

ENROLLED ACT NO. 135, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING  
2005 GENERAL SESSION

AN ACT relating to a revision of inadvertent errors; correcting statutory references and language that were erroneously made to the statutes as a result of legislation previously adopted by the legislature; providing for application as specified; and providing for an effective date.

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

**Section 1.** W.S. 9-3-415(a)(intro), 9-4-1202(b)(ii), 14-3-412(b)(iii) and (iv), 21-17-404(a)(xiv)(A)(X), 23-6-108(b), 30-5-110(g), (h), (q), (r)(intro), (i) and (s), 31-7-305(a)(v), 35-7-1002(a)(xiv), 39-16-203(a)(i)(F)(intro) and 42-4-207(j) are amended to read:

**9-3-415. When retirement permitted; service credit.**

(a) Except as provided under ~~subsection (f) of this section,~~ W.S. 9-3-431 and 9-3-432, normal retirement benefits under the system are payable to a member who:

**9-4-1202. Requirements.**

(b) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (a)(ii) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(ii) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the master settlement agreement payments, as determined pursuant to section ~~IX(I)~~

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IX(i) of that agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

**14-3-412. Commencement of proceedings; contents of petition.**

(b) The petition shall set forth all jurisdictional facts, including but not limited to:

(iii) Whether the child is being held in shelter care and if so, the name and address of the facility and the time shelter care commenced; ~~and~~

(iv) A statement setting forth with particularity the facts which bring the child within the provisions of this act; and

**21-17-404. Definitions.**

(a) As used in W.S. 21-17-402 through 21-17-450:

(xiv) (A) "Pledged revenues" means the monies pledged wholly or in part for the payment of bonds or other securities issued hereunder, and, subject to any existing pledges or other contractual limitations, may include at the board's discretion, income or monies derived from one (1), all or any combination of the following revenue sources, including without limitation student fees and other fees, rates and charges appertaining thereto:

(X) The board's proportion for the benefit of the university ~~of not less than nine percent~~

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~~(9%)~~ of the monies remitted by the United States to the state and accounted for as provided by law pursuant to W.S. ~~9-577, 9-578 and 9-579~~ 9-4-601.

**23-6-108. Record of game and fish cases; report of convictions to department.**

(b) Within thirty (30) days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this act, the judge or clerk of the court in which the conviction was had or bail was forfeited, shall forward to the department a certified abstract of the record of the court covering the case in which the person was convicted or forfeited bail. The abstract shall be made upon a form furnished by the department and shall include the name and address of the party charged, the number of his game or fish license, if any, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited, and the amount of fine, forfeiture or penalty imposed.

**30-5-110. Agreements for waterflooding or other recovery operations, repressuring or pressure-maintenance operations, cycling or recycling operations; operation as a unit of 1 or more pools or parts thereof and pooling of interests in oil and gas therein.**

(g) From and after the effective date of an order of the commission entered under the provisions of this act section, the operation of any well producing from the unit area defined in the order by persons other than the unit operator or persons acting under the unit operator's authority, or except in the manner and to the extent provided in the plan of unitization approved by ~~such~~ the order, shall be unlawful and is hereby prohibited.

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(h) An order entered by the commission under this ~~act~~ section may be amended in the same manner and subject to the same conditions as an original order: provided, (i) if ~~such an~~ the amendment affects only the rights of owners, then consent to ~~such~~ the amendment by those persons who will be credited with unit production or proceeds thereof free of cost shall not be required; and (ii) no amendatory order shall change the percentage for the allocation of oil and gas as established by the original order for any separately owned tract, except with the written consent of all persons owning oil and gas rights in ~~such~~ the tracts, nor change the percentage for the allocation of costs as established for any separately owned tract by the original order, except with the written consent of all owners in ~~such~~ the tracts.

(q) Notwithstanding any other provisions in this ~~act~~ section to the contrary, any person who owns an interest in oil or gas within the unit area which is not subject to an oil and gas lease or similar contract, shall, with respect to seven-eighths of ~~such~~ the interest, be deemed to be an owner obligated to pay all costs of unit operations attributable to ~~such~~ the interest and shall be deemed to be a royalty owner to the extent of one-eighth of ~~such~~ the interest free from ~~such~~ the costs.

(r) The provisions of ~~section (2) through (15)~~ subsections (b) through (q) of this ~~act~~ section shall never be applicable for the purpose of:

(i) Changing the terms of unit agreements under which waterflooding or other recovery operations involving the introduction of extraneous forms of energy into a pool have been conducted prior to the effective date of this ~~act~~ section or changing the rights of either any person who has executed or ratified ~~such~~ a preexisting unit agreement or

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any person who, being qualified to become a party to ~~such~~a preexisting unit agreement and having received an opportunity to become a party thereto, has failed or refused to execute or ratify ~~such~~the agreement; or

(s) A certified copy of any order of the commission entered under the provisions of this ~~act~~section shall be entitled to be recorded in the office of the register of deeds for the counties where all or any portion of the unit area is located, and such recordation shall constitute notice thereof to all persons.

**31-7-305. Disqualification and cancellation; right to a hearing.**

(a) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one (1) year if convicted of a first violation arising from separate incidents of:

(v) Refusal to submit to a test to determine the driver's alcohol concentration while driving or in actual physical control of a motor vehicle; ~~or~~

**35-7-1002. Definitions.**

(a) As used in this act:

(xiv) "Marihuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seed thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative,

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mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed ~~or~~of the plant which is incapable of germination;

**39-16-203. Imposition.**

(a) Taxable event. The following shall apply:

(i) The following provisions apply to imposition of the general purpose excise tax under W.S. 39-16-204(a)(i):

(F) In lieu of the requirements of subparagraph (C) of this paragraph providing for the submission of the proposition at subsequent elections, the tax authorized under W.S. ~~39-15-204(a)(i)~~39-16-204(a)(i) may be continued subject to the following terms and conditions:

**42-4-207. Recovery of incorrect payments; recovery of correct payments; liens.**

(j) The department may file a lien against the property of any estate, as defined in W.S. ~~42-4-206(h)~~42-4-206(g), of a deceased recipient for the amount of medical assistance provided while the recipient was fifty-five (55) years of age or older or while the recipient was an inpatient in a nursing facility, intermediate care facility for the mentally retarded or other medical institution. The department shall perfect this lien by filing a notice in the county in which the real property exists. The department may file an amended lien prior to the entry of the final order closing the estate.

**Section 2.** 2004 Wyoming Session Laws, Chapter 95,

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Section 309 is amended to read:

[CHIEF INFORMATION OFFICER]

**Section 309.**

The governor is authorized to employ a chief information officer. The chief information officer shall develop a plan for the organization of information technology activities for all executive and judicial branch agencies including the department of transportation and the game and fish department. The plan shall categorize each information technology structure into an enterprise framework by function. The plan shall also include the development of a system for creating common information technology architecture and standards, which lead to an efficient and effective use of funds. All executive branch agencies including the department of transportation and the game and fish department and all judicial branch agencies shall assist in developing the plan and provide any information requested by the chief information officer. The chief information officer shall submit the plan to the governor for approval and to the joint appropriations interim committee for review. Notwithstanding W.S. 9-2-1005(a)(xii), 9-2-1018, 9-2-1026.1 and ~~9-2-2051~~ 9-2-2501, for the period beginning July 1, 2004 and ending June 30, 2006 for all executive branch agencies except the department of transportation and the game and fish department, the chief information officer's written approval shall be required prior to acquisition of any information technology software, hardware or services.

**Section 3.** Any other act adopted by the Wyoming legislature during the same session in which this act is adopted shall be given precedence and shall prevail over the amendments in this act to the extent that such acts are

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in conflict with this act.

**Section 4.** Notwithstanding section 3 of this act, W.S. 21-16-1003(a)(vii)(A) as enacted by the 2005 legislature by House Enrolled Act 64, being original House Bill 0227, is amended to read:

**21-16-1003. Athletics challenge matching program; state treasurer to administer program account; matching payments; conditions; annual reports; reversion of appropriations.**

(a) The state treasurer shall administer the university athletics challenge account established under this article. The following shall apply:

(vii) There is created within the university athletics challenge account an account called the challenge eight account. Notwithstanding the minimum contribution requirement under W.S. 21-16-1001(a)(ii), donations to the challenge eight account shall be deemed qualifying contributions for purposes of this act subject to the following:

(A) The purpose of the challenge eight account is to provide an opportunity for any person to contribute to a fund in honor of the eight (8) University of Wyoming student athletes who lost their lives on September ~~13~~16, 2001. Funds deposited in the challenge eight account shall be used exclusively to improve or develop university track and field facilities toward a goal of providing a venue suitable for hosting conference championships and with appropriate recognition of the eight (8) student athletes;

**Section 5.** Notwithstanding section 3 of this act,

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Section 1(a)(v) as enacted by the 2005 legislature by House Enrolled Act 44 [84], being original House Bill 0275, is amended to read:

**Section 1.**

(a) There is appropriated fifty thousand dollars (\$50,000.00) from the general fund to the department of health to conduct a methamphetamine initiative planning study. The department shall:

(v) Examine the existing capacity and procedures for conducting and completing substance abuse evaluations ordered for methamphetamine use, abuse or distribution under W.S. ~~7-13-1032~~ 7-13-1302, including the number of qualified evaluators available and conducting evaluations in the state, the costs associated with the evaluations and any recommendations to improve the capacity, quality, efficiency and effectiveness of the evaluation process, as necessary.

**Section 6.** Notwithstanding section 3 of this act, W.S. 36-8-1401(d) as enacted by the 2005 legislature by Senate Enrolled Act 80, being original Senate File 0162, is amended to read:

**36-8-1401. Historic mine trail and byway commission; created; membership; legislative advisory members; quorum; compensation.**

(d) Legislative advisory members of the commission shall receive salary, per diem and travel in the manner and amounts specified under W.S. 28-5-101, for attending commission meetings. The commission member representing the business council shall be paid per diem in accordance with W.S. ~~9-12-102(b)~~ 9-12-103(b) when conducting official

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commission business.

**Section 7.** Notwithstanding section 3 of this act, W.S. 34-1-201(b)(iv) as enacted by the 2005 legislature by Senate Enrolled Act 66, being original Senate File 0149, is amended to read:

**34-1-201. Short title; definitions.**

(b) As used in this article, unless the context requires otherwise:

(iv) "This act" means W.S. 34-1-201 through ~~34-1-206~~ 34-1-207.

**Section 8.** Notwithstanding section 3 of this act, Section 045, footnote 2 as enacted by the 2005 legislature by Senate Enrolled Act 90, being original Senate File 0001, is amended to read:

2. The department shall provide a detailed history and comparative analysis of the revenue received and expenditures incurred by the department for the manufacture and distribution of state license plates including both the embossed and flat plate designs. The report shall also include a review of contracts associated with the design of the plate and any patents or corporate parameters required for the manufacture and design of the plates. The report shall be submitted to the joint transportation, highways and military affairs interim committee on or before September 1, ~~2006~~ 2005.

**Section 9.** Notwithstanding section 3 of this act, W.S. 35-7-1059(h) as created by the 2005 legislature in House Bill 0293, if enacted into law, is amended to read:

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**35-7-1059. Unlawful clandestine laboratory operations; methamphetamine precursors; presumptively illegal amount; methamphetamine precursor sales limitations; registration requirements; reports; penalties.**

(h) No person shall sell in a single retail transaction more than two (2) packages as described in subsection ~~(f)~~ (g) of this section.

**Section 10.** Notwithstanding section 3 of this act, W.S. 31-7-110(k) as enacted by the 2005 legislature by Senate Enrolled Act 91, being original Senate File 0014, is amended to read:

**31-7-110. Instruction and temporary driver's permits.**

(k) The division shall suspend for a period of thirty (30) days the intermediate operating permit of any person violating any provision of subsection (h) or (j) of this section. Records of convictions or license suspensions under this subsection ~~(k) of this section~~ shall not be made a part of the abstracts or records kept by the department of transportation pursuant to W.S. 31-5-1214 or 31-7-120. Any records maintained by the department for administration of this subsection shall be maintained separately and shall not be available for public inspection except for inspection by any law enforcement officer or agency to enforce the provisions of this section. Any driver's license suspension or related records under this subsection ~~(k) of this section~~ shall not be the basis for any increase in insurance premiums or the cancellation of any insurance policy for a minor or his parents affected by this subsection.

**Section 11.** Notwithstanding section 3 of this act, W.S. 9-2-2501(a) as amended by 2005 House Enrolled Act 112,

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being original House Bill 0290 shall not be effective and W.S. 9-2-2501(a) shall be repealed as provided by 2005 Senate Enrolled Act 75, being original Senate File 0156.

**Section 12.** Notwithstanding section 3 of this act, W.S. 35-7-1059(k) and (m)(i), as enacted by the 2005 legislature by House Enrolled Act 133, being original House Bill 0293, is amended to read:

**35-7-1059. Unlawful clandestine laboratory operations; methamphetamine precursors; presumptively illegal amount; methamphetamine precursor sales limitations; registration requirements; reports; penalties.**

(k) A person who intentionally or knowingly violates subsection (g), (h) or (j) of this section is guilty of a misdemeanor punishable by a fine of one hundred dollars (\$100.00) for a first offense, five hundred dollars (\$500.00) for a second offense within two (2) years and one thousand dollars (\$1,000.00) and up to six (6) months imprisonment, or both, for a third offense within three (3) years. ~~It shall be a defense to violation under paragraph (g)(ii) of this section that the person making the sale required and obtained proof of age from a purchaser who produced a false, forged or altered document that an ordinarily prudent person would believe to be legitimate.~~

(m) A resident or nonresident retailer, manufacturer or wholesaler who distributes ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers in Wyoming shall:

(i) Register with the board by submitting an application on a form prescribed by the board and pay a registration fee of twenty-five dollars (\$25.00). Where the retailer, manufacturer or wholesaler distributions are

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conducted at more than one (1) location, each location shall be separately registered. Except as provided in subsection ~~(m)~~ (n) of this section, those facilities registered with the board under W.S. 35-7-1024 on July 1, 2005, shall not be required to register under this section;

**Section 13.** 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 House.

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