

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

AN ACT relating to the general revision of laws; amending archaic and obsolete provisions; correcting and updating references; conforming provisions to previous enactments; repealing provisions held to be unconstitutional; repealing fully executed and otherwise archaic or obsolete provisions; and providing for an effective date.

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

[SECTION 1. PROVISIONS WHICH ARE OBSOLETE]
[a. FULLY EXECUTED]

Section 101. W.S. 35-7-1049(j) and 37-2-107(a) are amended to read:

35-7-1049. Forfeitures and seizures generally; property subject to forfeiture.

(j) Any law enforcement agency of this state may accept, receive, dispose of and expend the property or proceeds from any property forfeited to the federal government or any state and allocated to the agency by the United States attorney general pursuant to 21 U.S.C. 881(e) or any law of another state. The property or proceeds shall be in addition to funds appropriated to the law enforcement agency by the state legislature or any unit of local government. The property or proceeds may be credited to any lawfully created fund or account designated to receive proceeds of forfeitures. ~~For the period beginning July 1, 1996, and ending June 30, 1998, the division shall provide to the joint appropriations interim committee of the legislature a quarterly audit of the assets forfeiture account detailing the collection and distribution of all seized assets.~~

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

37-2-107. Uniform assessment regarding telecommunications, gas, electric, water and pipeline service; assessment generally.

(a) ~~Except as provided in subsection (b) of this section,~~ On or before the first day of July of each year the director of revenue shall, by requiring special reports or otherwise, determine the total aggregate amount of the gross Wyoming intrastate retail revenues of all public utilities, entities utilizing public utility facilities in the state to furnish retail utility commodities or services to the public, and providers of telecommunication services, except motor carriers, and those utilities exempted under W.S. 37-2-108, for the preceding calendar year. He shall then determine the ratio that one-half (1/2) of the total authorized budgeted amount for the biennium is to the total aggregate gross retail Wyoming intrastate operating revenues. The resulting percentage factor shall then be applied to the annual intrastate gross retail operating revenues of each of such persons for the preceding calendar year and the result shall be the assessment of each such person for the ensuing budget fiscal year. However, the assessment rate against the persons for any one (1) year shall not exceed .0030 of the gross Wyoming intrastate retail revenues of the persons. By the first day of August the director of the revenue department shall assess the persons, and one-half (1/2) the assessed fees shall be paid to him by the persons on or before the first day of October and one-half (1/2) of the fees shall be paid to him by the persons on or before the first day of April in the ensuing year. The director of the revenue department, in computing the percentage upon which fees for the first fiscal year of the ensuing biennium shall be based, shall deduct any unexpended balance in the commission's account, less an amount equal to the total of all properly authorized outstanding accounts payable, from one-half (1/2) the total

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

authorized budgeted amount for the biennium, and the resultant figure shall be used instead of the one-half (1/2) of the total authorized budgeted amount for the biennium, as above provided. Any unexpended balance in the commission's account shall not lapse at the end of the fiscal period. "Intrastate gross retail operating revenues" as used in this section shall mean intrastate gross revenues derived from the provision of telecommunications, gas, electric, water and pipeline service offered for final consumption and not for resale.

Section 102. W.S. 37-2-107(b), 39-14-108(b)(ii), 39-14-208(b)(ii), 39-14-308(b)(ii), 39-14-408(b)(ii), 39-14-508(b)(ii), 39-14-608(b)(ii) and 39-14-708(b)(ii) are repealed.

[SECTION 1. PROVISIONS WHICH ARE OBSOLETE]
[b. OTHER ARCHAIC REFERENCES]

Section 103. W.S. 14-4-101(a)(vi)(H), 35-4-202, 37-2-114(a), 37-2-128, 37-2-203(c), (d) and (f), 37-3-109, 37-3-110, 37-5-103(a)(xi) and 37-9-1301(h)(i) are amended to read:

14-4-101. Definitions.

(a) As used in W.S. 14-4-101 through 14-4-115:

(vi) "Child caring facility" means any person who operates a business to keep or care for any minor at the request of the parents, legal guardians or an agency which is responsible for the child and includes any of the following privately operated facilities:

(H) Homes for ~~defective~~ children with developmental disabilities;

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

35-4-202. Contamination of streams by sawmills, mining operations, or other manufacturing or industrial works prohibited; penalty; exceptions; special permits.

Any owner or owners of any sawmill, reduction works, smelter, milling, refining or concentration works, or other manufacturing or industrial works, or any agent, servant or employee thereof, or any person or persons whomsoever, who shall throw or deposit in, or in any way permit to pass into any natural stream or lake within the state, wherein are living fish, any sawdust, chemicals, mill-tailing, or other refuse matter of deleterious substance or poisons of any kind or character whatsoever, that will or may tend to the destruction or driving away from such waters any fish, or kill or destroy any fish therein, or that will or may tend to pollute, contaminate, render impure or unfit for domestic, irrigation, stock or other purposes for which appropriated and used, the waters of any such natural streams or lake, or that will or may tend to obstruct, fill in or otherwise interfere with the flow, channel or condition of such streams, lake or waters, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) or shall be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment for each offense; and where any of the foregoing unlawful acts are committed continuously, each of the days upon which committed shall be treated and considered as a separate and distinct offense; provided, that nothing in this section or W.S. 23-3-204 shall apply to the slag from smelter furnaces; provided further, that nothing in this section nor in any of the other laws of this state shall prevent the owner or owners of any mill, concentration works, reduction works or tailings pond or basin used in

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

connection therewith, in this state, now or hereafter to be located upon any natural stream, or lake, from operating said mill, concentration works, reduction works or tailings pond or basin used in connection therewith, where the said owner or owners thereof shall build or cause to be built a dam or dams for settling purposes; provided however that before any dam or dams shall be built for any such purposes, the director of the state department of health, the director of the state game and fish ~~commissioner~~ department and the state engineer, acting as a joint committee and each member casting a vote of his department, shall review such plans and according to their findings shall approve or disapprove such plans for preventing any deleterious substances from entering any waters beyond the project area; provided, that whenever a majority of the landowners on any irrigation stream shall petition the director of the state game and fish ~~commissioner~~ department to allow sawdust to be put in any stream that does not reach a main body of water or living stream he shall have the power to grant such permits.

37-2-114. Authority to confer with other state and federal commissions; expenses.

(a) The commission may confer in person, by attending conventions or otherwise, with the members of railroad or other public utility commissions of other states and with the ~~interstate commerce commission~~ surface transportation board on any matters relating to public utilities, and shall be allowed actual traveling expenses when engaged in such work.

37-2-128. Civil penalty for violation of federal Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011; generally.

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

Where the commission has exercised authority under the provisions of the federal ~~Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006~~ Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011, 49 U.S.C. § 60101, et seq., and amendments thereto, to regulate gas safety in the state of Wyoming, any person or persons as defined in that act who hereafter violate any provision of that act as made applicable to jurisdictional activities within the state of Wyoming may be subject to a civil penalty not to exceed one hundred thousand dollars (\$100,000.00) for violation for each day that the violation persists. However, the maximum civil penalty shall not exceed one million dollars (\$1,000,000.00) for any related series of violations.

37-2-203. Separate hearings; hearings to be open; representation by attorney; reports, investigations.

(c) The commission shall, within its jurisdiction, have power, in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by all public utilities operating within the state. It may also in its discretion prescribe by order, forms of accounts, records and memoranda to be kept by such public utilities. Notice of alterations by the commission in the required method or form of keeping a system of accounts shall be given to such public utility by the commission at least six (6) months before the same shall take effect. Any other and additional forms of accounts, records and memoranda kept by such public utility shall be subject to examination by the commission. The system of accounts, established by the commission and the forms of accounts, records and memoranda prescribed by it shall in the case of interstate public utilities conform as nearly as may be to those prescribed by the ~~interstate commerce commission~~ surface transportation board under the act of congress,

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

entitled "An act to regulate commerce", and the acts amendatory thereof and supplementary thereto.

(d) Every public utility shall report to the commission, under rules and regulations prescribed by the commission and harmonizing insofar as practicable with those of the ~~interstate commerce commission~~ surface transportation board, and of any other department of this state, every accident occurring upon the property of any public utility or directly or indirectly arising from or connected with the maintenance or operation of the plant, equipment, appliances, apparatus, property or facilities of such public utility resulting in loss of life or injury to person or property; provided, that whenever any accident occasions the loss of life or limb to any person, such public utility shall straightway advise the commission of the fact by the speediest available means of communication.

(f) Nothing in this act in relation to service regulation or in relation to reports or the methods of keeping accounts, records or books shall apply to any common carrier engaged in interstate commerce; provided, that, the department of transportation may, upon proper notice, require any common carrier to furnish to the department of transportation copies of any reports as it may designate which any common carrier may have filed with the ~~interstate commerce commission~~ surface transportation board.

37-3-109. Investigation of interstate rates; application for relief.

The commission may investigate all existing or proposed interstate rates, where any act under such rate shall or may take place within this state. When such rates are, in the opinion of the commission, unjust, unreasonable,

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

unjustly discriminatory, unduly preferential or otherwise, or in any respect in violation of the provisions of the act to regulate commerce or of any other act of congress or in conflict with the rules and orders of the ~~interstate commerce commission~~ surface transportation board or any other department of the federal government, the commission may apply for relief by petition or otherwise to the ~~interstate commerce commission~~ surface transportation board or to any other department of the federal government or to any court of competent jurisdiction.

37-3-110. Schedules of rates to be filed and available to public; forms prescribed to conform to federal forms.

Within a time to be fixed by the commission, every public utility shall file with the commission, and keep open to public inspection as this commission may direct, schedules showing all rates for every service rendered or to be rendered by it. The commission may determine and prescribe the form of the schedules required by this act to be filed with the commission and kept open to public inspection and all changes therein, and change the form from time to time if it shall be found expedient; provided, however, that in respect to public utilities subject to act of congress to regulate commerce and any amendments thereof, the commission shall have such form or forms prescribed by it conform to any similar form prescribed by the ~~interstate commerce commission~~ surface transportation board.

37-5-103. Powers of the authority.

(a) In exercising the rights and powers granted to it, the authority shall be vested with authority to:

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

(xi) Work in consultation and coordination with, but not limited to, ~~the Wyoming energy commission and~~ the Wyoming business council to develop, promote and identify markets for natural gas and associated natural resource and facilitate the aggregation of supply for those markets;

37-9-1301. Environmental inventory and cleanup after cessation of rail service.

(h) For purposes of this section:

(i) A rail common carrier "ceases service" when the United States ~~Interstate Commerce Commission~~ surface transportation board, or any successor agency, finds or has found that the rail common carrier may abandon any part of its railroad lines or discontinue the operation of all rail transportation over any part of its railroad lines, or when the railroad line is actually abandoned or service actually discontinued, if the abandonment or discontinuance is exempt from such a finding under the rules of the ~~Interstate Commerce Commission~~ surface transportation board, or any successor agency;

Section 104. W.S. 35-4-401 through 35-4-403, 37-1-101(a)(vi)(A) and (F) and 37-3-105 are repealed.

[SECTION 2. INCORRECT CITATIONS OR FAILURE TO UPDATE CROSS REFERENCED PROVISIONS]

[a. WYOMING OR INTERNAL CITATIONS]

Section 201. W.S. 9-2-1005(o), 33-33-304, 37-2-201, 37-2-203(b) and 37-9-204 are amended to read:

9-2-1005. Payment of warrants; budget powers of governor; agency budgets; federal funds; new employees.

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

(o) The governor shall report monthly to the legislature on the use of the flex authority authorized under ~~subsections (k) and (m) of this section~~ or any legislative appropriation act during each biennium. The report shall specify appropriations and authorized positions transferred during the biennium, including transfers between expenditure series, programs and agencies with a detailed written description of the transfer.

33-33-304. Issuance of license.

The board shall issue a license to any person who meets the requirements of this act and who pays to the board the initial application and licensing fee prescribed in W.S. ~~33-402-33-33-307~~.

37-2-201. Fixing time and place of public hearing; notice and conduct.

Whenever the commission shall determine to conduct an investigation of any matter provided for in ~~chapter 64, Wyoming Compiled Statutes, 1945~~ W.S. 37-1-101 through 37-3-114 and 37-12-201 through 37-12-213, either with or without complaint as in such chapter provided for, it shall fix a time and place for a public hearing of the matters under investigation, and shall notify, by registered letter requiring receipt, the complainant, the persons complained of and such other persons, as it may deem proper, of such time and place of hearing, at least twenty (20) days in advance thereof. At the hearing held pursuant to such notice, the commission, commissioner or commission employee authorized by order of the commission to conduct such hearing, may take such testimony as may be offered, or as they may desire, and may make such other and further investigation as in its opinion, is desirable.

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

37-2-203. Separate hearings; hearings to be open; representation by attorney; reports, investigations.

(b) Within a time to be fixed by the commission, every public utility under the jurisdiction of this commission shall file an annual report with the commission, verified by the oath of the president, treasurer or general manager or receiver, if any, of such public utility, or by the person required to file the same. The verification shall be made by said official holding office, at the time of the filing of said report, and, if not made upon the knowledge of the person verifying the same, shall set forth the source of his information and the grounds of his beliefs as to any matters not stated to be verified upon his knowledge. The commission shall prescribe the form of such reports and the character of the information to be contained therein, and may from time to time make such changes and such additions in regard to form and contents thereof as it may deem proper and each year shall furnish a blank form for such annual reports to every such public utility. Such report shall also cover the period, and be filed at the time prescribed by the commission. The contents of such report and the form thereof shall conform in the case of interstate public utilities as nearly as may be to that required of interstate public utilities under the act of congress entitled "An act to regulate commerce", approved February fourth, eighteen hundred and eighty-seven [1887], and the acts amendatory thereof and supplemental thereto. The originals of said reports subscribed and sworn to as prescribed by law, shall be filed in the office of the commission. The commission may require, by order of any public utility or person, specific answers to questions upon which the commission may need information. If any public utility shall fail to make and file its annual report within the time ordered, or the time extended by the

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

commission, it shall be subject to the penalty as provided for under ~~section 68 of this act~~ W.S. 37-12-204.

37-9-204. Rights-of-way for oil and gas companies.

~~The last two (2) preceding sections~~ W.S. 37-9-202 and 37-9-203 shall also apply to all gas and petroleum oil corporations, companies and individuals, for the right-of-way ten (10) feet wide, through the school and other lands, over which the state has control, for the purpose of carrying gas or oil through pipes, also land for pump stations, tanks, and other buildings, necessary to conduct the oil or gas product of the wells of Wyoming.

Section 301. Other than 2012 SF0038, 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 in conflict with this act.

ORIGINAL HOUSE
BILL NO. 0031

ENROLLED ACT NO. 37, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2012 BUDGET SESSION

Section 401. This act is effective July 1, 2012.

(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