

ENROLLED ACT NO. 82, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING  
2015 GENERAL SESSION

AN ACT relating to trade and commerce; providing a civil cause of action for trespassing to unlawfully collect resource data and unlawfully collecting resource data; limiting the use of unlawfully collected data; providing definitions; and providing for an effective date.

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

**Section 1.** W.S. 40-26-101 is created to read:

CHAPTER 26  
TRESPASS TO UNLAWFULLY COLLECT RESOURCE DATA

**40-26-101. Trespass to unlawfully collect resource data; unlawful collection of resource data.**

(a) A person commits a civil trespass to unlawfully collect resource data if he:

(i) Enters onto open land for the purpose of collecting resource data; and

(ii) Does not have:

(A) An ownership interest in the real property or statutory, contractual or other legal authorization to enter or access the land to collect resource data; or

(B) Written or verbal permission of the owner, lessee or agent of the owner to enter or access the land to collect the specified resource data.

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(b) A person commits a civil trespass of unlawfully collecting resource data if he enters onto private open land and collects resource data without:

(i) An ownership interest in the real property or, statutory, contractual or other legal authorization to enter the private land to collect the specified resource data; or

(ii) Written or verbal permission of the owner, lessee or agent of the owner to enter the land to collect the specified resource data.

(c) A person who trespasses to unlawfully collect resource data or a person who unlawfully collects resource data under this section shall be liable in a civil action by the owner or lessee of the land for all consequential and economic damages proximately caused by the trespass. In a civil action brought under this section, in addition to damages, a successful claimant shall be awarded litigation costs. For purposes of this subsection, "litigation costs" shall include, but is not limited to, court costs, expert witness fees, other witness fees, costs associated with depositions and discovery, reasonable attorney fees and the reasonably necessary costs of identifying the trespasser, of obtaining effective service of process on the trespasser and of successfully effecting the collection of any judgment against the trespasser.

(d) As used in this section:

(i) "Collect" means to take a sample of material, acquire, gather, photograph or otherwise preserve information in any form from open land which is submitted

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or intended to be submitted to any agency of the state or federal government;

(ii) "Open land" means land outside the exterior boundaries of any incorporated city, town, subdivision approved pursuant to W.S. 18-5-308 or development approved pursuant to W.S. 18-5-403;

(iii) "Peace officer" means as defined by W.S. 7-2-101;

(iv) "Resource data" means data relating to land or land use, including but not limited to data regarding agriculture, minerals, geology, history, cultural artifacts, archeology, air, water, soil, conservation, habitat, vegetation or animal species. "Resource data" does not include data:

(A) For surveying to determine property boundaries or the location of survey monuments;

(B) Used by a state or local governmental entity to assess property values;

(C) Collected or intended to be collected by a peace officer while engaged in the lawful performance of his official duties.

(e) Resource data unlawfully collected under this section is not admissible in evidence in any civil, criminal or administrative proceeding, other than a civil action for trespassing under this section or a criminal prosecution for trespass.

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(f) Resource data unlawfully collected under this section in the possession of any governmental entity as defined by W.S. 1-39-103(a)(i) shall be expunged by the entity from all files and data bases, and it shall not be considered in determining any agency action.

**Section 2.** If 2015 Senate File 12 is enacted into law, W.S. 40-26-101(d) in section 1 of this act is repealed and recreated to read:

**40-26-101. Trespass to unlawfully collect resource data.**

(d) Resource data unlawfully collected under this section is not admissible in evidence in any civil, criminal or administrative proceeding, other than a civil action for trespassing under this section or a criminal prosecution for trespassing under W.S. 6-3-414.

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**Section 3.** This act is effective July 1, 2015.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

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