

LIVESTOCK AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the treatment and theft of livestock, including livestock guardian dogs, and livestock infrastructure.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that the Wildlife Board may not issue a reward license, permit, tag, or certificate of registration to a person who assists with prosecution for wanton destruction of livestock or a livestock guardian dog;
- ▶ allows a hearing officer to suspend a person's license or permit privileges for licenses and permits issued by the Division of Wildlife Resources if the person engages in certain criminal behavior;
- ▶ clarifies the definition of "property" for purposes of criminal offenses committed against animal enterprises;
- ▶ criminalizes the wanton destruction of a livestock guardian dog;
- ▶ addresses penalty provisions for the offense of wanton destruction of livestock or a livestock guardian dog;
- ▶ creates a presumption for ownership of a livestock guardian dog; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **23-14-18**, as last amended by Laws of Utah 2009, Chapter 183

34 **23-19-9**, as last amended by Laws of Utah 2011, Chapter 297

35 **76-6-110**, as enacted by Laws of Utah 2001, Chapter 225

36 **76-6-111**, as last amended by Laws of Utah 2017, Chapter 345

37 **76-6-401**, as enacted by Laws of Utah 1973, Chapter 196

38 **76-6-402**, as last amended by Laws of Utah 1974, Chapter 32

39 **76-6-412**, as last amended by Laws of Utah 2019, Chapters 136, 189, and 309

40 **76-9-301**, as last amended by Laws of Utah 2015, Chapter 329



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

43 Section 1. Section **23-14-18** is amended to read:

44 **23-14-18. Establishment of seasons, locations, limits, and regulations by the**
45 **Wildlife Board.**

46 (1) To provide an adequate and flexible system of protection, propagation,
47 introduction, increase, control, harvest, management, and conservation of protected wildlife in
48 this state and to provide for the use and development of protected wildlife for public recreation
49 and food supply while maintaining a sustainable population of protected wildlife, the Wildlife
50 Board shall determine the circumstances, time, location, means, and the amounts, and numbers
51 of protected wildlife which may be taken.

52 (2) The Wildlife Board shall, except as otherwise specified in this code:

53 (a) fix seasons and shorten, extend, or close seasons on any species of protected
54 wildlife in any locality, or in the entire state, if the board finds that the action is necessary to
55 effectuate proper wildlife management and control;

56 (b) close or open areas to fishing, trapping, or hunting;

57 (c) establish refuges and preserves;

58 (d) regulate and prescribe the means by which protected wildlife may be taken;

59 (e) regulate the transportation and storage of protected wildlife, or their parts, within
60 the boundaries of the state and the shipment or transportation out of the state;

61 (f) establish or change bag limits and possession limits;

62 (g) prescribe safety measures and establish other regulations as may be considered
63 necessary in the interest of wildlife conservation and the safety and welfare of hunters,
64 trappers, fishermen, landowners, and the public;

65 (h) (i) prescribe when licenses, permits, tags, and certificates of registration shall be
66 required and procedures for their issuance and use; and

67 (ii) establish forms and fees for licenses, permits, tags, and certificates of registration;
68 and

69 (i) prescribe rules and regulations as it may consider necessary to control the use and
70 harvest of protected wildlife by private associations, clubs, partnerships, or corporations,
71 provided the rules and regulations do not preclude the landowner from personally controlling
72 trespass upon the owner's properties nor from charging a fee to trespass for purposes of hunting
73 or fishing.

74 (3) The Wildlife Board may allow a season on protected wildlife to commence on any
75 day of the week except Sunday.

76 (4) The Wildlife Board shall establish fees for licenses, permits, tags, and certificates
77 of registration in accordance with Section [63J-1-504](#).

78 (5) The Wildlife Board may not issue a license, permit, tag, or certificate of registration
79 as a reward for an individual's assistance with a prosecution for violation of Section [76-6-111](#).

80 Section 2. Section **23-19-9** is amended to read:

81 **23-19-9. Suspension of license or permit privileges -- Suspension of certificates of**
82 **registration.**

83 (1) As used in this section[~~,"license~~]:

84 (a) "License or permit privileges" means the privilege of applying for, purchasing, and
85 exercising the benefits conferred by a license or permit issued by the division.

86 (b) "Livestock guardian dog" means the same as that term is defined in Section
87 [76-6-111](#).

88 (2) A hearing officer, appointed by the division, may suspend a person's license or
89 permit privileges if:

- 90 (a) in a court of law, the person:
- 91 (i) is convicted of:
- 92 (A) violating this title or a rule of the Wildlife Board;
- 93 (B) killing or injuring domestic livestock or a livestock guardian dog while engaged in
- 94 an activity regulated under this title; [~~or~~]
- 95 (C) violating Section 76-6-111; or
- 96 [~~(C)~~] (D) violating Section 76-10-508 while engaged in an activity regulated under this
- 97 title;
- 98 (ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no
- 99 contest to an offense listed in Subsection (2)(a)(i), and the plea is held in abeyance; or
- 100 (iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the person
- 101 enters into a diversion agreement which suspends the prosecution of the offense; and
- 102 (b) the hearing officer determines the person committed the offense intentionally,
- 103 knowingly, or recklessly, as defined in Section 76-2-103.
- 104 (3) (a) The Wildlife Board shall make rules establishing guidelines that a hearing
- 105 officer shall consider in determining:
- 106 (i) the type of license or permit privileges to suspend; and
- 107 (ii) the duration of the suspension.
- 108 (b) The Wildlife Board shall ensure that the guidelines established under Subsection
- 109 (3)(a) are consistent with Subsections (4), (5), and (6).
- 110 (4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a
- 111 person's license or permit privileges according to Subsection (2) for a period of time not to
- 112 exceed:
- 113 (a) seven years for:
- 114 (i) a felony conviction;
- 115 (ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is
- 116 held in abeyance pursuant to a plea in abeyance agreement; or
- 117 (iii) being charged with an offense punishable as a felony, the prosecution of which is
- 118 suspended pursuant to a diversion agreement;
- 119 (b) five years for:
- 120 (i) a class A misdemeanor conviction;

121 (ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor,
122 which plea is held in abeyance pursuant to a plea in abeyance agreement; or

123 (iii) being charged with an offense punishable as a class A misdemeanor, the
124 prosecution of which is suspended pursuant to a diversion agreement;

125 (c) three years for:

126 (i) a class B misdemeanor conviction;

127 (ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor
128 when the plea is held in abeyance according to a plea in abeyance agreement; or

129 (iii) being charged with an offense punishable as a class B misdemeanor, the
130 prosecution of which is suspended pursuant to a diversion agreement; and

131 (d) one year for:

132 (i) a class C misdemeanor conviction;

133 (ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor,
134 when the plea is held in abeyance according to a plea in abeyance agreement; or

135 (iii) being charged with an offense punishable as a class C misdemeanor, the
136 prosecution of which is suspended according to a diversion agreement.

137 (5) The hearing officer may double a suspension period established in Subsection (4)
138 for offenses:

139 (a) committed in violation of an existing suspension or revocation order issued by the
140 courts, division, or Wildlife Board; or

141 (b) involving the unlawful taking of a trophy animal, as defined in Section 23-13-2.

142 (6) (a) A hearing officer may suspend, according to Subsection (2), a person's license
143 or permit privileges for a particular license or permit only once for each single criminal
144 episode, as defined in Section 76-1-401.

145 (b) If a hearing officer addresses two or more single criminal episodes in a hearing, the
146 suspension periods of any license or permit privileges of the same type suspended, according to
147 Subsection (2), may run consecutively.

148 (c) If a hearing officer suspends, according to Subsection (2), license or permit
149 privileges of the type that have been previously suspended by a court, a hearing officer, or the
150 Wildlife Board and the suspension period has not expired, the suspension periods may run
151 consecutively.

152 (7) (a) A hearing officer, appointed by the division, may suspend a person's privilege of
153 applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:

154 (i) the hearing officer determines the person intentionally, knowingly, or recklessly, as
155 defined in Section 76-2-103, violated:

156 (A) this title;

157 (B) a rule or order of the Wildlife Board;

158 (C) the terms of a certificate of registration; or

159 (D) the terms of a certificate of registration application or agreement; or

160 (ii) the person, in a court of law:

161 (A) is convicted of an offense that the hearing officer determines bears a reasonable
162 relationship to the person's ability to safely and responsibly perform the activities authorized by
163 the certificate of registration;

164 (B) pleads guilty or no contest to an offense that the hearing officer determines bears a
165 reasonable relationship to the person's ability to safely and responsibly perform the activities
166 authorized by the certificate of registration, and the plea is held in abeyance in accordance with
167 a plea in abeyance agreement; or

168 (C) is charged with an offense that the hearing officer determines bears a reasonable
169 relationship to the person's ability to safely and responsibly perform the activities authorized by
170 the certificate of registration, and prosecution of the offense is suspended in accordance with a
171 diversion agreement.

172 (b) All certificates of registration for the harvesting of brine shrimp eggs, as defined in
173 Section 59-23-3, shall be suspended by a hearing officer, if the hearing officer determines the
174 holder of the certificates of registration has violated Section 59-23-5.

175 (8) (a) The director shall appoint a qualified person as a hearing officer to perform the
176 adjudicative functions provided in this section.

177 (b) The director may not appoint a division employee who investigates or enforces
178 wildlife violations.

179 (9) (a) The courts may suspend, in criminal sentencing, a person's privilege to apply
180 for, purchase, or exercise the benefits conferred by a license, permit, or certificate of
181 registration.

182 (b) The courts shall promptly notify the division of any suspension orders or

183 recommendations entered.

184 (c) The division, upon receiving notification of suspension from the courts, shall
185 prohibit the person from applying for, purchasing, or exercising the benefits conferred by a
186 license, permit, or certification of registration for the duration and of the type specified in the
187 court order.

188 (d) The hearing officer shall consider any recommendation made by a sentencing court
189 concerning suspension before issuing a suspension order.

190 (10) (a) A person may not apply for, purchase, possess, or attempt to exercise the
191 benefits conferred by any permit, license, or certificate of registration specified in an order of
192 suspension while that order is in effect.

193 (b) Any license possessed or obtained in violation of the order shall be considered
194 invalid.

195 (c) A person who violates Subsection (10)(a) is guilty of a class B misdemeanor.

196 (11) Before suspension under this section, a person shall be:

197 (a) given written notice of any action the division intends to take; and

198 (b) provided with an opportunity for a hearing.

199 (12) (a) A person may file an appeal of a hearing officer's decision with the Wildlife
200 Board.

201 (b) The Wildlife Board shall review the hearing officer's findings and conclusions and
202 any written documentation submitted at the hearing.

203 (c) The Wildlife Board may:

204 (i) take no action;

205 (ii) vacate or remand the decision; or

206 (iii) amend the period or type of suspension.

207 (13) The division shall suspend and reinstate all hunting, fishing, trapping, and
208 falconry privileges consistent with Title 23, Chapter 25, Wildlife Violator Compact.

209 (14) The Wildlife Board may make rules to implement this section in accordance with
210 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

211 Section 3. Section **76-6-110** is amended to read:

212 **76-6-110. Offenses committed against animal enterprises -- Definitions --**
213 **Enhanced penalties.**

214 (1) As used in this section:

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

216 (i) uses animals for food or fiber production;

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

218 livestock, or livestock products;

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

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

221 (b) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated

222 elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised

223 or kept for profit.

224 (c) "Property" includes any buildings, vehicles, animals, data, ~~or~~ records~~[-]~~, stables,

225 livestock handling facilities, livestock watering troughs or other watering facilities, and fencing

226 or other forms of enclosure.

227 (2) (a) A person who commits any criminal offense with the intent to halt, impede,

228 obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or

229 cause the loss of any property owned by, used by, or in the possession of a lawful animal

230 enterprise, is subject to an enhanced penalty under Subsection (3).

231 (b) Subsection (2)(a) does not apply to action protected by the National Labor

232 Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C.

233 Section 151 et seq.

234 (c) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to

235 be subscribed upon the information or indictment notice that the defendant is subject to the

236 enhanced penalties provided under this section.

237 (3) If the trier of fact finds beyond a reasonable doubt that the defendant committed

238 any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful

239 operation of an animal enterprise or to damage, take, or cause the loss of any property owned

240 by, used by, or in the possession of a lawful animal enterprise, the penalties are enhanced as

241 provided in this Subsection (3):

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

244 (b) a class B misdemeanor is a class A misdemeanor, with a fine of not less than

245 \$2,500, which is in addition to any term of imprisonment the court may impose;

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

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

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

252 Section 4. Section 76-6-111 is amended to read:

253 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**
254 **Seizure and disposition of property.**

255 (1) As used in this section:

256 (a) "Law enforcement officer" means the same as that term is defined in Section
257 53-13-103.

258 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit or as an
259 asset, including:

260 (i) cattle;

261 (ii) sheep;

262 (iii) goats;

263 (iv) swine;

264 (v) horses;

265 (vi) mules;

266 (vii) poultry; [~~and~~]

267 (viii) domesticated elk as defined in Section 4-39-102[:]; and

268 (ix) livestock guardian dogs.

269 (c) "Livestock guardian dog" means a dog that is being used to live with and guard
270 livestock, other than itself, from predators.

271 (2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3, a
272 person is guilty of wanton destruction of livestock if that person:

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

274 (b) does so:

275 (i) intentionally or knowingly; and

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

277 (3) For purposes of this section, a livestock guardian dog is presumed to belong to an
 278 owner of the livestock with which the livestock guardian dog was living at the time of an
 279 alleged violation of Subsection (2).

280 [~~(3)~~] (4) Wanton destruction of livestock is punishable as a:

281 (a) class B misdemeanor if the aggregate value of the livestock is [~~\$500~~] \$250 or less;

282 (b) class A misdemeanor if the aggregate value of the livestock is more than [~~\$500~~]
 283 \$250, but does not exceed [~~\$1,500~~] \$750;

284 (c) third degree felony if the aggregate value of the livestock is more than [~~\$1,500~~]
 285 \$750, but does not exceed ~~Ŷ~~ → [H] ← ~~Ŷ~~ \$5,000 ~~Ŷ~~ → [H] ← ~~Ŷ~~ \$1,500 ← ~~Ŷ~~ ; and

286 (d) second degree felony if the aggregate value of the livestock is more than ~~Ŷ~~ → [H] ← ~~Ŷ~~
 286a \$5,000 ~~Ŷ~~ → [H]

287 ~~Ŷ~~ → [H] ← ~~Ŷ~~ \$1,500 ← ~~Ŷ~~ .

288 [~~(4)~~] (5) When a court orders a person who is convicted of wanton destruction of
 289 livestock to pay restitution under Title 77, Chapter 38a, Crime Victims Restitution Act, the
 290 court shall consider, in addition to the restitution criteria in Section 77-38a-302, the restitution
 291 guidelines in Subsection [~~(5)~~] (6) when setting the amount.

292 [~~(5)~~] (6) The minimum restitution value for cattle and sheep is the sum of the
 293 following, unless the court states on the record why it finds the sum to be inappropriate:

294 (a) the fair market value of the animal, using as a guide the market information
 295 obtained from the Department of Agriculture and Food created under Section 4-2-102; and

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

299 [~~(6)~~] (7) A material, device, or vehicle used in violation of Subsection (2) is subject to
 300 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture
 301 and Disposition of Property Act.

302 [~~(7)~~] (8) A peace officer may seize a material, device, or vehicle used in violation of
 303 Subsection (2):

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

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

- 307 (i) the seizure is incident to an arrest under:
- 308 (A) a search warrant; or
- 309 (B) an inspection under an administrative inspection warrant;
- 310 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of
- 311 the state in a criminal injunction or forfeiture proceeding under this section; or
- 312 (iii) the peace officer has probable cause to believe that the property has been used in
- 313 violation of Subsection (2).

314 ~~[(8)]~~ (9) (a) A material, device, or vehicle seized under this section is not repleviable

315 but is in custody of the law enforcement agency making the seizure, subject only to the orders

316 and decrees of a court or official having jurisdiction.

- 317 (b) A peace officer who seizes a material, device, or vehicle under this section may:
- 318 (i) place the property under seal;
- 319 (ii) remove the property to a place designated by the warrant under which it was seized;
- 320 or
- 321 (iii) take custody of the property and remove it to an appropriate location for
- 322 disposition in accordance with law.

323 Section 5. Section ~~76-6-401~~ is amended to read:

324 **76-6-401. Definitions.**

325 ~~[For the purposes of this part:]~~

326 ~~[(1) "Property" means anything of value, including real estate, tangible and intangible~~

327 ~~personal property, captured or domestic animals and birds, written instruments or other~~

328 ~~writings representing or embodying rights concerning real or personal property, labor, services,~~

329 ~~or otherwise containing anything of value to the owner, commodities of a public utility nature~~

330 ~~such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the~~

331 ~~whole or any portion of any scientific or technical information, design, process, procedure,~~

332 ~~formula or invention which the owner thereof intends to be available only to persons selected~~

333 ~~by him.]~~

334 As used in this part:

335 (1) "Deception" occurs when a person intentionally:

- 336 (a) creates or confirms by words or conduct an impression of law or fact that is false
- 337 and that the actor does not believe to be true and that is likely to affect the judgment of another

338 in the transaction;

339 (b) fails to correct a false impression of law or fact that the actor previously created or
340 confirmed by words or conduct that is likely to affect the judgment of another and that the actor
341 does not now believe to be true;

342 (c) prevents another person from acquiring information likely to affect the person's
343 judgment in the transaction;

344 (d) sells or otherwise transfers or encumbers property without disclosing a lien,
345 security interest, adverse claim, or other legal impediment to the enjoyment of the property,
346 regardless of whether the lien, security interest, claim, or impediment is valid or is a matter of
347 official record; or

348 (e) promises performance that is likely to affect the judgment of another in the
349 transaction, which performance the actor does not intend to perform or knows will not be
350 performed, except that failure to perform the promise in issue without other evidence of intent
351 or knowledge is not sufficient proof that the actor did not intend to perform or knew the
352 promise would not be performed.

353 (2) "Livestock guardian dog" means the same as that term is defined in Section
354 [76-6-111](#).

355 ~~[(2)]~~ (3) "Obtain" means, in relation to property, to bring about a transfer of possession
356 or of some other legally recognized interest in property, whether to the obtainer or another; in
357 relation to labor or services, to secure performance thereof; and in relation to a trade secret, to
358 make any facsimile, replica, photograph, or other reproduction.

359 (4) "Obtain or exercise unauthorized control" means conduct originally defined or
360 known as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee,
361 or embezzlement.

362 (5) "Property" means anything of value, including real estate, tangible and intangible
363 personal property, captured or domestic animals and birds, written instruments or other
364 writings representing or embodying rights concerning real or personal property, labor, services,
365 or otherwise containing anything of value to the owner, commodities of a public utility nature
366 such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the
367 whole or any portion of any scientific or technical information, design, process, procedure,
368 formula, or invention which the owner intends to be available only to persons selected by the

369 owner.

370 [~~(3)~~] (6) "Purpose to deprive" means to have the conscious object:

371 (a) [~~F~~] to withhold property permanently or for so extended a period or to use under
372 such circumstances that a substantial portion of its economic value, or of the use and benefit
373 thereof, would be lost; [~~or~~]

374 (b) [~~F~~] to restore the property only upon payment of a reward or other compensation;
375 or

376 (c) [~~F~~] to dispose of the property under circumstances that make it unlikely that the
377 owner will recover it.

378 [~~(4) "Obtain or exercise unauthorized control" means, but is not necessarily limited to,
379 conduct heretofore defined or known as common-law larceny by trespassory taking, larceny by
380 conversion, larceny by bailment, and embezzlement.]~~]

381 [~~(5) "Deception" occurs when a person intentionally:]~~]

382 [~~(a) Creates or confirms by words or conduct an impression of law or fact that is false
383 and that the actor does not believe to be true and that is likely to affect the judgment of another
384 in the transaction; or]~~]

385 [~~(b) Fails to correct a false impression of law or fact that the actor previously created or
386 confirmed by words or conduct that is likely to affect the judgment of another and that the actor
387 does not now believe to be true; or]~~]

388 [~~(c) Prevents another from acquiring information likely to affect his judgment in the
389 transaction; or]~~]

390 [~~(d) Sells or otherwise transfers or encumbers property without disclosing a lien,
391 security interest, adverse claim, or other legal impediment to the enjoyment of the property,
392 whether the lien, security interest, claim, or impediment is or is not valid or is or is not a matter
393 of official record; or]~~]

394 [~~(e) Promises performance that is likely to affect the judgment of another in the
395 transaction, which performance the actor does not intend to perform or knows will not be
396 performed; provided, however, that failure to perform the promise in issue without other
397 evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform
398 or knew the promise would not be performed.]~~]

399 Section 6. Section **76-6-402** is amended to read:

400 **76-6-402. Presumptions and defenses.**

401 The following presumption shall be applicable to this part:

402 (1) Possession of property recently stolen, when no satisfactory explanation of such
403 possession is made, shall be deemed prima facie evidence that the person in possession stole
404 the property.405 (2) It is no defense under this part that the actor has an interest in the property or
406 service stolen if another person also has an interest that the actor is not entitled to infringe,
407 provided an interest in property for purposes of this subsection shall not include a security
408 interest for the repayment of a debt or obligation.

409 (3) It is a defense under this part that the actor:

410 (a) Acted under an honest claim of right to the property or service involved; or

411 (b) Acted in the honest belief that he had the right to obtain or exercise control over the
412 property or service as he did; or413 (c) Obtained or exercised control over the property or service honestly believing that
414 the owner, if present, would have consented.415 (4) A livestock guardian dog is presumed to belong to an owner of the livestock with
416 which the livestock guardian dog was living at the time of an alleged violation of this part.417 Section 7. Section **76-6-412** is amended to read:418 **76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

419 (1) Theft of property and services as provided in this chapter is punishable:

420 (a) as a second degree felony if the:

421 (i) value of the property or services is or exceeds \$5,000;

422 (ii) property stolen is a firearm or an operable motor vehicle; or

423 (iii) property is stolen from the person of another;

424 (b) as a third degree felony if:

425 (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

426 (ii) the value of the property or services is or exceeds \$500 and the actor has been twice
427 before convicted of any of the following offenses, if each prior offense was committed within
428 10 years before the date of the current conviction or the date of the offense upon which the
429 current conviction is based and at least one of those convictions is for a class A misdemeanor:

430 (A) any theft, any robbery, or any burglary with intent to commit theft;

431 (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or
432 (C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);
433 (iii) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;
434 (B) the theft occurs on a property where the offender has committed any theft within
435 the past five years; and
436 (C) the offender has received written notice from the merchant prohibiting the offender
437 from entering the property pursuant to Subsection 78B-3-108(4); or
438 (iv) the actor has been previously convicted of a felony violation of any of the offenses
439 listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if the prior offense was committed
440 within 10 years before the date of the current conviction or the date of the offense upon which
441 the current conviction is based;
442 (c) as a class A misdemeanor if:
443 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
444 (ii) (A) the value of property or services is less than \$500;
445 (B) the theft occurs on a property where the offender has committed any theft within
446 the past five years; and
447 (C) the offender has received written notice from the merchant prohibiting the offender
448 from entering the property pursuant to Subsection 78B-3-108(4); or
449 (iii) the actor has been twice before convicted of any of the offenses listed in
450 Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10
451 years before the date of the current conviction or the date of the offense upon which the current
452 conviction is based; or
453 (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and
454 the theft is not an offense under Subsection (1)(c).
455 (2) Any individual who violates Subsection 76-6-408(2) or 76-6-413(1), or commits
456 theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack,
457 jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a livestock
458 guardian dog, is civilly liable for three times the amount of actual damages, if any sustained by
459 the plaintiff, and for costs of suit and reasonable attorney fees.
460 Section 8. Section 76-9-301 is amended to read:
461 **76-9-301. Cruelty to animals.**

- 462 (1) As used in this section:
- 463 (a) (i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:
- 464 (A) without providing for the care of that animal, in accordance with accepted animal
- 465 husbandry practices or customary farming practices; or
- 466 (B) in a situation where conditions present an immediate, direct, and serious threat to
- 467 the life, safety, or health of the animal.
- 468 (ii) "Abandon" does not include returning wildlife to its natural habitat.
- 469 (b) (i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman
- 470 vertebrate creature.
- 471 (ii) "Animal" does not include:
- 472 (A) a live, nonhuman vertebrate creature, if:
- 473 (I) the conduct toward the creature, and the care provided to the creature, is in
- 474 accordance with accepted animal husbandry practices; and
- 475 (II) the creature is:
- 476 (Aa) owned or kept by a zoological park that is accredited by, or a member of, the
- 477 American Zoo and Aquarium Association;
- 478 (Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or
- 479 (Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the
- 480 United States Department of Agriculture under 7 U.S.C. 2133;
- 481 (B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo
- 482 purposes, if the conduct toward the creature, and the care provided to the creature, is in
- 483 accordance with accepted rodeo practices;
- 484 (C) livestock, if the conduct toward the creature, and the care provided to the creature,
- 485 is in accordance with accepted animal husbandry practices or customary farming practices; or
- 486 (D) wildlife, as defined in Section [23-13-2](#), including protected and unprotected
- 487 wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or
- 488 trapping practices or other lawful practices.
- 489 (c) "Companion animal" means an animal that is a domestic dog or a domestic cat.
- 490 (d) "Custody" means ownership, possession, or control over an animal.
- 491 (e) "Legal privilege" means an act that:
- 492 (i) is authorized by state law, including Division of Wildlife Resources rules; and

- 493 (ii) is not in violation of a local ordinance.
- 494 (f) "Livestock" means:
- 495 (i) domesticated:
- 496 (A) cattle;
- 497 (B) sheep;
- 498 (C) goats;
- 499 (D) turkeys;
- 500 (E) swine;
- 501 (F) equines;
- 502 (G) camelidae;
- 503 (H) ratites; or
- 504 (I) bison;
- 505 (ii) domesticated elk, as defined in Section [4-39-102](#); [or]
- 506 (iii) a livestock guardian dog, as defined in Section [76-6-111](#); or
- 507 [~~(iii)~~] (iv) any domesticated nonhuman vertebrate creature, domestic furbearer, or
- 508 domestic poultry, raised, kept, or used for agricultural purposes.
- 509 (g) "Necessary food, water, care, or shelter" means the following, taking into account
- 510 the species, age, and physical condition of the animal:
- 511 (i) appropriate and essential food and water;
- 512 (ii) adequate protection, including appropriate shelter, against extreme weather
- 513 conditions; and
- 514 (iii) other essential care.
- 515 (h) "Torture" means intentionally or knowingly causing or inflicting extreme physical
- 516 pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.
- 517 (2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an
- 518 animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or
- 519 with criminal negligence:
- 520 (a) fails to provide necessary food, water, care, or shelter for an animal in the person's
- 521 custody;
- 522 (b) abandons an animal in the person's custody;
- 523 (c) injures an animal;

524 (d) causes any animal, not including a dog or game fowl, to fight with another animal
525 of like kind for amusement or gain; or

526 (e) causes any animal, including a dog or game fowl, to fight with a different kind of
527 animal or creature for amusement or gain.

528 (3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

529 (a) a class B misdemeanor if committed intentionally or knowingly; and

530 (b) a class C misdemeanor if committed recklessly or with criminal negligence.

531 (4) A person is guilty of aggravated cruelty to an animal if the person:

532 (a) tortures an animal;

533 (b) administers, or causes to be administered, poison or a poisonous substance to an
534 animal; or

535 (c) kills an animal or causes an animal to be killed without having a legal privilege to
536 do so.

537 (5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of
538 Subsection (4) is:

539 (a) a class A misdemeanor if committed intentionally or knowingly;

540 (b) a class B misdemeanor if committed recklessly; and

541 (c) a class C misdemeanor if committed with criminal negligence.

542 (6) A person is guilty of a third degree felony if the person intentionally or knowingly
543 tortures a companion animal.

544 (7) It is a defense to prosecution under this section that the conduct of the actor towards
545 the animal was:

546 (a) by a licensed veterinarian using accepted veterinary practice;

547 (b) directly related to bona fide experimentation for scientific research, provided that if
548 the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless
549 directly necessary to the veterinary purpose or scientific research involved;

550 (c) permitted under Section 18-1-3;

551 (d) by a person who humanely destroys any animal found suffering past recovery for
552 any useful purpose; or

553 (e) by a person who humanely destroys any apparently abandoned animal found on the
554 person's property.

555 (8) For purposes of Subsection (7)(d), before destroying the suffering animal, the
556 person who is not the owner of the animal shall obtain:

- 557 (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
- 558 (b) the judgment of two other persons called by the person to view the unrecoverable
559 condition of the animal in the person's presence;
- 560 (c) the consent from the owner of the animal to the destruction of the animal; or
- 561 (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the
562 person's own observation, if the person is in a location or circumstance where the person is
563 unable to contact another person.

564 (9) This section does not affect or prohibit:

- 565 (a) the training, instruction, and grooming of animals, if the methods used are in
566 accordance with accepted animal husbandry practices or customary farming practices;
- 567 (b) the use of an electronic locating or training collar by the owner of an animal for the
568 purpose of lawful animal training, lawful hunting practices, or protecting against loss of that
569 animal; or
- 570 (c) the lawful hunting of, fishing for, or trapping of, wildlife.

571 (10) County and municipal governments may not prohibit the use of an electronic
572 locating or training collar.

573 (11) Upon conviction under this section, the court may in its discretion, in addition to
574 other penalties:

- 575 (a) order the defendant to be evaluated to determine the need for psychiatric or
576 psychological counseling, to receive counseling as the court determines to be appropriate, and
577 to pay the costs of the evaluation and counseling;
- 578 (b) require the defendant to forfeit any rights the defendant has to the animal subjected
579 to a violation of this section and to repay the reasonable costs incurred by any person or agency
580 in caring for each animal subjected to violation of this section;
- 581 (c) order the defendant to no longer possess or retain custody of any animal, as
582 specified by the court, during the period of the defendant's probation or parole or other period
583 as designated by the court; and
- 584 (d) order the animal to be placed for the purpose of adoption or care in the custody of a
585 county or municipal animal control agency or an animal welfare agency registered with the

586 state to be sold at public auction or humanely destroyed.

587 (12) This section does not prohibit the use of animals in lawful training.

588 (13) A veterinarian who, acting in good faith, reports a violation of this section to law

589 enforcement may not be held civilly liable for making the report.