

HOUSE BILL NO. HB0251

Surface owner damages.

Sponsored by: Representative(s) Berger, Hageman, Iekel and Landon and Senator(s) Meier

A BILL

for

1 AN ACT relating to mines and minerals; providing  
2 compensation and remedy to surface owners for loss due to  
3 oil and gas development as specified; and providing for an  
4 effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

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8 **Section 1.** W.S. 30-5-401 through 30-5-408 are created  
9 to read:

10

11

ARTICLE 4

12

ACCOMMODATION OF SURFACE OWNERS

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14 **30-5-401. Short title.**

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1 This act shall be known and may be cited as the "Surface  
2 Owners Accommodation Act."

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4 **30-5-402. Definitions.**

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6 (a) As used in this act:

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8 (i) "Agricultural production" means the  
9 production of any growing grass, crops or trees attached to  
10 the surface of the land, whether or not the grass or crop  
11 is to be sold commercially, and the production of any farm  
12 animals, whether or not the animals are to be sold  
13 commercially;

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15 (ii) "Oil and gas" means oil, natural gas, other  
16 gaseous or liquid hydrocarbons;

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18 (iii) "Oil and gas developer" means the well  
19 operator or working interest owner;

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21 (iv) "Oil and gas development" means the full  
22 range of activity, from exploration through production and  
23 reclamation, associated with the location and extraction of  
24 oil and gas which will cause physical damage to the

1 surface. The term includes processing and transportation of  
2 oil and gas if those operations are conducted on the same  
3 surface tract from which the underlying oil and gas is  
4 extracted, or recovery of any oil and gas left in residue  
5 from previous extraction or processing operations, or  
6 roads, pipelines, power lines, compressor stations and any  
7 other facilities and equipment;

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9 (v) "Surface" means the exposed area of land and  
10 water, improvements on the land, subjacent and lateral  
11 support for land and structures, and any part of the  
12 underground actually used by a surface owner as an adjunct  
13 to surface use, such as root medium, groundwater and  
14 construction footings;

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16 (vi) "Surface owner" means any person who holds  
17 record title to the surface of the land as an owner;

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19 (vii) "Reclamation" means the restoring of the  
20 surface of any land affected by oil and gas development, as  
21 closely as practicable, to the condition in which it  
22 existed prior to oil and gas development, or to a condition  
23 that is satisfactory to both the surface owner and oil and  
24 gas developer;

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(viii) "This act" means W.S. 30-5-401 through 30-5-408.

**30-5-403. Notice of drilling operations.**

(a) Before entering upon a site for oil and gas development, the oil and gas developer shall give the surface owner written notice of the drilling operations that he plans to undertake. This notice shall be given to the record surface owner at the address shown by the records of the county clerk at the time notice is given. This notice shall sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of drilling operations on the surface owner's use of the property, including the proposed location of roads, well pads, power lines, pipelines, compressor units, tanks, pits, reservoirs and all other ancillary facilities, and the approximate date that the oil and gas developer proposes to commence drilling. A copy of this act shall be included with the notice.

(b) The notice shall be given at least thirty (30) days before commencement of any activity on the surface.

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2           **30-5-404. Surface damage and disruption payments;**  
3 **penalty for late payments.**

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5           (a) The oil and gas developer shall pay the surface  
6 owner a sum of money equal to the amount of damages  
7 sustained by the surface owner or provide the surface owner  
8 a surety bond pursuant to W.S. 30-5-405 for:

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10                   (i) Loss of agricultural production and income;

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12                   (ii) Lost land value;

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14                   (iii) Lost use of and access to the surface;

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16                   (iv) Lost value of improvements caused by oil  
17 and gas development; and

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19                   (v) Restoration of surface, unless the oil and  
20 gas developer agrees to perform reclamation;

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22                   (vi) Loss due to inability to implement planned  
23 or reasonably foreseeable future uses.

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1           (b) The amount of damages, the method and time of  
2 payment, shall be determined by mutual agreement between  
3 the surface owner and the oil and gas developer. The  
4 losses listed in subsection (a) of this section shall not  
5 be used to render duplicative payment of damages sustained  
6 by the surface owner.

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8           (c) If an agreement cannot be reached, the parties  
9 may engage in nonbinding mediation. Each party shall  
10 appoint any person as their mediator. The two (2) mediators  
11 shall then agree and appoint a third person as a mediator.  
12 Mediation shall occur within ten (10) business days of  
13 notice to either party that they have appointed their  
14 mediator.

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16           (d) If no agreement is reached through good faith  
17 negotiations, mediation or otherwise, the surface owner may  
18 bring an action for damages specified in subsection (a) of  
19 this section in the district court of the county in which  
20 the damage was sustained. If the amount of compensation  
21 awarded by the court is greater than that which had been  
22 offered by the oil and gas developer, the court may award  
23 the person seeking compensation attorneys fees, any costs  
24 assessed by the court and interest on the amount of the

1 final compensation awarded by the court from the earlier of  
2 the day surface damage occurs or drilling is commenced.

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4 **30-5-405. Surety bond.**

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6 If full payment of damages to the surface owner is not made  
7 prior to the commencement of oil and gas development, the  
8 oil and gas developer shall provide the surface owner a  
9 surety bond in an amount equal to the damages agreed to or  
10 the average of the amounts proposed by the oil and gas  
11 developer and the surface owner.

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13 **30-5-406. Violations of this act.**

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15 The district court of the county in which the surface is  
16 located may enjoin any violation of this act.

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18 **30-5-407. Remedies cumulative.**

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20 The remedies provided by this act do not preclude any  
21 person from seeking other remedies allowed by law.

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23 **30-5-408. Waiver.**

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1 A surface owner may waive any rights afforded under this  
2 act by providing written notice to the oil and gas  
3 developer prior to commencement of oil and gas development.

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5 **Section 2.** This act is effective July 1, 2003.

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(END)