

ENROLLED ACT NO. 52, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING  
2016 BUDGET SESSION

AN ACT relating to trade and commerce; amending provisions related to the civil causes of action for trespass to unlawfully collect resource data and unlawful collection of resource data; creating the civil trespass to access adjacent or proximate land; providing definitions; repealing a duplicative provision; and providing for an effective date.

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

**Section 1.** W.S. 40-27-101(a)(intro), (i), (ii)(A), (B), (b)(intro), (ii), by creating a new subsection (c), by amending and renumbering (c) as (d), by amending and renumbering (d) and (f) as (f) and (g) and by creating a new subsection (h) is amended to read:

**40-27-101. Trespass to unlawfully collect resource data; unlawful collection of resource data.**

(a) A person commits a civil trespass to unlawfully collect resource data from private land if he:

(i) Enters onto ~~open~~private land for the purpose of collecting resource data; and

(ii) Does not have:

(A) An ownership interest in the real property or statutory, contractual or other legal authorization to enter ~~or access~~ the private land to collect the specified resource data; or

(B) Written or verbal permission of the owner, lessee or agent of the owner to enter ~~or access~~ the private land to collect the specified resource data.

ENROLLED ACT NO. 52, SENATE

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2016 BUDGET SESSION

(b) A person commits a civil trespass of unlawfully collecting resource data if he enters onto private ~~open~~ land and collects resource data from private land without:

(ii) Written or verbal permission of the owner, lessee or agent of the owner to enter the private land to collect the specified resource data.

(c) A person commits a civil trespass to access adjacent or proximate land if he:

(i) Crosses private land to access adjacent or proximate land where he collects resource data; and

(ii) Does not have:

(A) An ownership interest in the real property or, statutory, contractual or other legal authorization to cross the private land; or

(B) Written or verbal permission of the owner, lessee or agent of the owner to cross the private land.

~~(e)~~ (d) A person who trespasses to unlawfully collect resource data, ~~or~~ a person who unlawfully collects resource data or a person who trespasses to access adjacent or proximate land under this section shall be liable in a civil action by the owner or lessee of the land for all consequential and economic damages proximately caused by the trespass. In a civil action brought under this section, in addition to damages, a successful claimant shall be awarded litigation costs. For purposes of this subsection, "litigation costs" shall include, but is not limited to, court costs, expert witness fees, other witness fees, costs associated with depositions and discovery, reasonable attorney fees and the reasonably necessary costs of identifying the trespasser, of obtaining effective

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2016 BUDGET SESSION

service of process on the trespasser and of successfully effecting the collection of any judgment against the trespasser.

~~(d)~~ (f) Resource data unlawfully collected on private land under this section is not admissible in evidence in any civil, criminal or administrative proceeding, other than a civil action for trespassing under this section or a criminal prosecution for trespassing under W.S. 6-3-414.

~~(f)~~ (g) Resource data unlawfully collected on private land under this section in the possession of any governmental entity as defined by W.S. 1-39-103(a)(i) shall be expunged by the entity from all files and data bases, and it shall not be considered in determining any agency action.

(h) As used in this section:

(i) "Collect" means to take a sample of material, acquire, gather, photograph or otherwise preserve information in any form and the recording of a legal description or geographical coordinates of the location of the collection;

(ii) "Peace officer" means as defined by W.S. 7-2-101;

(iii) "Resource data" means data relating to land or land use, including but not limited to data regarding agriculture, minerals, geology, history, cultural artifacts, archeology, air, water, soil, conservation, habitat, vegetation or animal species. "Resource data" does not include data:

(A) For surveying to determine property boundaries or the location of survey monuments;

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(B) Used by a state or local governmental entity to assess property values;

(C) Collected or intended to be collected by a peace officer while engaged in the lawful performance of his official duties.

**Section 2.** W.S. 40-27-101(e) is repealed.

**Section 3.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk