

R657. Natural Resources, Wildlife Resources.

R657-63. Self Defense Against Wild Animals.

R657-63-1. Purpose and Authority.

(1) The purpose of this rule is to define conditions and circumstances under which a person is legally justified in killing or seriously wounding a threatening or attacking wild animal.

(2) This rule is established and promulgated by the Wildlife Board under authority of Sections 23-14-18 and 23-14-19.

R657-63-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Wild animal" means, for purposes of this rule, an individual animal that falls under the definition of "protected wildlife" as defined in Section 23-13-2.

(b) "Enter" means to physically penetrate the interior space of a structure with any part of the body, whether or not the exterior surface of the structure is ruptured.

R657-63-3. Self Defense.

(1) A person is legally justified in killing or seriously injuring a threatening wild animal when the person reasonably believes such action is necessary to protect themselves, another person, or a domestic animal against an imminent attack by the wild animal that will likely result in severe bodily injury or death to the victim.

(2) In determining imminence or reasonableness under Subsection (1), the trier of fact may consider, but is not limited to, any of the following factors:

(a) the nature of the danger;

(b) the immediacy of the danger;

(c) the probability that the threatening wild animal will attack;

(d) the probability that the attack will result in death or serious bodily injury;

(e) the ability to safely retreat;

(f) the fault of the person in creating the encounter; and

(g) any previous pattern of aggressive or threatening behavior by the individual wild animal which was known to the person claiming self defense.

(3)(a) A person shall notify the division within 12 hours after killing or wounding a wild animal under Subsection (1).

(b) No wild animal killed pursuant to Subsection (1) or the parts thereof may be removed from the site, repositioned, retained, sold, or transferred without written authorization from the division.

(4) A person is not legally justified in killing or seriously injuring a threatening wild animal under the circumstances specified in Subsection (1) if the person:

(a) has the ability to safely retreat from the threatening animal and fails to do so, except when the animal enters a home, tent, camper, or other permanent or temporary living structure occupied at the time by the person or another person; or

(b) intentionally, knowingly, or recklessly provokes, pursues, or attracts the wild animal, without legal right, into a situation in which it is probable it will threaten the person, another person, or a domestic animal.

R657-63-4. Violations.

A person that kills or seriously injures a wild animal without legal justification as provided in this rule and otherwise in violation of the law shall be subject to criminal prosecution under this Title and the rules and proclamations of the Wildlife Board.

KEY: wildlife

Date of Enactment or Last Substantive Amendment: New Rule

Notice of Continuation: none/new rule

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

Proposal