



# The National Agricultural Law Center

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## State Endangered Species Act Statutes:

*Utah*



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# A National Agricultural Law Center Research Publication

## State Endangered Species Act Statutes: Utah

### Enforcement for Protected Species §§ 23-20-1 – 23-20-8

*Current through all legislation from the 2020 Sixth Special Session*

#### **§ 23-20-1 Enforcement authority of conservation officers—Seizure and disposition of property.**

(1) Conservation officers of the division shall enforce the provisions of this title with the same authority and following the same procedures as other law enforcement officers.

(2) (a) Conservation officers shall seize any protected wildlife illegally taken or held.

(b) (i) Upon determination of a defendant's guilt by the court, the protected wildlife shall be confiscated by the court and sold or otherwise disposed of by the division.

(ii) Proceeds of the sales shall be deposited in the Wildlife Resources Account.

(iii) Migratory wildfowl may not be sold, but shall be given to a charitable institution or used for other charitable purposes.

(3)(a) Conservation officers may seize and impound a vehicle used for the unlawful taking or possessing of protected wildlife for any of the following purposes:

(i) to provide for the safekeeping of the vehicle, if the owner or operator is arrested;

(ii) to search the vehicle as provided in Subsection (2)(a) or as provided by a search warrant; or

(iii) to inspect the vehicle for evidence that protected wildlife was unlawfully taken or possessed.

(b) The division shall store any seized vehicle in a public or private garage, state impound lot, or other secured storage facility.

(4) A seized vehicle shall be released to the owner no later than 30 days after the date the vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by a person who is charged with committing a felony under this title.

(5) (a) The owner of a seized vehicle is liable for the payment of any impound fee if the owner used the vehicle for the unlawful taking or possessing of wildlife and is found by a court to be guilty of a violation of this title.



(b) The owner of a seized vehicle is not liable for the payment of any impound fee or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

(i) no charges are filed or all charges are dropped which involve the use of the vehicle for the unlawful taking or possessing of wildlife;

(ii) the person charged with using the vehicle for the unlawful taking or possessing of wildlife is found by a court to be not guilty; or

(iii) the owner did not consent to a use of the vehicle which violates this chapter.

### **§ 23-20-1.5 Powers of law enforcement section—Employees.**

(1) The chief and assistant chief of the law enforcement section, enforcement agents, and conservation officers of the law enforcement section within the Division of Wildlife Resources are vested with the powers of law enforcement officers throughout all of the counties of the state with exception of the power to serve civil process and:

(a) may serve criminal process, arrest, and prosecute violators of any law of this state; and

(b) shall have the same right as other law enforcement officers to require aid in executing their duties.

(2) The powers and duties conferred by this section upon employees of the law enforcement section of the Division of Wildlife Resources shall be supplementary to and in no way a limitation on the powers and duties of other law enforcement officers in the state.

### **§ 23-20-2. Special deputies—Appointment—Duties.**

The director of the Division of Wildlife Resources is authorized to appoint persons, on a temporary basis, as special deputies. These special deputies shall have the authority to enforce provisions of this code and all rules and regulations promulgated under this code.

### **§ 23-20-3. Taking, transporting, selling, or purchasing protected wildlife illegal except as authorized—Penalty**

(1) Except as provided in this title or a rule, proclamation, or order of the Wildlife Board, a person may not:

(a) take protected wildlife or its parts;

(b) collect, import, possess, transport, propagate, store, donate, transfer, or export protected wildlife or its parts;



(c) take, possess, sell, purchase, barter, donate, or trade protected wildlife or its parts without having previously procured the necessary licenses, permits, tags, stamps, certificates of registration, authorizations, and receipts required in this title or a rule, proclamation, or order of the Wildlife Board;

(d) take protected wildlife with any weapon, ammunition, implement, tool, device, or any part of any of these not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(e) possess while in pursuit of protected wildlife any weapon, ammunition, implement, tool, device, or any part of any of these not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(f) take protected wildlife using any method, means, process, or practice not specifically authorized in this title or a rule, proclamation, or order of the Wildlife Board;

(g) take protected wildlife outside the season dates, location boundaries, and daily time frames established in rule, proclamation, or order of the Wildlife Board;

(h) take protected wildlife in excess of the bag and possession limits established in rule, proclamation, or order of the Wildlife Board;

(i) take protected wildlife in an area closed to hunting, trapping, or fishing by rule, proclamation, or order of the Wildlife Board, or by executive order of the division director pursuant to Subsection 23-14-8(4);

(j) practice falconry or capture, possess, or use birds in falconry;

(k) take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles;

(l) hold in captivity at any time any live protected wildlife;

(m) use or permit a dog or other domestic or trained animal to take protected wildlife;

(n) remove, damage, or destroy an occupied nest of protected wildlife;

(o) release captured or captive wildlife into the wild;

(p) use spotlighting to take protected wildlife;

(q) employ or use a means of concealment or camouflage while taking protected wildlife which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board;

(r) possess or use bait or other attractant to take protected wildlife which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board;



(s) use any decoy or recorded or electronically amplified call which is prohibited in this title or a rule, proclamation, or order of the Wildlife Board to take protected wildlife;

(t) commercially harvest protected wildlife, including brine shrimp and brine shrimp eggs;

(u) utilize protected wildlife for commercial purposes or financial gain;

(v) enter, establish, or hold a contest or tournament involving the taking of protected wildlife;

(w) operate or participate in a commercial hunting area as described in Section 23-17-6; or

(x) operate or participate in a cooperative wildlife management unit as defined in Section 23-23-2.

(2) Possession of protected wildlife without a valid license, permit, tag, certificate of registration, bill of sale, or invoice is prima facie evidence that the protected wildlife was illegally taken and is illegally held in possession.

(3) A person is guilty of a class B misdemeanor if the person:

(a) violates any provision of Subsection (1); and

(b) does so with criminal negligence as defined in Subsection 76-2-103(4).

### **§ 23-20-3.5. Taking protected wildlife while trespassing—Penalty**

(1) A person may not take or permit his dog to take, while in violation of Subsection 23-20-14(2):

(a) protected wildlife or their parts;

(b) an occupied nest of protected wildlife; or

(c) an egg of protected wildlife.

(2) A person is guilty of a class B misdemeanor if he or she violates any provision of Subsection (1).

### **§ 23-20-4. Wanton destruction of protected wildlife—Penalties**

(1) A person is guilty of wanton destruction of protected wildlife if that person:

(a) commits an act in violation of Section 23-13-4, 23-13-5, 23-13-13, 23-15-6 through 23-15-9, 23-16-5, or Subsection 23-20-3(1);

(b) captures, injures, or destroys protected wildlife; and



- (c)(i) does so with intentional, knowing, or reckless conduct as defined in Section 76-2-103;
- (ii) intentionally abandons protected wildlife or a carcass;
- (iii) commits the offense at night with the use of a weapon;
- (iv) is under a court or division revocation of a license, tag, permit, or certificate of registration;  
or
- (v) acts for pecuniary gain.

(2) Subsection (1) does not apply to actions taken in accordance with :

- (a) Title 4, Chapter 14, Utah Pesticide Control Act;
- (b) Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act; or
- (c) Section 23-16-3.1.

(3) Wanton destruction of wildlife is punishable:

(a) as a third-degree felony if:

(i) the aggregate value of the protected wildlife determined by the values in Subsection (4) is more than \$500; or

(ii) a trophy animal was captured, injured, or destroyed;

(b) as a class A misdemeanor if the aggregate value of the protected wildlife, determined by the values established in Subsection (4) is more than \$250, but does not exceed \$500; and

(c) as a class B misdemeanor if the aggregate value of the protected wildlife determined by the values established in Subsection (4) is \$250 or less.

(4) Regardless of the restitution amounts imposed under Subsection 23-20-4.5(2), the following values are assigned to protected wildlife for the purpose of determining the offense for wanton destruction of wildlife:

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

(i) bison;

(ii) bighorn sheep;

(iii) rocky mountain goat;

(iv) moose;



- (v) bear;
- (vi) peregrine falcon;
- (vii) bald eagle; or
- (viii) endangered species;
- (b) \$750 per animal for:
  - (i) elk; or
  - (ii) threatened species;
- (c) \$500 per animal for:
  - (i) cougar;
  - (ii) golden eagle;
  - (iii) river otter; or
  - (iv) gila monster;
- (d) \$400 per animal for:
  - (i) pronghorn antelope; or
  - (ii) deer;
- (e) \$350 per animal for bobcat;
- (f) \$100 per animal for:
  - (i) swan;
  - (ii) sandhill crane;
  - (iii) turkey;
  - (iv) pelican;
  - (v) loon;
  - (vi) egrets;
  - (vii) herons;



- (viii) raptors, except those that are threatened or endangered;
- (ix) Utah milk snake; or
- (x) Utah mountain king snake;
- (g) \$35 per animal for furbearers, except:
  - (i) bobcat;
  - (ii) river otter; and
  - (iii) threatened or endangered species;
- (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye, largemouth bass, smallmouth bass, and wiper;
- (i) \$15 per animal for game birds, except:
  - (i) turkey;
  - (ii) swan; and
  - (iii) sandhill crane;
- (j) \$10 per animal for game fish not listed in Subsection (4)(h);
- (k) \$8 per pound dry weight of processed brine shrimp including eggs; and
- (l) \$5 per animal for protected wildlife not listed.

(5) For purposes of sentencing for a wildlife violation, a person who has been convicted of a third-degree felony under Subsection (3)(a) is not subject to the mandatory sentencing requirements prescribed in Subsection 76-3-203.8(4).

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

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

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





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

(1) When a person is adjudged guilty of illegal taking, illegal possession, or wanton destruction of protected wildlife, other than a trophy animal, the court may order the defendant to pay restitution:

(a) as set forth in Subsection (2); or

(b) in a greater or lesser amount than the amount established in Subsection (2).

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

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

(i) bison;

(ii) bighorn sheep;

(iii) rocky mountain goat;

(iv) moose;

(v) bear;

(vi) peregrine falcon;

(vii) bald eagle; or

(viii) endangered species;

(b) \$750 per animal for:

(i) elk; or

(ii) threatened species;

(c) \$500 per animal for:

(i) golden eagle;

(ii) river otter; or

(iii) gila monster;

(d) \$400 per animal for:

(i) pronghorn antelope; or



- (ii) deer;
- (e) \$350 per animal for:
  - (i) cougar; or
  - (ii) bobcat;
- (f) \$100 per animal for:
  - (i) swan;
  - (ii) sandhill crane;
  - (iii) turkey;
  - (iv) pelican;
  - (v) loon;
  - (vi) egrets;
  - (vii) herons;
  - (viii) raptors, except those that are threatened or endangered;
  - (ix) Utah milk snake; or
  - (x) Utah mountain king snake;
- (g) \$35 per animal for furbearers, except:
  - (i) bobcat;
  - (ii) river otter; and
  - (iii) threatened or endangered species;
- (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye, largemouth bass, smallmouth bass, and wiper;
- (i) \$15 per animal for game birds, except:
  - (i) turkey;
  - (ii) swan; and
  - (iii) sandhill crane;



- (j) \$10 per animal for game fish not listed in Subsection (2)(h);
- (k) \$8 per pound dry weight of processed brine shrimp including eggs; and
- (l) \$5 per animal for protected wildlife not listed.

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

(4)(a) The court shall order a person convicted of a third-degree felony under Subsection 23-20-4 (3)(a)(ii) to pay restitution in accordance with Subsection (4)(b).

(b) The minimum restitution value for a trophy animal is as follows:

- (i) \$30,000 per animal for bighorn, desert, or rocky mountain sheep;
- (ii) \$8,000 per animal for deer;
- (iii) \$8,000 per animal for elk;
- (iv) \$6,000 per animal for moose or mountain goat;
- (v) \$6,000 per animal for bison; and
- (vi) \$2,000 per animal for pronghorn antelope.

(5) Restitution paid under Subsection (4) shall be remitted to the division and deposited in the Wildlife Resources Account.

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

- (a) educational programs on wildlife crime prevention;
- (b) acquisition and development of wildlife crime detection equipment;
- (c) operation and maintenance of anti-poaching projects; and
- (d) wildlife law enforcement training.

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

- (a) a fine or penalty imposed for a violation of any provision of this title; and
- (b) a remedial action taken to revoke or suspend a person's license, permit, tag, or certificate of registration.



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

**§ 23-20-4.7. Habitual wanton destruction of protected wildlife--Third degree felony**

(1) A person is guilty of habitual wanton destruction of protected wildlife if the person:

(a) takes a big game animal in violation of Section 23-20-4; and

(b) within seven years of the day on which the violation described in Subsection (1)(a) occurs, has twice been convicted of taking a big game animal in violation of Section 23-20-4.

(2) "Convicted," for purposes of this section, includes a guilty adjudication, guilty plea, no contest plea, and guilty or no contest plea entered in a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance.

(3) Habitual wanton destruction of protected wildlife is a third-degree felony.

**§ 23-20-8. Waste of wildlife unlawful**

Except as otherwise provided in this title, or by rule made by the Wildlife Board under this title, or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title, a person may not waste or permit to be wasted protected wildlife or a part of protected wildlife.

