

HOUSE BILL NO. HB0135

General regulatory sandbox program.

Sponsored by: Representative(s) Andrew, Duncan, Heiner,
Henderson, Olsen and Sherwood and Senator(s)
Boner, Driskill and Rothfuss

A BILL

for

1 AN ACT relating to economic development; creating the
2 general regulatory sandbox program; authorizing limited
3 waivers of statutes and rules under specified conditions;
4 establishing standards and procedures for sandbox
5 applications, operations and supervision; specifying
6 standards for the suspension and revocation of sandbox
7 authorization; providing definitions; requiring rulemaking;
8 requiring reporting; and providing for effective dates.

9

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

11

12 **Section 1.** W.S. 9-12-1601 through 9-12-1612 are
13 created to read:

14

15

ARTICLE 16

1 GENERAL REGULATORY SANDBOX PROGRAM

2

3 **9-12-1601. Title.**

4

5 This article is known and may be cited as the "General
6 Regulatory Sandbox Program."

7

8 **9-12-1602. Definitions.**

9

10 (a) As used in this article:

11

12 (i) "Applicable agency" means a department or
13 agency of the state that by law regulates a business
14 activity and persons engaged in the business activity,
15 including the issuance of licenses or other types of
16 authorization, which the council determines has regulatory
17 authority over a sandbox participant;

18

19 (ii) "Applicant" means a person who applies to
20 participate in the general regulatory sandbox program;

21

22 (iii) "Consumer" means a person who purchases or
23 otherwise enters into a transaction or agreement to receive

1 an offering pursuant to a demonstration by a regulatory
2 sandbox participant;

3

4 (iv) "Demonstration" or "demonstrate" means to
5 provide an offering in accordance with this article;

6

7 (v) "Offering" means a product, production
8 method or service;

9

10 (vi) "Product" means a commercially distributed
11 good that is:

12

13 (A) Tangible personal property;

14

15 (B) The result of a production process; and

16

17 (C) Passed through the distribution channel
18 before consumption.

19

20 (vii) "Production" means one (1) or more methods
21 of obtaining goods, including growing, raising, mining,
22 fabricating, harvesting, fishing, farming, trapping,

1 hunting, capturing, gathering, collecting, breeding,
2 extracting, manufacturing, processing or assembling a good;

3

4 (viii) "Regulatory sandbox" means the general
5 regulatory sandbox program created by this article, which
6 allows a person to temporarily demonstrate an offering
7 without the enforcement of a law or regulation;

8

9 (ix) "Sandbox participant" means a person whose
10 application to participate in the regulatory sandbox is
11 approved in accordance with this article;

12

13 (x) "Service" means any commercial activity,
14 duty or labor performed for another person.

15

16 **9-12-1603. Duties of the council.**

17

18 (a) With respect to this article the council shall:

19

20 (i) Coordinate council policy and management
21 with state and federal agencies and local government
22 entities;

23

1 (ii) Act as a liaison between private businesses
2 and their applicable state regulatory bodies to identify
3 for temporary suspension laws or regulations that may
4 impair the business' ability to adapt to changing market
5 circumstances or to innovate in ways not contemplated or
6 allowed by the law or regulation;

7

8 (iii) Create a framework to analyze the risk
9 level of consumer activities with respect to a
10 demonstration and the appropriate response of laws to
11 protect the health, safety and financial wellbeing of
12 consumers;

13

14 (iv) Formulate a proposal for potential
15 reciprocity agreements between states that have or wish to
16 use similar regulatory sandbox programs as set forth in
17 this article; and

18

19 (v) Promulgate rules to administer this article.

20

21 **9-12-1604. Program created; Administration;**
22 **Application requirements.**

23

1 (a) There is created the general regulatory sandbox
2 program to be administered by the council.

3

4 (b) In administering the regulatory sandbox, the
5 council:

6

7 (i) Shall establish a program to enable a person
8 to obtain legal protections and limited access to the
9 Wyoming market to demonstrate an offering without obtaining
10 a license or other authorization that would otherwise be
11 required;

12

13 (ii) To the extent not inconsistent with this
14 article, may enter into agreements with or adopt the best
15 practices of corresponding federal regulatory agencies or
16 other states that are administering programs that waive or
17 suspend statutory or regulatory requirements as a means of
18 promoting business development;

19

20 (iii) May consult with Wyoming businesses about
21 existing or potential proposals for the regulatory sandbox;

22

23 (iv) Shall consult with each applicable agency;

1

2 (v) Shall not approve any application that would
3 waive any law or regulation in violation of federal law, or
4 that would jeopardize any national accreditation or other
5 national standard for any state agency.

6

7 (c) An applicant for the regulatory sandbox may
8 contact the council for a consultation regarding the
9 regulatory sandbox before submission of an application.

10

11 (d) An applicant for the regulatory sandbox shall
12 provide to the council an application in a form prescribed
13 by the council that:

14

15 (i) Confirms that the applicant is subject to
16 the jurisdiction of the state;

17

18 (ii) Confirms that the applicant has a physical
19 presence in the state, and that the demonstration will be
20 developed and performed in the state and that all required
21 records, documents and data will be maintained in the
22 state;

23

1 (iii) Contains relevant personal and contact
2 information for the applicant, including legal names,
3 addresses, telephone numbers, email addresses, website
4 addresses and other information required by the council;

5

6 (iv) Discloses criminal convictions of the
7 applicant or other participating personnel, if any;

8

9 (v) Contains a description of the offering to be
10 demonstrated, including statements regarding:

11

12 (A) How the offering is subject to
13 licensing, legal prohibition, authorization requirements or
14 other operational requirements;

15

16 (B) Each law or regulation that the
17 applicant seeks to have waived or suspended while
18 participating in the regulatory sandbox program;

19

20 (C) How the offering would benefit
21 consumers;

22

1 (D) How the offering is different from
2 other offerings available in the state;

3

4 (E) What risks might exist for consumers
5 who use or purchase the offering as part of a demonstration
6 if the offering is not subject to regulatory and legal
7 assurances;

8

9 (F) How participating in the regulatory
10 sandbox would enable a successful demonstration of the
11 offering;

12

13 (G) A description of the proposed
14 demonstration plan, including estimated time periods for
15 beginning and ending the demonstration;

16

17 (H) Recognition that the applicant will be
18 subject to all laws and regulations pertaining to the
19 applicant's offering after conclusion of the demonstration;
20 and

21

1 (J) How the applicant will end the
2 demonstration and protect consumers' interests or rights if
3 the demonstration fails.

4

5 (vi) Lists which government agency, if any,
6 regulates the applicant's business; and

7

8 (vii) Provides any other information as required
9 by the council.

10

11 (e) The council shall collect a reasonable
12 application fee from an applicant as set by rule of the
13 council.

14

15 (f) An applicant shall file a separate application
16 for each offering that the applicant wishes to demonstrate.

17

18 (g) After an application is filed, the council may
19 request additional information from the applicant that the
20 council determines is necessary to evaluate the application
21 and for the application to be considered complete.

22

1 **9-12-1605. Application reviews and reports;**
2 **consultation.**

3

4 (a) Not later than five (5) business days after the
5 day on which a complete application pursuant to W.S.
6 9-12-1604 is received by the council, the council shall:

7

8 (i) Review the application and refer the
9 application to a relevant applicable agency that regulates
10 the applicant's offering; and

11

12 (ii) Provide to the applicant:

13

14 (A) An acknowledgment of receipt of the
15 application; and

16

17 (B) The identity and contact information of
18 each applicable agency to which the application has been
19 referred for review.

20

21 (b) Not later than twenty-five (25) business days
22 after the day on which an applicable agency receives a
23 complete application for review, the applicable agency

1 shall deliver a written report to the council of its
2 findings. The report shall:

3

4 (i) Describe any identifiable and likely harm to
5 the health, safety or financial wellbeing of Wyoming
6 consumers that the law or regulation subject to waiver
7 protects against; and

8

9 (ii) Make a recommendation to the council that
10 the applicant either be admitted or denied entrance into
11 the regulatory sandbox.

12

13 (c) The applicable agency may provide notice to the
14 council of an extension of five (5) business days to
15 deliver the report required by subsection (b) of this
16 section, which shall be automatically granted. Only one (1)
17 extension shall be permitted per application.

18

19 (d) If the applicable agency recommends an applicant
20 under this section be denied entrance into the regulatory
21 sandbox, the applicable agency shall provide to the council
22 a written description of the reasons for the denial
23 recommendation and why a temporary suspension of specified

1 laws or regulations would harm consumers. The description
2 shall include:

3

4 (i) The type of potential harm consumers could
5 face as a result of temporary suspension of laws and
6 regulations and its severity;

7

8 (ii) The probability of the potential harm
9 occurring; and

10

11 (iii) The permanence of the potential harm.

12

13 (e) If the agency believes that a consumer's health,
14 safety and financial wellbeing can be protected through
15 less restrictive means than a waiver of the existing law or
16 regulation, then the applicable agency shall articulate how
17 that can be achieved.

18

19 (f) The council shall consider an applicable agency's
20 failure to deliver the report required under subsection (b)
21 of this section within the required time as a lack of
22 objection to the temporary suspension of the applicable law
23 or regulation under this article.

1

2 (g) The council shall consult with each applicable
3 agency before recommending to the state loan and investment
4 board that an applicant be admitted into the regulatory
5 sandbox.

6

7 (h) The consultation with an applicable agency may
8 include seeking information about whether:

9

10 (i) The applicable agency has previously issued
11 a license or other authorization to the applicant;

12

13 (ii) The applicable agency has previously
14 investigated, sanctioned or pursued legal action against
15 the applicant;

16

17 (iii) Whether certain laws or regulations should
18 not be suspended even if the applicant is accepted into the
19 regulatory sandbox.

20

21 (j) In reviewing an application, the council and
22 applicable agency shall consider whether a competitor to
23 the applicant is or has been a sandbox participant and, if

1 so, weigh that as a factor in favor of allowing the
2 applicant to also become a sandbox participant.

3

4 (k) In reviewing whether an application will be
5 approved, and in consultation with the applicant, the
6 council shall consider whether:

7

8 (i) An applicant's plan adequately protects
9 consumers from potential harm; and

10

11 (ii) The benefits to consumers of not suspending
12 the law or regulation outweigh the offering's potential
13 benefits to consumers.

14

15 (m) The council may deny any application if the
16 council determines that the preponderance of the evidence
17 demonstrates that suspending enforcement of a law or
18 regulation would cause a significant risk of harm to
19 consumers or residents of the state.

20

21 (n) If the council approves an application it shall
22 submit it to the state loan and investment board for final
23 approval. The state loan and investment board shall

1 consider all of the factors specified in this article, and
2 any other factors it finds relevant, in the same manner as
3 the council in determining whether to approve or deny an
4 application.

5

6 (o) If the state loan and investment board denies an
7 application, not later than ten (10) days following the
8 denial the state loan and investment board shall provide to
9 the applicant a written description of the reasons for the
10 denial as a sandbox participant.

11

12 (p) An applicant becomes a sandbox participant if the
13 state loan and investment board approves the applicant's
14 application for the regulatory sandbox.

15

16 **9-12-1606. Availability of regulatory sandbox.**

17

18 (a) The regulatory sandbox authorized in this article
19 shall not apply to any financial product or service as
20 defined in W.S. 40-29-102(a)(iv) or any innovative medical
21 digital assessment product or service under title 40,
22 Chapter 28 of the Wyoming statutes.

23

1 (b) A government agency that issues any cease and
2 desist letter, citation or other punitive action regarding
3 commercial activity shall provide the person involved in
4 the commercial activity with information for contacting the
5 council to request a suspension through the regulatory
6 sandbox program. The agency shall also notify the council
7 of the cease and desist letter, citation or other punitive
8 action.

9

10 **9-12-1607. Scope of the regulatory sandbox.**

11

12 (a) If the state loan and investment board approves
13 an application under W.S. 9-12-1604 and 9-12-1605:

14

15 (i) The council shall provide to the sandbox
16 participant the description in the report prepared in
17 accordance with W.S. 9-12-1605(b)(i);

18

19 (ii) The state loan and investment board shall
20 articulate specific laws and regulations to which the
21 sandbox participant will not be subject during the
22 demonstration; and

23

1 (iii) The sandbox participant has twelve (12)
2 months after the day on which the application is approved
3 to demonstrate the offering described in the sandbox
4 participant's application.

5

6 (b) An offering that is demonstrated within the
7 regulatory sandbox is subject to the following:

8

9 (i) Target consumers shall be residents of the
10 state;

11

12 (ii) Within the past ten (10) years, a
13 participant shall not have been convicted, entered a plea
14 of nolo contendere or entered a plea of guilty or nolo
15 contendere held in abeyance, for any crime involving
16 significant theft, fraud or dishonesty, or that bears a
17 significant relationship to the applicant or participant's
18 ability to safely and competently participate in the
19 regulatory sandbox; and

20

21 (iii) No law shall be suspended that would
22 prevent a consumer from seeking restitution in the event
23 the consumer has been harmed.

1

2 (c) This article shall not restrict a sandbox
3 participant who holds a license or other authorization in
4 another jurisdiction from acting in accordance with that
5 license or other authorization.

6

7 (d) During a sandbox participant's term under
8 paragraph (a)(iii) of this section, a sandbox participant
9 is deemed to possess an appropriate license or other
10 authorization under the laws of the state for the purposes
11 of any provision of federal law requiring state licensure
12 or authorization by the state.

13

14 (e) Except as otherwise provided in subsections (h)
15 and (j) of this section, a sandbox participant is not
16 subject to enforcement of state laws or regulations
17 identified in paragraph (a)(ii) of this section.

18

19 (f) A prosecutor shall not file or pursue charges
20 pertaining to a violation of a law or regulation identified
21 in paragraph (a)(ii) of this section against an applicant
22 that occurred during the demonstration period.

23

1 (g) A state agency shall not file or pursue any
2 punitive action or enforcement action, including a fine or
3 license suspension or revocation, pertaining to a violation
4 of a law or regulation identified in paragraph (a)(ii) of
5 this section against an applicant that occurred during the
6 demonstration period.

7

8 (h) If the council determines that certain state laws
9 or rules that regulate an offering apply to a sandbox
10 participant, the council shall notify the sandbox
11 participant of the specific laws or rules that apply to the
12 sandbox participant.

13

14 (j) Notwithstanding any other provision of this
15 section, a sandbox participant shall not have immunity
16 related to any criminal offense committed during the
17 sandbox participant's demonstration.

18

19 (k) By written notice, the council may end a sandbox
20 participant's participation in the regulatory sandbox at
21 any time and for any reason, including if the council
22 determines a sandbox participant is not operating in good
23 faith to bring an offering to market.

1

2 (m) The council and the state loan and investment
3 board are not liable for any business losses or the
4 recouping of application expenses or other expenses related
5 to the sandbox, including for:

6

7 (i) Denying an applicant's application to
8 participate in the regulatory sandbox for any reason; or

9

10 (ii) Ending a sandbox participant's
11 participation in the regulatory sandbox at any time and for
12 any reason.

13

14 **9-12-1608. Consumer protection for regulatory**
15 **sandbox.**

16

17 (a) Before demonstrating to a consumer an offering
18 that is protected by a regulatory sandbox, a sandbox
19 participant shall disclose the following to the consumer:

20

21 (i) The name and contact information of the
22 sandbox participant;

23

1 (ii) That the offering is authorized pursuant to
2 the regulatory sandbox and, if applicable, that the sandbox
3 participant does not have a license or other authorization
4 to provide an offering under state laws that regulate
5 offerings outside the regulatory sandbox;

6

7 (iii) That the offering is undergoing testing
8 and may not function as intended and may expose the
9 customer to certain risks as identified by the applicable
10 agency's review;

11

12 (iv) That the provider of the offering is not
13 immune from potential civil liability caused by the
14 offering;

15

16 (v) That the provider of the offering is not
17 immune from criminal prosecution for violations of Wyoming
18 law or regulations not suspended pursuant to the
19 demonstration;

20

21 (vi) That the state does not endorse or
22 recommend the offering;

23

1 (vii) That the offering is a temporary
2 demonstration that may be discontinued at the end of the
3 demonstration period;

4

5 (viii) The expected end date of the
6 demonstration period; and

7

8 (ix) That a consumer may contact the council to
9 file a complaint regarding the offering being demonstrated.
10 The disclosure shall provide the council's telephone number
11 and website address where a complaint may be filed.

12

13 (b) The disclosures required by subsection (a) of
14 this section shall be provided to a consumer in a clear and
15 conspicuous form and a consumer shall acknowledge receipt
16 of the disclosure before a transaction may be completed.

17

18 (c) The council may, in its grant of an application,
19 require that a sandbox participant make additional
20 disclosures to a consumer.

21

22 (d) The council shall make reasonable efforts to
23 notify a sandbox participant's competitors when a law is

1 suspended under this article so that another company
2 subject to the law may also submit an application to the
3 council to participate in the regulatory sandbox.

4

5 (e) If the council determines that a sandbox
6 participant has engaged in, is engaging in or is about to
7 engage in any practice or transaction that is in violation
8 of this article or that constitutes a violation of a law
9 for which suspension has not been granted, the council may
10 remove a sandbox participant from the regulatory sandbox.

11

12 **9-12-1609. Requirements for exiting regulatory**
13 **sandbox.**

14

15 (a) Not less than thirty (30) days before the end of
16 the twelve (12) month regulatory sandbox demonstration
17 period, a sandbox participant shall notify the council that
18 the sandbox participant will exit the regulatory sandbox
19 and discontinue the sandbox participant's demonstration
20 after the day on which the twelve (12) month demonstration
21 period ends or seek an extension in accordance with W.S.
22 9-12-1610.

23

1 (b) Subject to subsection (c) of this section, if the
2 council does not receive notification as required by
3 subsection (a) of this section, the regulatory sandbox
4 demonstration period shall end at the conclusion of the
5 twelve (12) month demonstration period.

6

7 (c) If a demonstration includes an offering that
8 requires ongoing duties, such as servicing the offering,
9 the sandbox participant may continue to do so but will be
10 subject to enforcement of the laws or regulations that were
11 suspended as part of the regulatory sandbox.

12

13 **9-12-1610. Extensions.**

14

15 (a) Not less than thirty (30) days before the end of
16 the twelve (12) month regulatory sandbox demonstration
17 period, a sandbox participant may request an extension of
18 the regulatory sandbox demonstration period.

19

20 (b) The council shall grant or deny a request for an
21 extension before the end of the twelve (12) month
22 regulatory sandbox demonstration period.

23

1 (c) The council may grant an extension under this
2 section for not more than twelve (12) months after the end
3 of the initial regulatory sandbox demonstration period.

4

5 **9-12-1611. Record keeping and reporting requirements.**

6

7 (a) A sandbox participant shall retain records,
8 documents and data produced in the ordinary course of
9 business regarding an offering demonstrated in the
10 regulatory sandbox.

11

12 (b) If a sandbox participant ceases to provide an
13 offering before the end of a demonstration period, the
14 sandbox participant shall notify the applicable agency and
15 report on actions taken by the sandbox participant to
16 ensure consumers have not been harmed as a result.

17

18 (c) A sandbox participant shall provide the council
19 with a written report every three (3) months during the
20 demonstration period that provides an update on the status
21 of the demonstration.

22

1 (d) A sandbox participant shall immediately notify
2 the applicable agency and the council of any incidents that
3 result in harm to the health, safety or financial wellbeing
4 of a Wyoming consumer that the relevant law protects
5 against as set forth in the report required under W.S.
6 9-12-1605(b)(i).

7

8 (e) If the sandbox participant fails to notify the
9 applicable agency and the council of any incidents as
10 required under subsection (d) of this section, or the
11 applicable agency has evidence that significant and
12 irreparable harm has occurred to a consumer, the
13 participant shall be removed from the regulatory sandbox
14 immediately.

15

16 (f) Not less than thirty (30) days after a sandbox
17 participant exits the regulatory sandbox, the participant
18 shall submit a report of termination of the participant's
19 demonstration to the council and the applicable agency. The
20 report shall include any incident of an offering of the
21 participant's that harmed any consumer.

22

1 (g) Not less than thirty (30) days after the
2 submission of the report under subsection (f) of this
3 section, the applicable agency shall provide the council
4 with a report on the demonstration and describe any
5 regulatory or legislative reform the applicable agency
6 believes should be made as a result of the demonstration.

7

8 **9-12-1612. Annual report.**

9

10 (a) Not later than October 1, 2023, and every October
11 1 thereafter, the council shall provide a written report to
12 the joint minerals, business and economic development
13 interim committee concerning the activities of the council
14 under this article, including:

15

16 (i) Information regarding each sandbox
17 participant;

18

19 (ii) Recommendations regarding the effectiveness
20 of the regulatory sandbox;

21

22 (iii) Any proactive assessment of existing laws
23 that the council believes are excessive or unwarranted in

1 light of their risk level pursuant to the framework
2 analysis in W.S. 9-12-1603(a)(iv) and the report received
3 pursuant to W.S. 9-12-1611(f);

4

5 (iv) A status update of the participants
6 currently in the regulatory sandbox and which industries
7 the participants represent;

8

9 (v) Anticipated or actual cost savings that
10 companies experienced through participation in the
11 regulatory sandbox; and

12

13 (vi) Other benefits to consumers and the Wyoming
14 economy.

15

16 **Section 2.** W.S. 9-12-102(a)(intro) and (viii),
17 9-12-105(a) by creating a new paragraph (x) and 16-4-203(d)
18 by creating a new paragraph (xxi) are amended to read:

19

20 **9-12-102. Definitions.**

21

22 (a) As used in this act, the following terms have the
23 following meanings, except where the context clearly

1 indicates otherwise or where the term is otherwise defined
2 in this act:

3

4 (viii) "This act" means W.S. 9-12-101 through
5 ~~9-12-1509~~ 9-12-1612.

6

7 **9-12-105. Economic development services.**

8

9 (a) It shall be the duty of the council to encourage,
10 stimulate and support the development and expansion of the
11 economy of the state. The council is charged with the
12 following duties and responsibilities:

13

14 (x) To administer the general regulatory sandbox
15 program established in article 16 of this chapter.

16

17 **16-4-203. Right of inspection; grounds for denial;**
18 **access of news media; order permitting or restricting**
19 **disclosure; exceptions.**

20

21 (d) The custodian shall deny the right of inspection
22 of the following records, unless otherwise provided by law:

23

