

SENATE FILE NO. SF0080

Trespassing to collect data-civil cause of action.

Sponsored by: Senator(s) Hicks, Christensen, Driskill and Kinskey and Representative(s) Baker, Halverson and Miller

A BILL

for

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

6

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

8

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

10

11

CHAPTER 26

12

TRESPASS TO UNLAWFULLY COLLECT RESOURCE DATA

13

14

40-26-101. Trespass to unlawfully collect resource

15

data.

1

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

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5 (i) Enters onto or crosses private open land and
6 collects resource data or enters onto or crosses private
7 open land for the purpose of collecting resource data; and

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9 (ii) Does not have:

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11 (A) Statutory, contractual or other legal
12 authorization to enter or cross the land to collect
13 resource data; or

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15 (B) Written permission to enter or cross
16 the land to collect resource data. The written permission
17 shall specify the type of resource data to be collected.

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19 (b) A person who trespasses to unlawfully collect
20 resource data or a person who unlawfully collects resource
21 data under this section shall be liable in a civil action
22 by the owner or lessee of the land for all damages
23 proximately caused by the trespass, including but not

1 limited to, loss of income from delay in business
2 operations, cost of additional regulatory requirements or
3 increased business expenses resulting from the unlawful
4 data collection. In a civil action brought under this
5 section, in addition to damages, a successful claimant
6 shall be awarded litigation costs. For purposes of this
7 subsection, "litigation costs" shall include, but is not
8 limited to, court costs, expert witness fees, other witness
9 fees, costs associated with depositions and discovery,
10 reasonable attorney fees and the reasonably necessary costs
11 of identifying the trespasser, of obtaining effective
12 service of process on the trespasser and of successfully
13 effecting the collection of any judgment against the
14 trespasser.

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16 (c) As used in this section:

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

22

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

3
4 (iii) "Resource data" means data relating to
5 land or land use, including but not limited to data
6 regarding agriculture, minerals, geology, history, cultural
7 artifacts, archeology, air, water, soil, conservation,
8 habitat, vegetation or animal species. "Resource data"
9 does not include data:

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

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

16

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

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21 (d) Resource data unlawfully collected under this
22 section is not admissible in evidence in any civil,
23 criminal or administrative proceeding, other than a civil

1 action for trespassing under this section, and shall not be
2 used by an administrative agency to make a resource
3 designation or use determination.

4

5 **Section 2.** This act is effective July 1, 2015.

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7

(END)