

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Federal lands-fencing.

Sponsored by: Joint Agriculture, State and Public Lands &
Water Resources Interim Committee

A BILL

for

1 AN ACT relating to fences; requiring federal lands to be
2 treated in the same manner as private lands under specified
3 statutes; and providing for an effective date.

4

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

6

7 **Section 1.** W.S. 11-28-109 is created to read:

8

9 To the extent permitted by federal law, W.S. 11-28-103, 11-
10 28-106(a) and 11-28-108 shall apply with respect to lands
11 owned or administered by or under the jurisdiction of the

1 United States in the same manner as those provisions would
2 apply if the lands were privately owned.

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5 STAFF COMMENT

6
7 As this bill draft would apply to W.S. 11-28-103, 11-28-
8 106(a), and 11-28-108, these statutes are included below
9 for the Committee's reference.

10
11 11-28-103. Constructing of unlawful wire fence;
12 liability and penalty; reconstruction required; penalty for
13 failure.

14
15 (a) Any person who constructs or maintains any
16 unlawful wire fence contrary to this chapter, is liable in
17 a civil action for all damages to animals that may occur by
18 reason of the unlawful enclosure. The owner of any unlawful
19 wire fence is guilty of a misdemeanor and shall be fined
20 not less than five dollars (\$5.00) nor more than twenty-
21 five dollars (\$25.00), and for each subsequent offense the
22 fine shall not be less than twenty-five dollars (\$25.00)
23 nor more than one hundred dollars (\$100.00).

24
25 (b) The owner of any unlawful wire fence shall,
26 within thirty (30) days after conviction, reconstruct the
27 wire fence into a lawful wire fence. If he fails or refuses
28 to do so, the owner is guilty of a separate offense and on
29 conviction thereof, shall be punished as provided in
30 subsection (a) of this section. Each period of thirty (30)
31 days thereafter that the owner refuses or neglects to
32 reconstruct the unlawful fence is a separate offense and
33 the owner is subject to like punishment.

34
35 11-28-106. Construction and maintenance of partition
36 fences; fencing of state lands.

37
38 (a) Except as otherwise provided, the owner of any
39 lawful fence which is or becomes a partition fence
40 separating the owner's land from that belonging to some
41 other person may require the person to pay for one-half
42 (1/2) of what it would or does actually cost to construct
43 the partition fence. In case of refusal, the owner may

1 maintain a civil action against the person refusing and is
2 entitled to recover one-half (1/2) of what it would or did
3 actually cost to construct that portion of the partition
4 fence used by the person and costs of suit. The joint users
5 of a partition fence shall contribute to the cost of
6 maintenance in proportion to their respective interests and
7 if either refuses to pay his share of the cost of
8 maintenance, the other may recover maintenance costs in the
9 manner provided for recovering the cost of construction.

10
11 11-28-108. Liability for breach into lawful enclosure
12 by animal; civil action or arbitration.

13
14 (a) Any person owning or having in his possession or
15 charge any livestock or domesticated buffalo which breaches
16 into any lawful enclosure belonging to someone other than
17 the owner of the animal, is liable to the party sustaining
18 the injury for all damages sustained by reason of such
19 breaching. Damages may be recovered in a civil action
20 before any court having jurisdiction, or by arbitration,
21 each party to select a property holder and the two (2)
22 arbitrators to select a third. The arbitrators shall be
23 sworn before a judge of a circuit court before entering
24 upon their duties. The arbitrators shall carefully examine
25 the fence and assess the damage done, examine witnesses
26 under oath, one (1) of them to administer the oath to the
27 witnesses, and make a written report signed by at least two
28 (2) of the arbitrators, to the circuit court in the county
29 in which the damage is sustained. The finding of the
30 arbitration, as provided for in this section, shall within
31 three (3) days after rendered, be filed with a judge of a
32 circuit court in the county where the trespass was
33 committed, who shall enter the cost upon his docket and
34 proceed to issue execution therein as in other cases
35 originally commenced before him.

36
37 (b) The party sustaining the damage shall notify the
38 owner or person having in charge the offending animals, of
39 the damage and the probable amount if he knows to whom the
40 animals belong and if the owner or keeper resides within
41 the county where the damage was committed.

42
43 (c) The person suffering damage may restrain and
44 keep in custody as many of the offending animals as are
45 equal in value to the damage done, until the finding of the

1 court or arbitration is ascertained, unless before suit the
2 amount of his claim and expense of keeping the animals is
3 tendered to him.
4

5 (d) If, upon trial of any action under subsection (a)
6 of this section, it appears the plaintiff's enclosure is a
7 lawful fence, he shall be allowed to prove the amount of
8 damage sustained and if he has retained in custody the
9 animals committing the damage, the amount of expense
10 incurred for keeping the animals. Any judgment rendered for
11 damages, costs and expenses against the defendant shall be
12 a lien upon the animals committing the damage. If it
13 appears upon trial that the plaintiff's enclosure is not a
14 lawful fence or that no damage was sustained, judgment
15 shall be rendered against the plaintiff for costs of suit
16 and damages sustained by defendant.
17

18 (e) If upon trial it appears the defendant is not the
19 owner or person in charge of the offending animals, he
20 shall be discharged from the action with his costs, and the
21 suit may proceed against a defendant whose name is unknown.
22 If, at the commencement of the action, the plaintiff does
23 not know the name of the owner or keeper of the offending
24 animals, he may bring suit against a defendant unknown.
25

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27

28 Section 2. This act is effective July 1, 2027.
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30 (END)