c) third degree felony if the aggregate value of the livestock is more than \$1,500, but
50 does not exceed \$5,000; and

51 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.

52 (4) When a court orders a person who is convicted of wanton destruction of livestock
53 to pay restitution under Title 77, Chapter 38a, Crime Victims Restitution Act, the court shall
54 consider, in addition to the restitution criteria in Section 77-38a-302, the restitution guidelines
55 in Subsection (5) when setting the amount.

56 (5) The minimum restitution value for cattle and sheep is the sum of the following,
57 unless the court states on the record why it finds the sum to be inappropriate:

58 (a) the fair market value of the animal, using as a guide the market information

59 obtained from the Department of Agriculture and Food created under Section 4-2-1; and

60 (b) 10 years times the average annual value of offspring, for which average annual
 61 value is determined using data obtained from the National Agricultural Statistics Service within
 62 the United States Department of Agriculture, for the most recent 10-year period available.

63 ~~[(4)]~~ (6) A material, device, or vehicle used in violation of Subsection (2) is subject to
 64 forfeiture under the procedures and substantive protections established in Title 24, ~~[Chapter 1,]~~

65 ~~Ĥ→ [Utah Uniform Forfeiture Procedures Act]~~ **Forfeiture and Disposition of Property Act** ~~←Ĥ~~ .

66 ~~[(5)]~~ (7) A peace officer may seize a material, device, or vehicle used in violation of
 67 Subsection (2):

68 (a) upon notice and service of process issued by a court having jurisdiction over the
 69 property; or

70 (b) without notice and service of process if:

71 (i) the seizure is incident to an arrest under:

72 (A) a search warrant; or

73 (B) an inspection under an administrative inspection warrant;

74 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of
 75 the state in a criminal injunction or forfeiture proceeding under this section; or

76 (iii) the peace officer has probable cause to believe that the property has been used in
 77 violation of Subsection (2).

78 ~~[(6)]~~ (8) (a) A material, device, or vehicle seized under this section is not repleviable
 79 but is in custody of the law enforcement agency making the seizure, subject only to the orders
 80 and decrees of a court or official having jurisdiction.

81 (b) A peace officer who seizes a material, device, or vehicle under this section may:

82 (i) place the property under seal;

83 (ii) remove the property to a place designated by the warrant under which it was seized;

84 or

85 (iii) take custody of the property and remove it to an appropriate location for
 86 disposition in accordance with law.

Legislative Review Note
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Office of Legislative Research and General Counsel