

**WORKING DRAFT**

HOUSE BILL NO. \_\_\_\_\_

Hunting and fishing residency requirements.

Sponsored by: Joint Travel, Recreation, Wildlife and Cultural Resources Interim Committee

A BILL

For

1 AN ACT relating to game and fish; modifying and clarifying  
2 residency requirements for purposes of purchasing hunting  
3 and fishing licenses, permits and tags; and providing for  
4 an effective date.

5

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

7

**\*\*\* STAFF COMMENTS \*\*\***

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**This bill has been proposed by the Game and Fish Department in an attempt to clarify and simplify existing law, which has been found by some prosecutors and judges to be vague and contradictory.**

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**This working draft has been prepared to show the changes made to the existing law. Because it was very confusing to amend the existing section, in the formal draft of the bill the section will be repealed and recreated entirely. In order for the committee to follow the changes, this draft indicates the origin of each "newly created" provision and all changes to the closest corresponding existing provision through the usual strike and underline format.**

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1 Overall, the section has been nearly completely  
2 reorganized, with the substantive requirements  
3 for residency removed from the definitional  
4 provision of existing law and placed in the  
5 substantive section. The reorganization is  
6 intended to address like issues in the same  
7 subsection, i.e., establishing residency, losing  
8 it, special provisions for the military, etc.  
9 Under current law different issues are interwoven  
10 in the same subsections.

11  
12 The definition of "domicile" (upon which  
13 residency is dependent) is expounded upon in the  
14 definition section; including a listing of the  
15 factors used to determine domicile.

16  
17 The same change is often made throughout the  
18 revised statute for consistency. Those changes  
19 are noted only once.  
20

21 Section 1. W.S. 23-1-107 is repealed and recreated to  
22 read:

23  
24 23-1-107. Residency for obtaining game and fish  
25 licenses.

26  
27 (a) Except as otherwise provided in this section, to  
28 qualify for ~~a~~any resident game and fish license, permit or  
29 tag issued under this act, a person shall be domiciled ~~and~~  
30 ~~shall physically reside~~ in Wyoming for not less than one  
31 (1) full year immediately preceding the date the person  
32 applies for the license, and shall not have

1 claimed residency in any other state, territory or country  
2 for any purpose during that one (1) year period.

3 **\*\*\* STAFF COMMENTS \*\*\***

4 **Primarily from subsection (a). Nearly all**  
5 **clarification. The last underlined phrase is**  
6 **from the current definition of resident in W.S.**  
7 **23-1-102(a) (ix).**  
8

9 (b) ~~For purposes of this act~~ Each person applying for  
10 a license,  permit or tag under this act shall establish his  
11 own residency status independently or as provided in this  
12 subsection or subsection (g) of this section. A minor  
13 dependent shall ~~establish residency in Wyoming by being~~  
14 ~~domiciled in Wyoming and not having claimed residency~~  
15 ~~elsewhere for any purpose~~ qualify as a resident if the  
16 minor has not claimed residency for obtaining a resident  
17 hunting, fishing or trapping license in any other state,  
18 territory or country for one (1) full year immediately  
19 preceding the date of application for any Wyoming resident  
20 license, permit or tag and:  
21

22 (i) His custodial parent qualifies as a resident  
23 under this act; or  
24

25 (ii) His noncustodial parent qualifies as a  
26 resident under this ~~section~~ act and the minor is or will be

1 residing in this state with the noncustodial parent during  
2 any portion of the calendar year in which the license,  
3 permit or stamp is to be used.

4  
5 ~~(iii) A minor dependent is domiciled in the~~  
6 ~~state of the parent who had custody of the minor. If both~~  
7 ~~parents share custody under a court order, the minor~~  
8 ~~dependent is domiciled in the state of the parent with whom~~  
9 ~~the minor lives the majority of the year.~~

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11 **\*\*\* STAFF COMMENTS \*\*\***

12 The residency of minors has not been a major  
13 issue according to the Game and Fish; but there  
14 have been instances of minors claiming residency  
15 for hunting and fishing purposes in multiple  
16 states. The Game and Fish believes restricting  
17 claims of residency to one state for hunting and  
18 fishing purposes is appropriate for minors. As  
19 now written, subject to that requirement, the  
20 provision allows a minor to qualify if his  
21 custodial parent is a resident or if he will be  
22 spending any portion of the year in which the  
23 license is valid with a noncustodial parent who  
24 qualifies as a resident. The restriction on  
25 minors claiming residency elsewhere, comes from  
26 subsection (m), with the addition of the one year  
27 requirement specified here.  
28

29 (c) A person shall lose his residency in Wyoming if  
30 he moves to another state, territory or country ~~with the~~  
31 ~~intent of making~~ and makes it his ~~residence~~ domicile, or  
32 makes any claim of residency for any purpose to that state,

1 territory or country. Provided he does not claim residency  
2 ~~elsewhere~~ in any other state, territory or country for any  
3 purpose, a person shall not gain or lose residency in  
4 Wyoming merely by reason of his presence in or absence from  
5 the state while:

6  
7 (i) Temporarily employed in the service of the  
8 United States ~~or Wyoming~~; or

9  
10 ~~(ii) A student at an institution of learning;~~

11  
12 (ii) A patient at a hospital or institution.

13 **\*\*\* STAFF COMMENTS \*\*\***

14 The first sentence is from current subsection  
15 (g). The second from the current (f). The  
16 student issue is now addressed totally in  
17 subsection (e). "Elsewhere" is changed to "any  
18 other state, territory or country" throughout.  
19 While the term "elsewhere" is broader and  
20 shorter, the longer phrase was more precise and  
21 the use of "elsewhere" was awkward in certain  
22 provisions.  
23

24 (d) A person shall lose his residency in Wyoming if  
25 he resides in any other state, territory or country for an  
26 aggregate of one hundred eighty (180) days or more in a  
27 calendar year, unless he qualifies as a resident under  
28 subsections (b), (c), (e) or (f) of this section. A person  
29 who ~~spends time or~~ resides in any other state, territory or

1 country other than Wyoming ~~on a temporary basis for~~  
2 ~~purposes including, but not limited to, pleasure or~~  
3 ~~retirement,~~ for less than an aggregate of one hundred  
4 eighty (180) days in a calendar year, may ~~establish~~  
5 maintain residency in Wyoming under this act only if he  
6 qualifies as a resident under subsections (b), (c), (e) or  
7 (f) of this section or if ~~all the following requirements~~  
8 ~~are met:~~

9 **\*\*\* STAFF COMMENTS \*\*\***

10 **From subsection (c). There seemed to be no**  
11 **reason to include a non-exhaustive listing of**  
12 **reasons for absence. The 180 day provision is**  
13 **new in both the first and second sentences and is**  
14 **a major change. The remainder is clarification.**  
15

16 (i) The person had originally established  
17 residency by being domiciled for one (1) full year in  
18 Wyoming prior to leaving the state for a temporary purpose;  
19

20 (ii) The person's domicile or established, fixed  
21 and permanent home consists of real property situated in  
22 Wyoming. A mailing address is not sufficient evidence of  
23 domicile or a permanent home. Mere ownership of real  
24 property is not sufficient evidence to establish  
25 domiciliary intent;  
26



1 (i) The person ~~pays nonresident or~~  
2 ~~nondifferential tuition fees~~ does not pay resident tuition  
3 fees; and

4  
5 (ii) The person continues to maintain Wyoming  
6 residency for all other purposes and does not claim  
7 residency ~~elsewhere~~ in any other state, territory or  
8 country for any purpose. ~~except as a privilege that might~~  
9 ~~be provided or required by the law of that state, territory~~  
10 ~~or country.~~

11 \*\*\* STAFF COMMENTS \*\*\*

12 This exception language appeared both for  
13 students and military and was deleted in both  
14 instances. The thinking is that if another state  
15 somehow "automatically confers" residency on a  
16 person, that is not the same as a person claiming  
17 residency elsewhere and that will be the  
18 department's interpretation of the new law.  
19  
20

21 ~~(f) any active duty member, the spouse or minor child~~  
22 ~~of~~ Any active duty member of the armed forces of the United  
23 States who has been stationed in Wyoming for ninety (90)  
24 days shall qualify as a resident under this section, so  
25 long as the member remains stationed in Wyoming. Any person  
26 serving in active military duty ~~including his dependents in~~  
27 any other state, territory or country, may maintain  
28 resident status if: ~~all the following requirements are met:~~



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(i) The person is ~~on active military duty and is~~  
not a civilian employee of the military;

(ii) The person makes no claim of residency  
~~elsewhere except as a privilege that might be provided or~~  
~~required by the law of the state, territory or country~~  
~~where the person is serving~~ in any other state, territory  
or country for any purpose; and

(iii) The person was a resident of Wyoming when  
he entered the military service and Wyoming remains his  
declared home of record or the person:

(A) Makes no current claim of residency in  
any other state, territory or country for any purpose;

(B) Has established his home of record in  
Wyoming; and

(C) Has maintained his voter registration in  
Wyoming.

**\*\*\* STAFF COMMENTS \*\*\***

**From subsection (e) and from the definition of  
resident in 23-1-102(a)(ix). The subsection**

1 first consolidates the military residency  
2 provisions for the person serving. As long as  
3 the person remains in Wyoming residency is  
4 established after 90 days. But the person would  
5 not now qualify for continued residency if  
6 transferred elsewhere unless the requirements of  
7 all provisions of paragraph (iii) are met.  
8 Spouses and minor dependents of military are now  
9 addressed in the following subsection.  
10

11 (g) The spouse and minor dependents of a person  
12 qualifying as a resident under subsection (f) of this  
13 section shall qualify as resident for the same periods  
14 unless they have made a claim of residency ~~elsewhere~~ in any  
15 other state, territory or country for any purposes during  
16 those periods.

17 \*\*\* STAFF COMMENTS \*\*\*  
18 These provisions are also from subsection (e) and  
19 the definition of resident in 23-1-102. Those  
20 provisions seemed to make the military person's  
21 dependent's and spouse's residency status  
22 dependent upon the status of the person serving;  
23 though not as clearly as the rewritten provision.  
24 For example, the definition spoke to "spouse or  
25 minor child"; the substantive provision spoke to  
26 "his dependents".  
27

28 (h) An applicant ~~meeting the requirements of~~  
29 ~~subsection (c) of this section can~~ shall provide proof of  
30 residency and swear in writing to that proof when making  
31 application for or attempting to purchase, a resident  
32 license, permit or tag under this act. License selling

1 agents and the department shall consider as documentary  
2 evidence of residency any of the following:

3

4 (i) A Wyoming driver's license, identification  
5 card issued under title 31 of the Wyoming statutes, or a  
6 copy thereof;

7

8 (ii) A Wyoming resident hunting, fishing or  
9 trapping license, excluding a lifetime hunting or fishing  
10 license, issued for the current year or for the immediately  
11 preceding year;

12

13 (iii) A copy of the applicant's school ~~or~~  
14 ~~military service~~ records or military form DD 214, which  
15 indicate Wyoming as the applicant's domicile and home of  
16 record; or

17

18 (iv) A proof of residency statement on a form  
19 provided by the department that has been completed and  
20 signed by the applicant. Any active duty member of the  
21 armed forces, his spouse or minor ~~child~~ dependent of the  
22 active duty member making application for or purchasing a  
23 resident license, permit or tag shall be required to  
24 complete and submit the proof of residency statement.

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(v) A ~~dependent child~~ minor dependent may use as proof of residency the documentary evidence of his parent or legal guardian. ~~A dependent child shall be deemed a resident only if the child does not claim residency in another state, territory or country.~~

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**\*\*\* STAFF COMMENTS \*\*\***

8       The lifetime license does not require continued  
9       residency and therefore is not valid to establish  
10       residency. The stricken requirement relating to  
11       minors was moved to subsection (b) since this  
12       provision deals with types of proof, not  
13       substantive requirements.

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(j) The commission may promulgate rules and regulations in accordance with the Wyoming Administrative Procedure Act to ensure that only bona fide Wyoming residents as defined in this act are issued resident game and fish licenses, permits and tags.

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**\*\*\* STAFF COMMENTS \*\*\***

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**From existing subsection (n).**

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**\*\*\* STAFF COMMENTS \*\*\***

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The following have been deleted as separate provisions. The substantive provisions on establishing and maintaining residency address (g). The provisions of (h) appear unclear and did not seem necessary; e.g., which "family" is the subject of the provision?

1       ~~(g) A person shall lose his residency in Wyoming if~~  
2 ~~he moves to another state, territory or country with the~~  
3 ~~intent of making it his residence, or makes any claim of~~  
4 ~~residency for any purpose to that state, territory or~~  
5 ~~country.~~

6  
7       ~~(h) The place where a person's family resides is~~  
8 ~~presumed to be his place of residence, but a person who~~  
9 ~~establishes or continues his place of abode with the intent~~  
10 ~~of remaining at a place other than where his family resides~~  
11 ~~shall be presumed a resident of the place where he actually~~  
12 ~~resides.~~

13  
14       **Section 2.** W.S. 23-1-102(a) (ix), (xv) and by creating  
15 a new paragraph (xvii) and 23-2-301 are amended to read:

16  
17       **23-1-102. General definitions.**

18  
19       (a) As used in this act:

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21               (ix) "Resident" means a United States citizen or  
22 legal alien who ~~has been a resident of Wyoming and~~  
23 ~~domiciled in Wyoming for not less than one (1) year and who~~  
24 ~~has not claimed residency elsewhere for any purpose during~~

1 ~~that one (1) year period immediately preceding the date of~~  
2 ~~application for a license, permit or certificate. Having a~~  
3 ~~Wyoming mailing address shall not alone prove Wyoming~~  
4 ~~residency. "Resident" also includes any alien who has~~  
5 ~~resided continuously in Wyoming for at least one (1) year~~  
6 ~~immediately prior to the date of making application for a~~  
7 ~~game and fish license. "Resident" also includes any active~~  
8 ~~duty member, the spouse or minor child of any active duty~~  
9 ~~member of the armed forces of the United States who has~~  
10 ~~been stationed in Wyoming for ninety (90) days so long as~~  
11 ~~the member remains stationed in Wyoming~~ meets the  
12 requirements specified in W.S. 23-1-107 and rules of the  
13 commission;

14 **\*\*\* STAFF COMMENTS \*\*\***  
15 **The substantive provisions for residency were all**  
16 **moved to W.S. 23-1-107.**

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18  
19 (xv) "Domicile" means that place where a person  
20 has his true, fixed and permanent home to which whenever  
21 the person is temporarily absent the person has the  
22 intention of returning. To prove domicile in Wyoming under  
23 this act a person shall be able to establish that he:

24  
25 (A) Physically resides in Wyoming;

26

1                    (B) Intends on making Has made his  
2 permanent home in Wyoming;

3

4                    (C) Is not residing in Wyoming for a  
5 special or temporary purpose; and

6

7                    (D) Has abandoned his domicile in all other  
8 states, territories or countries.

9

10                   ~~(j)(v) Has physically resided in Wyoming~~  
11 ~~for one (1) year immediately preceding the date of~~  
12 ~~application.~~

13

14                                    **\*\*\* STAFF COMMENTS \*\*\***  
15                    Although shown as all new language, the above is  
16                    all taken from the current (j). The one year  
17                    requirement was moved to the substantive  
18                    provision on residency, in subsection (a), with  
19                    the introductory phrase stating that there can be  
20                    exceptions to the one year requirement. (Which  
21                    there are in the current law, although it is not  
22                    so stated; e.g., one on active military duty for  
23                    90 days in Wyoming would not meet the stated  
24                    domicile requirement, but he is considered a  
25                    resident even though to be a resident one must be  
26                    domiciled in Wyoming.)

27

28                    (xvii) "Home of record" means the place recorded, on  
29 military form DD 214, as the home of the individual at the  
30 time he enlisted, was commissioned or initially ordered to

1 active duty in the military. The home of record may be  
2 changed only if there has been a break in service of one  
3 (1) full day.

4  
5 **Section 3.** W.S. 23-2-301(b) is repealed.

6  
7 **\*\*\* STAFF COMMENTS \*\*\***

8 **This statute is a fee schedule and there appears**  
9 **to be no reason to specify the proof of residency**  
10 **required for this one particular provision. The**  
11 **repealed provision is set forth below.**  
12

13 **23-2-301. Miscellaneous fees; verification of**  
14 **residency required.**

15  
16 ~~(b) At the time of application for a resident license~~  
17 ~~under this section, the applicant shall provide a valid~~  
18 ~~Wyoming driver's license or a copy thereof, or other proof~~  
19 ~~of residency. The commission shall promulgate reasonable~~  
20 ~~rules and regulations stating what proof of residency is~~  
21 ~~required so that only bona fide Wyoming residents, as~~  
22 ~~defined in W.S. 23-1-102(a)(ix), receive resident licenses.~~

23  
24 **Section 4.** This act is effective July 1, 2004.

25  
26 (END)



