

WORKING DRAFT

SENATE FILE NO. _____

Pest control compact.

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

A BILL

for

1 AN ACT relating to agriculture and animals; adopting the
2 interstate pest control compact; and providing for an
3 effective date.

4

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

6

7 **Section 1.** W.S. 11-45-101 through 11-45-107 are
8 created to read:

9

10 CHAPTER 45

11 PEST CONTROL COMPACT

12

13 **11-45-101. Compact enacted and entered into.**

14

1 The "Pest Control Compact" is enacted into law and entered
2 into with all other jurisdictions legally joining therein,
3 in the form substantially as follows:

4

5

PEST CONTROL COMPACT

6

Article I

7

Findings

8

9 The party states find that:

10

11 (a) In the absence of the higher degree of cooperation
12 among them possible under this compact, the annual loss of
13 approximately one hundred thirty seven billion dollars
14 (\$137,000,000,000.00) from the depredations of pests is
15 virtually certain to continue, if not to increase.

16

17 (b) Because of varying climatic, geographic and
18 economic factors, each state may be affected differently by
19 particular species of pests; but all states share the
20 inability to protect themselves fully against those pests
21 which present serious dangers to them.

22

23 (c) The migratory character of pest infestations makes
24 it necessary for states both adjacent to and distant from

1 one another, to complement each other's activities when
2 faced with conditions of infestation and reinfestation.

3

4 (d) While every state is seriously affected by a
5 substantial number of pests, and every state is susceptible
6 of infestation by many species of pests not now causing
7 damage to its crop and plant life and products, the fact
8 that relatively few species of pests present equal danger
9 to or are of interest to all states makes the establishment
10 and operation of an insurance fund, from which individual
11 states may obtain financial support for pest control
12 programs of benefit to them in other states and to which
13 they may contribute in accordance with their relative
14 interests, the most equitable means of financing
15 cooperative pest eradication and control programs.

16

17 Article II

18 Definitions

19

20 As used in this Compact, unless the context clearly requires
21 a different construction:

22

1 (a) "State" means a state, territory or possession of
2 the United States, the District of Columbia, and the
3 commonwealth of Puerto Rico;

4
5 (b) "Requesting state" means a state which invokes the
6 procedures of the compact to secure the undertaking or
7 intensification of measures to control or eradicate one or
8 more pests within one or more other states;

9
10 (c) "Responding state" means a state requested to
11 undertake or intensify the measures referred to in
12 subsection (b) of this Article;

13
14 (d) "Pest" means any invertebrate animal, pathogen,
15 parasitic plant or similar or allied organism which can
16 cause disease or damage in any crops, trees, shrubs, grasses
17 or other plants of substantial value;

18
19 (e) "Insurance fund" means the pest control insurance
20 fund established pursuant to this Compact;

21
22 (f) "Governing board" means the administrators of this
23 Compact representing all of the party states when such

1 administrators are acting as a body in pursuance of
2 authority vested in them by this Compact; and

3

4 (g) "Executive committee" means the committee
5 established pursuant to Article V (e) of this Compact.

6

7

Article III

8

The insurance fund

9

10 There is hereby established the "Pest Control Insurance
11 Fund" for the purpose of financing other than normal pest
12 control operations which states may be called upon to engage
13 in pursuant to this Compact. The insurance fund shall
14 contain moneys appropriated to it by the party states and
15 any donations and grants accepted by it. All
16 appropriations, except as conditioned by the rights and
17 obligations of party states expressly set forth in this
18 Compact, shall be unconditional and may not be restricted by
19 the appropriating state to use in the control of any
20 specified pest or pests. Donations and grants may be
21 conditional or unconditional, provided that the insurance
22 fund shall not accept any donation or grant whose terms are
23 inconsistent with any provisions of this Compact.

24

1

Article IV

2

The insurance fund, internal operations and management

3

4

(a) The insurance fund shall be administered by a governing board and executive committee as hereinafter provided. The actions of the governing board and executive committee pursuant to this Compact shall be deemed the actions of the insurance fund.

9

10

(b) The members of the governing board shall be entitled to one (1) vote each on such board. No action of the governing board shall be binding unless taken at a meeting at which a majority of the total number of votes on the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

17

18

(c) The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

22

23

(d) The governing board shall elect annually, from among its members, a chairman, a vice chairman, a secretary

24

1 and a treasurer. The chairman may not serve successive
2 terms. The governing board may appoint an executive
3 director and fix his duties and his compensation, if any.
4 Such executive director shall serve at the pleasure of the
5 governing board. The governing board shall make provision
6 for the bonding of such of the officers and employees of the
7 insurance fund as may be appropriate.

8

9 (e) Irrespective of the civil service, personnel or
10 other merit system laws of any of the party states, the
11 executive director, or if there be no executive director,
12 the chairman, in accordance with such procedures as the
13 bylaws may provide, shall appoint, remove or discharge such
14 personnel as may be necessary for the performance of the
15 functions of the insurance fund and shall fix the duties and
16 compensation of such personnel. The governing board in its
17 bylaws shall provide for the personnel policies and programs
18 of the insurance fund.

19

20 (f) The insurance fund may borrow, accept or contract
21 for the services of personnel from any state, the United
22 States, or any other governmental agency, or from any
23 person, firm, association, corporation or limited liability
24 company.

1

2 (g) The insurance fund may accept for any of its
3 purposes and functions under this Compact any and all
4 donations, and grants of money, equipment, supplies,
5 materials and services, conditional or otherwise, from any
6 state, the United States, or any other governmental agency,
7 or from any person, firm, association, corporation or
8 limited liability company, and may receive, utilize and
9 dispose of the same. Any donation, gift or grant accepted
10 by the governing board pursuant to this subsection or
11 services borrowed pursuant to subsection (f) of this Article
12 shall be reported in the annual report of the insurance
13 fund. Such report shall include the nature, amount and
14 conditions, if any, of the donation, gift, grant or services
15 borrowed and identity of the donor or lender.

16

17 (h) The governing board shall adopt bylaws for the
18 conduct of the business of the insurance fund and shall
19 have the power to amend and rescind these bylaws. The
20 insurance fund shall publish its bylaws in convenient form
21 and shall file a copy thereof and a copy of any amendment
22 thereto with the appropriate agency or officer in each of
23 the party states.

24

1 (j) The insurance fund annually shall make to the
2 governor and legislature of each party state a report
3 covering its activities for the preceding year. The
4 insurance fund may make such additional reports as it may
5 deem desirable.

6

7 (k) In addition to the powers and duties specifically
8 authorized and imposed, the insurance fund may do such
9 other things as are necessary and incidental to the conduct
10 of its affairs pursuant to this Compact.

11

12

Article V

13

Compact and insurance fund administration

14

15 (a) In each party state there shall be a compact
16 administrator, who shall be selected and serve in such
17 manner as the laws of his state may provide, and who shall:

18

19 (i) Assist in the coordination of activities
20 pursuant to the compact in his state; and

21

22 (ii) Represent his state on the governing board
23 of the insurance fund.

24

1 (b) If the laws of the United States specifically so
2 provide, or if administrative provision is made therefore
3 within the federal government, the United States may be
4 represented on the governing board of the insurance fund by
5 not to exceed three (3) representatives. Any such
6 representative or representatives of the United States shall
7 be appointed and serve in such manner as may be provided by
8 or pursuant to federal law, but no such representative shall
9 have a vote on the governing board or on the executive
10 committee thereof.

11

12 (c) The governing board shall meet at least once each
13 year for the purpose of determining policies and procedures
14 in the administration of the insurance fund and, consistent
15 with the provisions of the Compact, supervising and giving
16 direction to the expenditure of moneys from the insurance
17 fund. Additional meetings of the governing board shall be
18 held on call of the chairman, the executive committee, or a
19 majority of the membership of the governing board.

20

21 (d) At such times as it may be meeting, the governing
22 board shall pass upon applications for assistance from the
23 insurance fund and authorize disbursements therefrom. When
24 the governing board is not in session, the executive

1 committee thereof shall act as agent of the governing board,
2 with full authority to act for it in passing upon such
3 applications.

4

5 (e) The executive committee shall be composed of the
6 chairman of the governing board and four (4) additional
7 members of the governing board chosen by it so that there
8 shall be one (1) member representing each of four (4)
9 geographic groupings of party states. The governing board
10 shall make such geographic groupings. If there is
11 representation of the United States on the governing board,
12 one (1) such representative may meet with the executive
13 committee. The chairman of the governing board shall be
14 chairman of the executive committee. No action of the
15 executive committee shall be binding unless taken at a
16 meeting at which at least four (4) members of such committee
17 are present and vote in favor thereof. Necessary expenses
18 of each of the five (5) members of the executive committee
19 incurred in attending meetings of such committee, when not
20 held at the same time and place as a meeting of the
21 governing board, shall be charges against the insurance
22 fund.

23

24

Article VI

1 Assistance and reimbursement

2

3 (a) Each party state pledges to each other party state
4 that it will employ its best efforts to eradicate, or
5 control within the strictest practicable limits, any and all
6 pests. It is recognized that performance of this
7 responsibility involves:

8

9 (i) The maintenance of pest control and
10 eradication activities of interstate significance by a party
11 state at a level that would be reasonable for its own
12 protection in the absence of this Compact;

13

14 (ii) The meeting of emergency outbreaks or
15 infestations of interstate significance to no less an
16 extent than would have been done in the absence of this
17 Compact.

18

19 (b) Whenever a party state is threatened by a pest not
20 present within its borders but present within another party
21 state, or whenever a party state is undertaking or engaged
22 in activities for the control or eradication of a pest or
23 pests, and finds that such activities are or would be
24 impracticable or substantially more difficult of success by

1 reason of failure of another party state to cope with
2 infestation or threatened infestation, that state may
3 request the governing board to authorize expenditures from
4 the insurance fund for eradication or control measures to be
5 taken by one or more of such other party states at a level
6 sufficient to prevent, or to reduce to the greatest
7 practicable extent, infestation or reinfestation of the
8 requesting state. Upon such authorization the responding
9 state or states shall take or increase such eradication or
10 control measures as may be warranted. A responding state
11 shall use moneys made available from the insurance fund
12 expeditiously and efficiently to assist in affording the
13 protection requested.

14

15 (c) In order to apply for expenditures from the
16 insurance fund, a requesting state shall submit the
17 following in writing:

18

19 (i) A detailed statement of the circumstances
20 which occasion the request for the invoking of the Compact;

21

22 (ii) Evidence that the pest on account of whose
23 eradication or control assistance is requested constitutes a
24 danger to an agricultural or forest crop, product, tree,

1 shrub, grass or other plant having a substantial value to
2 the requesting state;

3

4 (iii) A statement of the extent of the present
5 and projected program of the requesting state and its
6 subdivisions, including full information as to the legal
7 authority for the conduct of such program or programs and
8 the expenditures being made or budgeted therefore, in
9 connection with the eradication, control or prevention of
10 introduction of the pest concerned;

11

12 (iv) Proof that the expenditures being made or
13 budgeted as detailed in paragraph (iii) of this subsection
14 do not constitute a reduction of the effort for the control
15 or eradication of the pest concerned or, if there is a
16 reduction, the reasons why the level of program detailed in
17 paragraph (iii) of this subsection constitutes a normal
18 level of pest control activity;

19

20 (v) A declaration as to whether, to the best of
21 its knowledge and belief, the conditions which in its view
22 occasion the invoking of the compact in the particular
23 instance can be abated by a program undertaken with the aid
24 of moneys from the insurance fund in one (1) year or less,

1 or whether the request is for an installment in a program
2 which is likely to continue for a longer period of time;

3

4 (vi) Such other information as the governing
5 board may require consistent with the provisions of this
6 Compact.

7

8 (d) The governing board or executive committee shall
9 give due notice of any meeting at which an application for
10 assistance from the insurance fund is to be considered.
11 Such notice shall be given to the compact administrator of
12 each party state and to such other officers and agencies as
13 may be designated by the laws of the party states. The
14 requesting state and any other party state shall be entitled
15 to be represented and present evidence and argument at such
16 meeting.

17

18 (e) Upon the submission as required by subsection (c)
19 of this Article and such other information as it may have or
20 acquire, and upon determining that an expenditure of funds
21 is within the purposes of this Compact and justified
22 thereby, the governing board or executive committee shall
23 authorize support of the program. The governing board or
24 the executive committee may meet at any time or place for

1 the purpose of receiving and considering an application.
2 Any and all determinations of the governing board or
3 executive committee, with respect to an application,
4 together with the reasons therefore shall be recorded and
5 subscribed in such manner as to show and preserve the votes
6 of the individual members thereof.

7

8 (f) A requesting state which is dissatisfied with a
9 determination of the executive committee shall upon notice
10 in writing given within twenty (20) days of the
11 determination with which it is dissatisfied, be entitled to
12 receive a review thereof at the next meeting of the
13 governing board. Determinations of the executive committee
14 shall be reviewable only by the governing board at one (1)
15 of its regular meetings, or at a special meeting held in
16 such manner as the governing board may authorize.

17

18 (g) Responding states required to undertake or
19 increase measures pursuant to this compact may receive
20 moneys from the insurance fund, either at the time or times
21 when such state incurs expenditures on account of such
22 measures, or as reimbursement for expenses incurred and
23 chargeable to the insurance fund. The governing board shall

1 adopt and, from time to time, may amend or revise procedures
2 for submission of claims upon it and payment thereof.

3

4 (h) Before authorizing the expenditure of moneys from
5 the insurance fund pursuant to an application of a
6 requesting state, the insurance fund shall ascertain the
7 extent and nature of any timely assistance or participation
8 which may be available from the federal government and shall
9 request the appropriate agency or agencies of the federal
10 government for such assistance and participation.

11

12 (j) The insurance fund may negotiate and execute a
13 memorandum of understanding or other appropriate instrument
14 defining the extent and degree of assistance or
15 participation between and among the insurance fund,
16 cooperating federal agencies, states and any other entities
17 concerned.

18

19 Article VII

20 Advisory and technical committees

21

22 The governing board may establish advisory and technical
23 committees composed of state, local, and federal officials,
24 and private persons to advise it with respect to any one (1)

1 or more of its functions. Any such advisory or technical
2 committee, or any member or members thereof may meet with
3 and participate in its deliberations upon request of the
4 governing board or executive committee. An advisory or
5 technical committee may furnish information and
6 recommendations with respect to any application for
7 assistance from the insurance fund being considered by such
8 board or committee and the board or committee may receive
9 and consider the same; provided that any participant in a
10 meeting of the governing board or executive committee held
11 pursuant to Article VI(d) of the Compact shall be entitled
12 to know the substance of any such information and
13 recommendations, at the time of the meeting if made prior
14 thereto or as a part thereof or, if made thereafter, no
15 later than the time at which the governing board or
16 executive committee makes its disposition of the
17 application.

18

19

Article VIII

20

Relations with nonparty jurisdictions

21

22 (a) A party state may make application for assistance
23 from the insurance fund in respect of a pest in a nonparty
24 state. Such application shall be considered and disposed of

1 by the governing board or executive committee in the same
2 manner as an application with respect to a pest within a
3 party state except as provided in this Article.

4

5 (b) At or in connection with any meeting of the
6 governing board or executive committee held pursuant to
7 Article VI(d) of this Compact a nonparty state shall be
8 entitled to appear, participate and receive information
9 only to such extent as the governing board or executive
10 committee may provide. A nonparty state shall not be
11 entitled to review of any determination made by the
12 executive committee.

13

14 (c) The governing board or executive committee shall
15 authorize expenditures from the insurance fund to be made
16 in a nonparty state only after determining that the
17 conditions in such state and the value of such expenditures
18 to the party states as a whole justify them. The governing
19 board or executive committee may set any conditions which
20 it deems appropriate with respect to the expenditure of
21 moneys from the insurance fund in a nonparty state and may
22 enter into such agreement or agreements with nonparty
23 states and other jurisdictions or entities as it may deem
24 necessary or appropriate to protect the interests of the

1 insurance fund with respect to expenditures and activities
2 outside of party states.

3

4

Article IX

5

Finance

6

7 (a) The insurance fund shall submit to the executive
8 head or designated officer or officers of each party state
9 a budget for the insurance fund for such period as may be
10 required by the laws of that party state for presentation
11 to the legislature thereof.

12

13 (b) Each of the budgets shall contain specific
14 recommendations of the amount or amounts to be appropriated
15 by each of the party states. The requests for appropriation
16 shall be apportioned among the party states as follows: one
17 tenth (1/10) of the total budget in equal shares and the
18 remainder in proportion to the value of agricultural and
19 forest crops and products, excluding animals and animal
20 products, produced in each party state. In determining the
21 value of such crops and products the insurance fund may
22 employ such source or sources of information as in its
23 judgment present the most equitable and accurate comparisons
24 among the party states. Each of the budgets and requests

1 for appropriations shall indicate the source or sources used
2 in obtaining information concerning value of products.

3

4 (c) The financial assets of the insurance fund shall
5 be maintained in two (2) accounts to be designated
6 respectively as the "operating account" and the "claims
7 account". The operating account shall consist only of those
8 assets necessary for the administration of the insurance
9 fund during the next ensuing two (2) year period. The
10 claims account shall contain all moneys not included in the
11 operating account and shall not exceed the amount reasonably
12 estimated to be sufficient to pay all legitimate claims on
13 the insurance fund for a period of three (3) years. At any
14 time when the claims account has reached its maximum limit
15 or would reach its maximum limit by the addition of moneys
16 requested for appropriation by the party states, the
17 governing board shall reduce its budget request on a pro
18 rata basis in such manner as to keep the claims account
19 within such maximum limit. Any moneys in the claims account
20 by virtue of conditional donations, grants or gifts shall be
21 included in calculations made pursuant to this subsection
22 only to the extent that such moneys are available to meet
23 demands arising out of claims.

24

1 (d) The insurance fund shall not pledge the credit of
2 any party state. The insurance fund may meet any of its
3 obligations in whole or in part with moneys available to it
4 under Article IV(g) of this compact, provided that the
5 governing board takes specific action setting aside such
6 moneys prior to incurring any obligation to be met in whole
7 or in part in such manner. Except where the insurance fund
8 makes use of moneys available to it under Article IV(g)
9 hereof, the insurance fund shall not incur any obligation
10 prior to the allotment of moneys by the party states
11 adequate to meet the same.

12

13 (e) The insurance fund shall keep accurate accounts of
14 all receipts and disbursements. The receipts and
15 disbursements of the insurance fund shall be subject to the
16 audit and accounting procedures established under its
17 bylaws. However, all receipts and disbursements of funds
18 handled by the insurance fund shall be audited yearly by a
19 certified or licensed public accountant and a report of the
20 audit shall be included in and become part of the annual
21 report of the insurance fund.

22

23 (f) The accounts of the insurance fund shall be open
24 at any reasonable time for inspection by duly authorized

1 officers of the party states and by any persons authorized
2 by the insurance fund.

3

4

Article X

5

Entry into force and withdrawal

6

7 (a) This Compact shall enter into force when enacted
8 into law by any five (5) or more states. Thereafter, this
9 Compact shall become effective as to any other state upon
10 its enactment thereof.

11

12 (b) Any party state may withdraw from this Compact by
13 enacting a statute repealing the same, but no such
14 withdrawal shall take effect until two (2) years after the
15 executive head of the withdrawing state has given notice in
16 writing of the withdrawal to the executive heads of all
17 other party states. No withdrawal shall affect any
18 liability already incurred by or chargeable to a party state
19 prior to the time of such withdrawal.

20

21

Article XI

22

Construction and severability

23

1 This Compact shall be liberally construed so as to
2 effectuate the purposes thereof. The provisions of this
3 Compact shall be severable and if any phrase, clause,
4 sentence or provision of this compact is declared to be
5 contrary to the constitution of any state or of the United
6 States or the applicability thereof to any government,
7 agency, person or circumstance is held invalid, the validity
8 of the remainder of this compact and the applicability
9 thereof to any government, agency, person or circumstance
10 shall not be affected thereby. If this Compact shall be
11 held contrary to the constitution of any state participating
12 herein, the Compact shall remain in full force and effect as
13 to the remaining party states and in full force and effect
14 as to the state affected as to all severable matters.

15

16 **11-45-102. Cooperation with pest control insurance**
17 **fund.**

18

19 Consistent with law and within available appropriations, the
20 departments, agencies and officers of Wyoming may cooperate
21 with the insurance fund established by the Pest Control
22 Compact.

23

24 **11-45-103. Filing of compact.**

1

2 Pursuant to Article IV (h) of the Compact, copies of bylaws
3 and amendments thereto shall be filed with the Wyoming
4 department of agriculture.

5

6 **11-45-104. Compact administrator.**

7

8 The compact administrator for Wyoming shall be the director
9 of the Wyoming department of agriculture.

10

11 **11-45-105. Applications for assistance.**

12

13 Within the meaning of Article VI (b) or VIII (a) of the
14 Compact, a request or application for assistance from the
15 insurance fund may be made by the compact administrator for
16 Wyoming, whenever in his judgment the conditions qualifying
17 Wyoming for such assistance exist and it would be in the
18 best interest of Wyoming to make such request.

19

20 **11-45-106. Disposition of money from compact insurance**
21 **fund.**

22

23 Funds received by the department, agency or officer to
24 defray costs or as reimbursement under the Compact shall be

1 paid to the state treasurer for deposit to the state account
2 from which it was expended or, if expenditure from a
3 specific account cannot be determined, deposited to the
4 general fund.

5

6 **11-45-107. "Executive head" defined.**

7

8 As used in the Compact, with reference to Wyoming,
9 "executive head" means the governor.

10

11 **Section 2.** This act is effective immediately upon
12 completion of all acts necessary for a bill to become law
13 as provided by Article 4, Section 8 of the Wyoming
14 Constitution.

15

16 (END)