

**DEFINITION OF WOLF IN WILDLIFE RESOURCES CODE
OF UTAH**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Allen M. Christensen

House Sponsor: _____

LONG TITLE

Committee Note:

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.

General Description:

This bill amends certain sections of the wildlife resources code relating to wolves.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits a person to apply for or obtain a wolf hunting permit, if a permit is issued by the Division of Wildlife Resources;
- ▶ establishes penalties for the wanton destruction of wolves;
- ▶ establishes suggested minimum restitution values for wolves taken or possessed illegally or wantonly destroyed; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **23-13-2**, as last amended by Laws of Utah 2011, Chapter 297

30 **23-19-17**, as last amended by Laws of Utah 2007, Chapter 187

31 **23-19-22.5**, as last amended by Laws of Utah 2007, Chapter 187

32 **23-19-24**, as last amended by Laws of Utah 2007, Chapter 187

33 **23-19-26**, as last amended by Laws of Utah 2007, Chapter 187

34 **23-20-4**, as last amended by Laws of Utah 2009, Chapter 250

35 **23-20-4.5**, as last amended by Laws of Utah 2009, Chapter 250

36

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

38 Section 1. Section **23-13-2** is amended to read:

39 **23-13-2. Definitions.**

40 As used in this title:

41 (1) "Activity regulated under this title" means any act, attempted act, or activity
42 prohibited or regulated under any provision of Title 23, Wildlife Resources Code of Utah, or
43 the rules, and proclamations promulgated thereunder pertaining to protected wildlife including:

44 (a) fishing;

45 (b) hunting;

46 (c) trapping;

47 (d) taking;

48 (e) permitting any dog, falcon, or other domesticated animal to take;

49 (f) transporting;

50 (g) possessing;

51 (h) selling;

52 (i) wasting;

53 (j) importing;

54 (k) exporting;

55 (l) rearing;

56 (m) keeping;

57 (n) utilizing as a commercial venture; and

58 (o) releasing to the wild.

- 59 (2) "Aquatic animal" has the meaning provided in Section 4-37-103.
- 60 (3) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or
61 amphibians.
- 62 (4) "Aquaculture facility" has the meaning provided in Section 4-37-103.
- 63 (5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife
64 that one person may legally take during one day.
- 65 (6) "Big game" means species of hoofed protected wildlife.
- 66 (7) "Carcass" means the dead body of an animal or its parts.
- 67 (8) "Certificate of registration" means a document issued under this title, or any rule or
68 proclamation of the Wildlife Board granting authority to engage in activities not covered by a
69 license, permit, or tag.
- 70 (9) "Closed season" means the period of time during which the taking of protected
71 wildlife is prohibited.
- 72 (10) "Conservation officer" means a full-time, permanent employee of the Division of
73 Wildlife Resources who is POST certified as a peace or a special function officer.
- 74 (11) "Dedicated hunter program" means a program that provides:
- 75 (a) expanded hunting opportunities;
- 76 (b) opportunities to participate in projects that are beneficial to wildlife; and
- 77 (c) education in hunter ethics and wildlife management principles.
- 78 (12) "Division" means the Division of Wildlife Resources.
- 79 (13) (a) "Domicile" means the place:
- 80 (i) where an individual has a fixed permanent home and principal establishment;
- 81 (ii) to which the individual if absent, intends to return; and
- 82 (iii) in which the individual, and the individual's family voluntarily reside, not for a
83 special or temporary purpose, but with the intention of making a permanent home.
- 84 (b) To create a new domicile an individual shall:
- 85 (i) abandon the old domicile; and
- 86 (ii) be able to prove that a new domicile has been established.
- 87 (14) "Endangered" means wildlife designated as endangered according to Section 3 of
88 the federal Endangered Species Act of 1973.
- 89 (15) "Fee fishing facility" has the meaning provided in Section 4-37-103.

90 (16) "Feral" means an animal that is normally domesticated but has reverted to the
91 wild.

92 (17) "Fishing" means to take fish or crayfish by any means.

93 (18) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and
94 Castoridae families, except wolf, coyote, and cougar.

95 (19) "Game" means wildlife normally pursued, caught, or taken by sporting means for
96 human use.

97 (20) "Guide" means a person who receives compensation or advertises services for
98 assisting another person to take protected wildlife, including the provision of food, shelter, or
99 transportation, or any combination of these.

100 (21) "Guide's agent" means a person who is employed by a guide to assist another
101 person to take protected wildlife.

102 (22) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any
103 means.

104 (23) "Intimidate or harass" means to physically interfere with or impede, hinder, or
105 diminish the efforts of an officer in the performance of the officer's duty.

106 (24) "Nonresident" means a person who does not qualify as a resident.

107 (25) "Open season" means the period of time during which protected wildlife may be
108 legally taken.

109 (26) "Pecuniary gain" means the acquisition of money or something of monetary value.

110 (27) "Permit" means a document, including a stamp, that grants authority to engage in
111 specified activities under this title or a rule or proclamation of the Wildlife Board.

112 (28) "Person" means an individual, association, partnership, government agency,
113 corporation, or an agent of the foregoing.

114 (29) "Possession" means actual or constructive possession.

115 (30) "Possession limit" means the number of bag limits one individual may legally
116 possess.

117 (31) (a) "Private fish pond" means a body of water where privately owned, protected
118 aquatic wildlife are propagated or kept for a noncommercial purpose.

119 (b) "Private fish pond" does not include an aquaculture facility or fee fishing facility.

120 (32) "Private wildlife farm" means an enclosed place where privately owned birds or

121 furbearers are propagated or kept and that restricts the birds or furbearers from:

122 (a) commingling with wild birds or furbearers; and

123 (b) escaping into the wild.

124 (33) "Proclamation" means the publication used to convey a statute, rule, policy, or
125 pertinent information as it relates to wildlife.

126 (34) (a) "Protected aquatic wildlife" means aquatic wildlife as defined in Subsection
127 (3), except as provided in Subsection (34)(b).

128 (b) "Protected aquatic wildlife" does not include aquatic insects.

129 (35) (a) "Protected wildlife" means wildlife as defined in Subsection (49), except as
130 provided in Subsection (35)(b).

131 (b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel,
132 jack rabbit, muskrat, and raccoon.

133 (36) "Released to the wild" means to be turned loose from confinement.

134 (37) (a) "Resident" means a person who:

135 (i) has been domiciled in the state for six consecutive months immediately preceding
136 the purchase of a license; and

137 (ii) does not claim residency for hunting, fishing, or trapping in any other state or
138 country.

139 (b) A Utah resident retains Utah residency if that person leaves this state:

140 (i) to serve in the armed forces of the United States or for religious or educational
141 purposes; and

142 (ii) the person complies with Subsection (37)(a)(ii).

143 (c) (i) A member of the armed forces of the United States and dependents are residents
144 for the purposes of this chapter as of the date the member reports for duty under assigned
145 orders in the state if the member:

146 (A) is not on temporary duty in this state; and

147 (B) complies with Subsection (37)(a)(ii).

148 (ii) A copy of the assignment orders shall be presented to a wildlife division office to
149 verify the member's qualification as a resident.

150 (d) A nonresident attending an institution of higher learning in this state as a full-time
151 student may qualify as a resident for purposes of this chapter if the student:

152 (i) has been present in this state for 60 consecutive days immediately preceding the
153 purchase of the license; and

154 (ii) complies with Subsection (37)(a)(ii).

155 (e) A Utah resident license is invalid if a resident license for hunting, fishing, or
156 trapping is purchased in any other state or country.

157 (f) An absentee landowner paying property tax on land in Utah does not qualify as a
158 resident.

159 (38) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of
160 selling, bartering, exchanging, or trading.

161 (39) (a) "Small game" means species of protected wildlife:

162 [~~(a)~~] (i) commonly pursued for sporting purposes; and

163 [~~(b)~~] (ii) not classified as big game, aquatic wildlife, or furbearers [~~and excluding~~];

164 (b) "Small game" does not include turkey, wolf, cougar, [~~and~~] or bear.

165 (40) "Spoiled" means impairment of the flesh of wildlife which renders it unfit for
166 human consumption.

167 (41) "Spotlighting" means throwing or casting the rays of any spotlight, headlight, or
168 other artificial light on any highway or in any field, woodland, or forest while having in
169 possession a weapon by which protected wildlife may be killed.

170 (42) "Tag" means a card, label, or other identification device issued for attachment to
171 the carcass of protected wildlife.

172 (43) "Take" means to:

173 (a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected
174 wildlife; or

175 (b) attempt any action referred to in Subsection (43)(a).

176 (44) "Threatened" means wildlife designated as such pursuant to Section 3 of the
177 federal Endangered Species Act of 1973.

178 (45) "Trapping" means taking protected wildlife with a trapping device.

179 (46) "Trophy animal" means an animal described as follows:

180 (a) deer - a buck with an outside antler measurement of 24 inches or greater;

181 (b) elk - a bull with six points on at least one side;

182 (c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

183 (d) moose - a bull with at least one antler exceeding five inches in length;

184 (e) mountain goat - a male or female;

185 (f) pronghorn antelope - a buck with horns exceeding 14 inches; or

186 (g) bison - a bull.

187 (47) "Waste" means to abandon protected wildlife or to allow protected wildlife to
188 spoil or to be used in a manner not normally associated with its beneficial use.

189 (48) "Water pollution" means the introduction of matter or thermal energy to waters
190 within this state that:

191 (a) exceeds state water quality standards; or

192 (b) could be harmful to protected wildlife.

193 (49) "Wildlife" means:

194 (a) crustaceans, including brine shrimp and crayfish;

195 (b) mollusks; and

196 (c) vertebrate animals living in nature, except feral animals.

197 (50) "Wolf" means the species Canis lupus.

198 Section 2. Section **23-19-17** is amended to read:

199 **23-19-17. Resident fishing and hunting license -- Use of fee.**

200 (1) (a) A resident, after paying the fee established by the Wildlife Board, may obtain,
201 as provided by the Wildlife Board's rules, a combination license to:

202 [~~(a)~~] (i) fish; and

203 [~~(b)~~] (ii) hunt for small game[~~; and~~].

204 [~~(c)~~] (b) After obtaining a combination license under Subsection (1)(a), a resident may
205 apply for or obtain a big game, wolf, cougar, bear, or turkey hunting permit.

206 (2) Up to \$1 of the combination license fee may be used for the hunter education
207 program for any of the following:

208 (a) instructor and student training;

209 (b) assisting local organizations with development;

210 (c) maintenance of existing facilities; or

211 (d) operation and maintenance of the hunter education program.

212 (3) (a) Up to 50 cents of the combination license fee may be used for the upland game
213 program to:

- 214 (i) acquire pen-raised birds; or
- 215 (ii) capture and transplant upland game species.
- 216 (b) The combination license fee revenue designated for the upland game program by
- 217 Subsection (3)(a) is in addition to any combination license fee revenue that may be used for the
- 218 upland game program as provided by Sections 23-19-43 and 23-19-47.

219 Section 3. Section **23-19-22.5** is amended to read:

220 **23-19-22.5. Cougar, wolf, or bear hunting permit.**

221 (1) A person 12 years of age or older, upon paying the cougar, wolf, or bear hunting

222 permit fee established by the Wildlife Board and possessing a valid hunting or combination

223 license, may apply for or obtain a permit to take cougar, wolf, or bear as provided by rules and

224 proclamations of the Wildlife Board.

225 (2) A person 11 years of age may apply for or obtain a cougar, wolf, or bear hunting

226 permit consistent with the requirements of Subsection (1) if that person's 12th birthday falls

227 within the calendar year in which the permit is issued.

228 (3) One dollar of each cougar, wolf, or bear permit fee collected from a resident shall

229 be used for the hunter education program.

230 Section 4. Section **23-19-24** is amended to read:

231 **23-19-24. Resident hunting license -- Use of fee.**

232 (1) A resident, after paying the fee established by the Wildlife Board, may obtain a

233 hunting license.

234 (2) A hunting license authorizes the licensee to, according to this title and the Wildlife

235 Board's rules and proclamations:

- 236 (a) take small game; and
- 237 (b) apply for or obtain a big game, cougar, wolf, bear, or turkey hunting permit.
- 238 (3) Up to \$1 of the hunting license fee may be used for the hunter education program.
- 239 (4) (a) Up to 50 cents of the hunting license fee may be used for the upland game
- 240 program to:

- 241 (i) acquire pen-raised birds; or
- 242 (ii) capture and transplant upland game species.
- 243 (b) The hunting license fee revenue designated for the upland game program by
- 244 Subsection (4)(a) is in addition to any hunting license fee revenue that may be used for the

245 upland game program as provided by Sections 23-19-43 and 23-19-47.

246 Section 5. Section **23-19-26** is amended to read:

247 **23-19-26. Nonresident hunting license -- Use of fee.**

248 (1) A nonresident, after paying the fee established by the Wildlife Board, may obtain a
249 hunting license.

250 (2) A hunting license authorizes the licensee to, according to this title and the Wildlife
251 Board's rules and proclamations:

252 (a) take small game; and

253 (b) apply for or obtain a big game, cougar, wolf, bear, or turkey hunting permit.

254 (3) (a) Up to 50 cents of the hunting license fee may be used for the upland game
255 program to:

256 (i) acquire pen-raised birds; or

257 (ii) capture and transplant upland game species.

258 (b) The hunting license fee revenue designated for the upland game program by
259 Subsection (3)(a) is in addition to any hunting license fee revenue that may be used for the
260 upland game program as provided by Sections 23-19-43 and 23-19-47.

261 Section 6. Section **23-20-4** is amended to read:

262 **23-20-4. Wanton destruction of protected wildlife -- Penalties.**

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

264 (a) commits an act in violation of Section 23-13-4, 23-13-5, 23-13-13, 23-15-6 through
265 23-15-9, 23-16-5, or Subsection 23-20-3(1);

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

267 (c) (i) does so with intentional, knowing, or reckless conduct as defined in Section
268 76-2-103;

269 (ii) intentionally abandons protected wildlife or a carcass;

270 (iii) commits the offense at night with the use of a weapon;

271 (iv) is under a court or division revocation of a license, tag, permit, or certificate of
272 registration; or

273 (v) acts for pecuniary gain.

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

275 (a) Title 4, Chapter 14, Utah Pesticide Control Act;

- 276 (b) Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act; or
- 277 (c) Section 23-16-3.1.
- 278 (3) Wanton destruction of wildlife is punishable:
- 279 (a) as a third degree felony if:
- 280 (i) the aggregate value of the protected wildlife determined by the values in Subsection
- 281 (4) is more than \$500; or
- 282 (ii) a trophy animal was captured, injured, or destroyed;
- 283 (b) as a class A misdemeanor if the aggregate value of the protected wildlife,
- 284 determined by the values established in Subsection (4) is more than \$250, but does not exceed
- 285 \$500; and
- 286 (c) as a class B misdemeanor if the aggregate value of the protected wildlife
- 287 determined by the values established in Subsection (4) is \$250 or less.
- 288 (4) Regardless of the restitution amounts imposed under Subsection 23-20-4.5(2), the
- 289 following values are assigned to protected wildlife for the purpose of determining the offense
- 290 for wanton destruction of wildlife:
- 291 (a) \$1,000 per animal for:
- 292 (i) bison;
- 293 (ii) bighorn sheep;
- 294 (iii) rocky mountain goat;
- 295 (iv) moose;
- 296 (v) bear;
- 297 (vi) peregrine falcon;
- 298 (vii) bald eagle; or
- 299 (viii) endangered species;
- 300 (b) \$750 per animal for:
- 301 (i) elk; or
- 302 (ii) threatened species;
- 303 (c) \$500 per animal for:
- 304 (i) cougar;
- 305 (ii) golden eagle;
- 306 (iii) river otter; [~~or~~]

- 307 (iv) gila monster; or
- 308 (v) wolf;
- 309 (d) \$400 per animal for:
- 310 (i) pronghorn antelope; or
- 311 (ii) deer;
- 312 (e) \$350 per animal for bobcat;
- 313 (f) \$100 per animal for:
- 314 (i) swan;
- 315 (ii) sandhill crane;
- 316 (iii) turkey;
- 317 (iv) pelican;
- 318 (v) loon;
- 319 (vi) egrets;
- 320 (vii) herons;
- 321 (viii) raptors, except those that are threatened or endangered;
- 322 (ix) Utah milk snake; or
- 323 (x) Utah mountain king snake;
- 324 (g) \$35 per animal for furbearers, except:
- 325 (i) bobcat;
- 326 (ii) river otter; and
- 327 (iii) threatened or endangered species;
- 328 (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye,
- 329 largemouth bass, smallmouth bass, and wiper;
- 330 (i) \$15 per animal for game birds, except:
- 331 (i) turkey;
- 332 (ii) swan; and
- 333 (iii) sandhill crane;
- 334 (j) \$10 per animal for game fish not listed in Subsection (4)(h);
- 335 (k) \$8 per pound dry weight of processed brine shrimp including eggs; and
- 336 (l) \$5 per animal for protected wildlife not listed.
- 337 (5) For purposes of sentencing for a wildlife violation, a person who has been

338 convicted of a third degree felony under Subsection (3)(a) is not subject to the mandatory
339 sentencing requirements prescribed in Subsection 76-3-203.8(4).

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

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

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

350 Section 7. Section **23-20-4.5** is amended to read:

351 **23-20-4.5. Illegal taking, possession, or wanton destruction of protected wildlife --**
352 **Restitution -- Reimbursable damages -- Assessment by magistrates -- Disposition of**
353 **money.**

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

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

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

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

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

361 (i) bison;

362 (ii) bighorn sheep;

363 (iii) rocky mountain goat;

364 (iv) moose;

365 (v) bear;

366 (vi) peregrine falcon;

367 (vii) bald eagle; or

368 (viii) endangered species;

- 369 (b) \$750 per animal for:
370 (i) elk; or
371 (ii) threatened species;
372 (c) \$500 per animal for:
373 (i) golden eagle;
374 (ii) river otter; or
375 (iii) gila monster;
376 (d) \$400 per animal for:
377 (i) pronghorn antelope; or
378 (ii) deer;
379 (e) \$350 per animal for:
380 (i) cougar; [or]
381 (ii) bobcat; or
382 (iii) wolf;
383 (f) \$100 per animal for:
384 (i) swan;
385 (ii) sandhill crane;
386 (iii) turkey;
387 (iv) pelican;
388 (v) loon;
389 (vi) egrets;
390 (vii) herons;
391 (viii) raptors, except those that are threatened or endangered;
392 (ix) Utah milk snake; or
393 (x) Utah mountain king snake;
394 (g) \$35 per animal for furbearers, except:
395 (i) bobcat;
396 (ii) river otter; and
397 (iii) threatened or endangered species;
398 (h) \$25 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye,
399 largemouth bass, smallmouth bass, and wiper;

- 400 (i) \$15 per animal for game birds, except:
- 401 (i) turkey;
- 402 (ii) swan; and
- 403 (iii) sandhill crane;
- 404 (j) \$10 per animal for game fish not listed in Subsection (2)(h);
- 405 (k) \$8 per pound dry weight of processed brine shrimp including eggs; and
- 406 (l) \$5 per animal for protected wildlife not listed.
- 407 (3) If the court finds that restitution is inappropriate or if the value imposed is less than
- 408 the suggested minimum value as provided in Subsection (2), the court shall make the reasons
- 409 for the decision part of the court record.
- 410 (4) (a) The court shall order a person convicted of a third degree felony under
- 411 Subsection 23-20-4(3)(a)(ii) to pay restitution in accordance with Subsection (4)(b).
- 412 (b) The minimum restitution value for a trophy animal is as follows:
- 413 (i) \$30,000 per animal for bighorn, desert, or rocky mountain sheep;
- 414 (ii) \$8,000 per animal for deer;
- 415 (iii) \$8,000 per animal for elk;
- 416 (iv) \$6,000 per animal for moose or mountain goat;
- 417 (v) \$6,000 per animal for bison; and
- 418 (vi) \$2,000 per animal for pronghorn antelope.
- 419 (5) Restitution paid under Subsection (4) shall be remitted to the division and
- 420 deposited in the Wildlife Resources Account.
- 421 (6) Restitution money shall be used by the division for activities and programs to help
- 422 stop poaching, including:
- 423 (a) educational programs on wildlife crime prevention;
- 424 (b) acquisition and development of wildlife crime detection equipment;
- 425 (c) operation and maintenance of anti-poaching projects; and
- 426 (d) wildlife law enforcement training.
- 427 (7) If restitution is required it shall be in addition to:
- 428 (a) a fine or penalty imposed for a violation of any provision of this title; and
- 429 (b) a remedial action taken to revoke or suspend a person's license, permit, tag, or
- 430 certificate of registration.

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

Legislative Review Note
as of 11-17-11 11:51 AM

Office of Legislative Research and General Counsel