



## WYOMING GAME AND FISH DEPARTMENT

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**Topic:** Wyoming Trespass Statutes

**Presented by:** Wyoming Game and Fish Department Deputy Chief Game Warden Scott Edberg

The following provides an overview on the Wyoming trespass statutes found in Title 6 (Crimes and Offenses) and Title 23 (Game and Fish). There are two trespass statutes in Title 6 and two in Title 23 shown below, with each having different legal requirement to address specific trespass situations.

### Trespass Statutes

#### **Title 6 (Crimes and Offenses) Trespass\***

6-3-303. Criminal trespass; penalties.

- (a) A person is guilty of criminal trespass if he enters or remains on or in the land or premises of another person, knowing he is not authorized to do so, or after being notified to depart or to not trespass. For purposes of this section, notice is given by:
  - (i) Personal communication to the person by the owner or occupant, or his agent, or by a peace officer; or
  - (ii) Posting of signs reasonably likely to come to the attention of intruders.
- (b) Criminal trespass is a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both.
- (c) This section does not supersede W.S. 1-21-1003.

#### **6-3-414. Trespassing to unlawfully collect resource data; unlawful collection of resource data.**

- (a) A person is guilty of trespassing to unlawfully collect resource data from private land if he:
  - (i) Enters onto private 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 the private land to collect the specified resource data; or
    - (B) Written or verbal permission of the owner, lessee or agent of the owner to enter the private land to collect the specified resource data.

(b) A person is guilty of unlawfully collecting resource data if he enters onto private land and collects resource data from private land 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 private land to collect the specified resource data.

(c) A person is guilty of trespassing to access adjacent or proximate land if he:

(i) Crosses private land to access adjacent or proximate land where he collects resource data; and

(ii) Does not have:

(A) An ownership interest in the real property or, statutory, contractual or other legal authorization to cross the private land; or

(B) Written or verbal permission of the owner, lessee or agent of the owner to cross the private land.

(d) Crimes committed under subsection (a), (b) or (c) of this section are punishable as follows:

(i) By imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both;

(ii) By imprisonment for not less than ten (10) days nor more than one (1) year, a fine of not more than five thousand dollars (\$5,000.00), or both, if the person has previously been convicted of trespassing to unlawfully collect resource data or unlawfully collecting resource data.

(e) As used in this section:

(i) "Collect" means to take a sample of material, acquire, gather, photograph or otherwise preserve information in any form and the recording of a legal description or geographical coordinates of the location of the collection;

(ii) Repealed by Laws 2016, Ch. 117, § 2.

(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.

(f) No resource data collected on private land in violation of this section is admissible in evidence in any civil, criminal or administrative proceeding, other than a prosecution for violation of this section or a civil action against the violator.

(g) Resource data collected on private land in violation of 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.

*\*Title 6 trespass statutes cannot be enforced by Wyoming Game and Fish Department law enforcement officers due to their statutory peace officer authority as defined in W.S. 7-2-101(a)(iv)(C).*

### **Title 23 (Game and Fish) Trespass\*\***

23-3-305. Hunting from highway; entering enclosed property without permission; penalty; hunting at night without permission prohibited.

(a) No person shall hunt, shoot, or attempt to kill any wildlife from any public road or highway.

(b) No person shall enter upon the private property of any person to hunt, fish, collect antlers or horns, or trap without the permission of the owner or person in charge of the property. Violation of this subsection constitutes a low misdemeanor punishable as provided in W.S. 23-6-202(a)(v)\*\*\*.

(c) No person shall fire any firearm from, upon, along, or across any public road or highway.

(d) No person knowingly shall fire any rifle from the enclosed lands of one person onto or across the enclosed lands of another without the permission of both persons.

(e) No person shall hunt at night upon privately owned or leased lands except with written permission of the landowner or lessee.

### **23-2-101. Fees; restrictions; nonresident application fee; nonresident licenses; verification of residency required.**

(c) The resident's or nonresident's license must bear the signature of the landowner, lessee, or agent of the owner on whose private property he is hunting or the legitimate proof as evidence that permission to hunt has been granted.

*\*\*Title 23 (Game and Fish) trespass statutes can be enforced by Wyoming Game and Fish Department and other Wyoming peace officers.*

*\*\*\*Low misdemeanor – Up to \$1,000 fine, 6 months imprisonment and up to 3 years license privilege suspension. Additionally, an officer has discretion to “Must Appear” a defendant to court based on violation circumstances and seize any unlawfully taken wildlife.*

### **Game and Fish Trespass Summary**

- Game and Fish trespass is a strict liability statute, meaning it is up to the sportsperson to know the land status on which they are hunting, fishing or trapping. The landowner has no legal requirement to post or otherwise advise the public that the land is private.
- A landowner, lessee or agent of the landowner is the complainant, and as such, has the decision whether or not to press charges against the person trespassing. Game and Fish law enforcement officers issue a citation or written warning based on that decision.
- The 2004 Wyoming Attorney General’s Opinion on “corner crossing” did advise that simply crossing the corner of private property does not violate the Game and Fish trespass statute. In order to be convicted of Game and Fish trespass, a person must hunt, fish, trap on private property without permission. Simply crossing the corner of private land does not fulfill this requirement.
- Annually, Game and Fish trespass violations are one of the top 3-5 violations that officers take legal action on (see 2014-2018 summary below). Prior to 2018, trespassing to

collect shed antlers or horns was not included in the Game and Fish trespass statute and was charged as a Title 6 Criminal Trespass violation.

- In 2014, the bond schedule forfeiture amount for a violation of Game and Fish trespass (W.S. § 23-3-305(b) - hunt, fish, trap, collect shed antlers on private land without permission) was increased from \$220 to \$420 and is currently \$435. Violations of the other subsections of Game and Fish trespass (W.S. § 23-3-305) carry a bond schedule forfeiture amount of \$235.

<b>2014-2018 Game and Fish Trespass Violation Summary</b>	<b>Citation</b>	<b>Warning</b>
Hunt, fish, trap, collect shed antlers on private land without permission	713	559
Shoot from/across enclosed lands without permission	9	16
Hunting on private land at night without permission	12	9
<b>Total</b>	<b>734</b>	<b>584</b>

**Additional Relevant Information**

- Wyoming Attorney General’s Opinion – “Corner Crossing” – June 2004 (attached)
- Wyoming Supreme Court Case Day vs. Armstrong 1961 WY 28 362 P.2d 137 Case Number: 2961, 2966 Decided: 05/23/1961 (attached)