

HOUSE BILL NO. HB0148

Regulation of surgical abortions.

Sponsored by: Representative(s) Lawley, Bear and Washut and  
Senator(s) Biteman, Boner, Brennan,  
Hutchings, Salazar and Steinmetz

A BILL

for

1 AN ACT relating to public health and safety; requiring the  
2 licensure of surgical abortion facilities as specified;  
3 requiring licensed physicians to perform abortions after an  
4 ultrasound; providing criminal penalties for violations;  
5 specifying civil liability for damages resulting from  
6 abortions; providing definitions; making conforming  
7 amendments; specifying applicability; requiring rulemaking;  
8 and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 35-6-201 through 35-6-205 are created  
13 to read:

14

15

ARTICLE 2



1 (C) Treat a woman for an ectopic pregnancy;

2 or

3

4 (D) Provide treatment for a pregnant woman  
5 when a medical procedure or treatment is necessary, based  
6 on reasonable medical judgment, to save or preserve the  
7 life of the pregnant woman.

8

9 (ii) "Hospital" means those institutions  
10 licensed by the Wyoming department of health as hospitals;

11

12 (iii) "Physician" means any person licensed to  
13 practice medicine in this state;

14

15 (iv) "Pregnancy" or "pregnant" means the human  
16 female reproductive condition of having a living unborn  
17 baby or human being within a human female's body throughout  
18 the entire embryonic and fetal stages of the unborn human  
19 being from fertilization to full gestation and childbirth;

20

21 (v) "Reasonable medical judgment" means a  
22 medical judgment that would be made or a medical action  
23 that would be undertaken by a reasonably prudent, qualified

1 physician who is knowledgeable about the case and the  
2 treatment possibilities with respect to the medical  
3 conditions involved;

4

5 (vi) "Surgical abortion" means an induced  
6 abortion performed or attempted through use of a machine,  
7 medical device, surgical instrument or surgical tool, or  
8 any combination thereof, to terminate the clinically  
9 diagnosable pregnancy of a woman with knowledge and the  
10 intent that the termination by those means will cause, with  
11 reasonable likelihood, the death of the unborn child;

12

13 (vii) "Surgical abortion facility" means any  
14 facility, other than a hospital, that provides a surgical  
15 abortion to a woman and performs not less than three (3)  
16 first-trimester surgical abortions in any one (1) month or  
17 not less than one (1) second-trimester or third-trimester  
18 surgical abortion in any one (1) year.

19

20 **35-6-202. Surgical abortion facilities; licensure**  
21 **requirement; prohibitions; penalties.**

22

1           (a) Each surgical abortion facility in Wyoming shall  
2 be licensed as an ambulatory surgical center in accordance  
3 with W.S. 35-2-901 through 35-2-914 and the rules of the  
4 department of health. Each surgical abortion facility  
5 performing surgical abortions shall have a separate  
6 license.

7

8           (b) No surgical abortion facility shall provide  
9 surgical abortions to any pregnant woman without first  
10 being licensed as an ambulatory surgical center.

11

12           (c) Each surgical abortion facility shall comply with  
13 all rules of the department of health concerning the  
14 operation and regulation of ambulatory surgical centers. No  
15 license issued to a surgical abortion facility shall be  
16 transferable or assignable to any other person or facility.

17

18           (d) Each licensed physician performing at least one  
19 (1) surgical abortion at a surgical abortion facility  
20 shall:

21

22           (i) Report each surgical abortion to the  
23 department of health and shall attest in the report that

1 the physician is licensed and in good standing with the  
2 state board of medicine;

3

4 (ii) Submit documentation in a form and  
5 frequency required by the department of health that  
6 demonstrates that the licensed physician has admitting  
7 privileges at a hospital located not more than ten (10)  
8 miles from the abortion facility where the licensed  
9 physician is performing or will perform surgical abortions.

10

11 (e) Any person who violates this section shall be  
12 guilty of a misdemeanor punishable by a fine not to exceed  
13 one thousand dollars (\$1,000.00). Each calendar day in  
14 which a violation of this section occurs or continues is a  
15 separate offense.

16

17 **35-6-203. Abortion facilities; surgical abortions;**  
18 **requirements; rulemaking.**

19

20 (a) Any surgical abortion performed at a surgical  
21 abortion facility in the state shall only be performed by a  
22 physician licensed in the state of Wyoming.

23

1           (b) Any person who performs in the state any surgical  
2 abortion at a surgical abortion facility in violation of  
3 subsection (a) of this section is guilty of a felony  
4 punishable by imprisonment for not less than one (1) year  
5 nor more than fourteen (14) years.

6

7           (c) No person shall perform a surgical abortion at a  
8 surgical abortion facility in Wyoming who is not a licensed  
9 physician with admitting privileges at a hospital located  
10 not more than ten (10) miles from the abortion facility  
11 where the surgical abortion is performed.

12

13           (d) Any person who violates subsection (c) of this  
14 section or if a pharmacist or physician violates W.S.  
15 35-6-205 shall be guilty of a misdemeanor punishable by a  
16 fine of one thousand dollars (\$1,000,00). For purposes of  
17 this subsection, each surgical abortion at a surgical  
18 abortion facility shall constitute a separate offense of  
19 subsection (c) of this section.

20

21           (e) The department of health shall promulgate rules  
22 necessary to regulate surgical abortion facilities as

1 ambulatory surgical centers under W.S. 35-2-901 through  
2 35-2-914, provided that the rules:

3

4 (i) Applicable to surgical abortion facilities  
5 are not less stringent than those rules applicable to  
6 ambulatory surgical centers;

7

8 (ii) Provide for the physical inspection of  
9 surgical abortion facilities by the department of health  
10 every three (3) years.

11

12 **35-6-204. Applicability; effect.**

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14 If any provision of this article conflicts with the Life is  
15 a Human Right Act or W.S. 35-6-139, the provisions of the  
16 Life is a Human Right Act and W.S. 35-6-139 shall control  
17 over this article to the extent that the Life is a Human  
18 Right Act and W.S. 35-6-139 are enforceable.

19

20 **35-6-205. Abortion facilities; licensure requirements**  
21 **verification; prohibitions; penalties.**

22



1 Not less than forty-eight (48) hours before a pregnant  
2 woman procures the drugs or substances for a chemical  
3 abortion, before a physician or pharmacist dispenses the  
4 drugs or substances necessary for a chemical abortion or  
5 before a pregnant woman undergoes a surgical abortion, the  
6 physician or pharmacist shall ensure that the pregnant  
7 woman receives an ultrasound in order to determine the  
8 gestational age of the unborn child, to determine the  
9 location of the pregnancy, to verify a viable intrauterine  
10 pregnancy and to provide the pregnant woman the opportunity  
11 to view the active ultrasound of the unborn child and hear  
12 the heartbeat of the unborn child if the heartbeat is  
13 audible. The provider of the ultrasound shall provide the  
14 pregnant woman with a document that specifies the date,  
15 time and place of the ultrasound.

16

17 **Section 2.** W.S. 35-2-901(a)(ii) is amended to read:

18

19 **35-2-901. Definitions; applicability of provisions.**

20

21 (a) As used in this act:

22

1           (ii) "Ambulatory surgical center" means a  
2 facility which provides surgical treatment to patients not  
3 requiring hospitalization and is not part of a hospital or  
4 offices of private physicians, dentists or podiatrists.  
5 "Ambulatory surgical center" shall include any surgical  
6 abortion facility as defined by W.S. 35-6-201(a)(vii);

7

8           **Section 3.**

9

10           (a) Nothing in this act shall be construed as  
11 creating an individual right to abortion.

12

13           (b) It is the intent of the legislature that this act  
14 shall not be construed as holding abortion as lawful in the  
15 state pending a decision from a court of competent  
16 jurisdiction on the current state of the law.

17

18           (c) It is the intent of the legislature that this act  
19 shall not recognize or define abortion as a health care  
20 decision under Article 1, section 38 of the Wyoming  
21 Constitution.

22

1           **Section 4.** The department of health shall promulgate  
2 all rules necessary to implement this act.

3

4           **Section 5.** This act is effective immediately upon  
5 completion of all acts necessary for a bill to become law  
6 as provided by Article 4, Section 8 of the Wyoming  
7 Constitution.

8

9

(END)