

## Document: Wyo. Stat. § 23-1-302

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**Wyoming Statutes Annotated   Title 23 Game and Fish (Chs. 1 — 6)   Chapter 1  
Administration (Arts. 1 — 10)   Article 3. General Powers and Duties of the Commission  
(§§ 23-1-301 — 23-1-305)**

#### § 23-1-302. Powers and duties.

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**(a)** The commission is directed and empowered:

**(i)** To fix season and bag limits, open, shorten or close seasons including providing for season extensions for hunters with disabilities as established by commission rules and regulation, on any species or sex of wildlife for any type of legal weapon, except predatory animals, predacious birds, protected animals, and protected birds, in any specified locality of Wyoming, and to give notice thereof;

**(ii)** To establish zones and areas in which trophy game animals may be taken as game animals with a license or, with the exception of gray wolves, in the same manner as predatory animals without a license, giving proper regard to the livestock and game industries in those particular areas;

**(iii)** To acquire lands and waters in the name of Wyoming by purchase, lease, agreement, gift or devise, not including powers of eminent domain, and to develop, improve, operate, and maintain the same for the following purposes:

**(A)** Fish hatcheries, rearing ponds, game farms, and bird farms;

**(B)** Management of game animals, protected animals and birds, furbearing animals, game birds, fish,

and their restoration, propagation, or protection;

**(C)** Public hunting, fishing, or trapping areas as places where the public may hunt, trap, or fish in accordance with law.

**(iv)** To acquire easements and construct suitable access roads leading to public lands and department lands and waters acquired pursuant to W.S. 23-1-302(a)(iii);

**(v)** To sell, exchange, lease or assign any fee ownership interest in any land, water, or other property heretofore or hereafter acquired;

**(vi)** To capture, propagate, transport, buy, sell, or exchange any species of game animal, bird, fish, fish eggs, or furbearing animal needed for propagation or stocking purposes, and to exercise control over undesirable species and protected species;

**(vii)** To direct the capture of any of the wildlife of Wyoming in localities where species are abundant and to transport and distribute any wildlife as in the judgment of the commission is for the best interests of Wyoming;

**(viii)** To authorize the chief game warden or his designee to kill any wildlife in Wyoming when in the judgment of the commission the killing is necessary or when the animals or birds are doing substantial damage to property. The animals or birds so killed may be sold or otherwise disposed of within Wyoming;

**(ix)** To make suitable provisions for the feeding of elk subject to the requirements imposed under W.S. 23-1-305, and other game animals, birds, and fish of Wyoming in such localities as may be deemed necessary;

**(x)** To enter into cooperative agreements with educational institutions and other agencies to promote wildlife research;

**(xi)** To enter into cooperative agreements with federal agencies, corporations, associations, individuals, and landowners for the development of state control of wildlife management and demonstration projects;

**(xii)** To supervise the protection, management, and propagation of fish and all fish culture of a public nature and the fish hatcheries now owned or established in the future by Wyoming;

**(xiii)** To grant licenses for scientific or educational purposes to capture, take, or ship out of Wyoming, under the supervision of the commission, such wildlife or nests or eggs of nonpredacious birds as the commission may deem proper. The commission shall limit the number of any species so taken and establish appropriate compensation;

**(xiv)** To prescribe the requirements and form, including electronic licensing format, for the licenses, stamps and tags provided for in this act, to issue licenses, stamps and tags under the provisions of this act, including through electronic licensing, to make regulations for the sale and record of licenses,

stamps and tags, including sale by electronic licensing, and to distribute licenses, stamps, tags and electronic equipment and software programs associated with electronic licensing only to persons authorized by the commission to issue licenses, stamps or tags;

**(xv)** To require record keeping and the submission of reports of any specified information from any type of commercial operation or business authorized under this act;

**(xvi)** To provide for the enforcement of this act;

**(xvii)** To provide for the employment of office and field help to administer this act. Salaries shall be determined and fixed as provided by law;

**(xviii)** To open game preserves for hunting when they are overstocked or a serious shortage of feed exists. These preserves shall be so managed that they do not cause overstocking or other damage to the surrounding area;

**(xix)** To designate as protected, game, or predatory, any species not designated in W.S. 23-1-101, and to establish rules and regulations necessary for control of the species so designated. The designation may apply to portions of or the entire state;

**(xx)** To authorize the collection, classification, and dissemination of such statistics, data and information as in its discretion will tend to promote the objects and purposes of this act;

**(xxi)** To establish check stations to check licenses and to establish kill or catch reports, and to designate the location of check stations in yearly hunting regulations;

**(xxii)** To promulgate such orders as the commission considers necessary to carry out the intent of this act;

**(xxiii)** To create new divisions or abolish any existing divisions within the department as necessary to effectively administer and enforce this act;

**(xxiv)** To approve and make public budgets and establish policy for the department;

**(xxv)** To regulate the use of power vehicles on land owned or leased by the commission;

**(xxvi)** To regulate or prohibit the importation of exotic species, small game animals, furbearing animals, protected animals, game birds, migratory birds, protected birds, and fish into Wyoming, and to regulate and permit the importation of big or trophy game animals into Wyoming only for exhibition purposes or for zoos;

**(xxvii)** To designate individual bison or identifiable herds of bison as wildlife when the action is subsequently approved by the Wyoming livestock board;

**(xxviii)** To reject or to accept and expend for purposes authorized under this section any and all gifts of cash, stocks, bonds or any other form of monies. Gifts shall be deposited and expended as provided in W.S. 23-1-501;

**(xxix)** After the date gray wolves are removed from the list of experimental nonessential population,

endangered species or threatened species in Wyoming as provided by W.S. 23-1-108, to set seasons and bag limits for gray wolves designated as trophy game animals pursuant to W.S. 23-1-101(a)(xii) (B)(I) and (II), and to regulate the number of gray wolves which may be taken under a license issued under this act or as necessary to carry out the commission's duties under this act;

**(xxx)** To prohibit and regulate the administration of any chemical or biological substance or physical procedure to wildlife under the management and jurisdiction of the commission for the purpose of controlling fertility or reproduction;

**(xxxi)** To regulate and control the collection of shed antlers and horns of big game animals for the purpose of minimizing the harassment or disturbance of big game populations on public lands west of Interstate 90 from the Wyoming-Montana state line to Buffalo and west of Interstate 25 from Buffalo to the Wyoming-Colorado state line any time during the year, subject to the provisions for bighorn sheep horns in W.S. 23-3-117;

**(xxxii)** To adopt rules regulating, limiting or prohibiting the use of hunting technologies and the selling of wildlife geographic locations. "Hunting technologies" shall be limited to those technologies specified in subparagraphs (A) through (C) of this paragraph. No rule adopted pursuant to this paragraph shall apply to the taking of predatory animals as defined in W.S. 23-1-101(a) or to the use of hunting technologies by USDA APHIS wildlife damage management personnel when acting in their official capacity. Nothing in this paragraph shall be interpreted to limit any other authority of the commission provided in this act to regulate the taking of wildlife. Before promulgating any rule under this paragraph, the commission shall submit the proposed rule in writing to the joint travel, recreation, wildlife and cultural resources interim committee and appear before the committee upon request. Rules promulgated under this paragraph shall only apply to:

**(A)** Thermal or infrared imaging or other imaging outside the normal visible light spectrum;

**(B)** Real time video photography equipment or video imaging viewable remotely; or

**(C)** The selling of wildlife geographic locations.

**(b)** Notwithstanding subsection (a) of this section:

**(i)** The commission shall not ban the use of lead shot except in areas where shotgun shell pellets will exceed twenty thousand (20,000) per acre as determined by sampling methods approved by the commission. Banned lead shot areas shall not exceed areas reasonably necessary for practical enforcement of the ban;

**(ii)** This subsection does not apply if federal regulations are adopted forcing the designation of areas in addition to those specified in paragraph (i) of this subsection as nontoxic shot zones. The commission shall negotiate with the United States Fish and Wildlife Service to minimize the extent to which lead shot is banned;

**(iii)** The commission shall not assert any claim based upon adverse possession or a prescriptive easement as a basis to acquire any interest in real property. Provided, however, that the commission may assert a claim of adverse possession or prescriptive easement as a basis for correcting or interpreting a defect in a written grant of an interest in real property.

**(c) through (g)** Repealed by Laws 1988, ch. 79, § 11.

**(h)** For purposes of promoting the maintenance of wildlife habitat and attaining wildlife management objectives pursuant to W.S. 23-1-103 and in addition to duties prescribed under paragraph (a)(xiv) of this section, the commission shall promulgate rules and regulations governing the issuance of elk, deer, antelope and turkey hunting licenses to Wyoming landowners without subjection to prescribed means of competitive public issuance. Fees assessed for licenses authorized under this subsection shall be equal to fees prescribed under W.S. 23-2-101(j) for each species for which the license is issued.

**(j)** For the purpose of attaining and maintaining wildlife management objectives, the commission may designate funds not to exceed four percent (4%) of all license fees under this title annually plus any amount collected under W.S. 23-2-101(q) to be used for management and control of predator populations.

**(k)** Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the commission, the commission shall notify the party named in the court order of the withholding, suspension or restriction in accordance with the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

**(m)** The commission shall by rule and regulation provide for the issuance of a disabled hunter companion permit. An individual acting in accordance with a permit issued pursuant to this subsection shall not be in violation of any provision of this act or rule or regulation of the commission prohibiting the taking of a game animal without a license. The permit shall:

**(i)** Repealed by Laws 2013, ch. 54 § 2.

**(ii)** Authorize the permit holder to reduce to possession any animal the disabled hunter has lawfully wounded or killed under authority of a license issued under this act which he is physically incapable of pursuing;

**(iii)** Require that the licensed hunter or the permit holder tag any animal retrieved under authority of the permit, if otherwise required by this act;

**(iv)** Be issued in accordance with commission rules and regulations specifying the physical limitations which must be met by the disabled hunter and the requirements for the permit holder;

**(v)** Be issued for a fee established by the commission in an amount not to exceed five dollars

(\$5.00).

**(n)** In order to mitigate detrimental impacts to Wyoming from wildlife species including endangered species, which have been or may be introduced, planted or propagated in Wyoming, excluding Yellowstone National Park, by any federal agency, the commission shall demand reimbursement from the federal government for damages to Wyoming wildlife and wildlife habitat caused by any species, including endangered species, introduced within Wyoming under federal mandates or programs.

**(o)** The commission may, by rule and regulation, establish an electronic licensing system and prescribe the manner of payment for any electronic payment accepted by the department. For purposes of facilitating the implementation of an electronic licensing system, the commission may:

**(i)** Enter into agreements with the state treasurer to establish an electronic funds transfer system;

**(ii)** Permit license selling agents to authorize an electronic funds transfer to a collection account as set forth by commission rule and regulation;

**(iii)** Charge the license selling agent an additional fee of not more than thirty dollars (\$30.00) for each nonsufficient funds debit from the license selling agent's account; and

**(iv)** Promulgate all other necessary rules and regulations to effectuate electronic licensing.

**(p)** The commission may, by rule and regulation, establish a process by which big game licenses, trophy game licenses and wild bison licenses may be issued by a competitive raffle and prescribe the manner of payment for which raffle chances are sold and the amount of payment for each raffle chance. No more than two (2) licenses for each big game species and trophy game species and no more than two (2) wild bison licenses shall be issued under this subsection. Each license issued for bighorn sheep, moose, mountain goat, grizzly bear or wild bison through a competitive raffle shall, when applicable, be counted against any nonresident quota. The five (5) year restriction imposed on the receipt of a moose or bighorn sheep license by W.S. 23-1-703(b) or the lifetime restriction imposed on the receipt of a grizzly bear, mountain goat, bighorn sheep, wild bison or moose license by W.S. 23-1-703(c), and any restriction imposed on the receipt of a wild bison license by W.S. 23-2-107 shall not be applicable in any manner to a license issued pursuant to this subsection. The commission shall issue licenses upon receipt of the proper license fee by the successful competitive raffle winner. Nothing in this subsection shall authorize the issuance of a license to any person whose privilege to procure, purchase or possess a license has been suspended pursuant to this act or by operation of law.

**(q)** The commission shall, by rule and regulation, establish a process for issuing a resident lifetime fishing license and conservation stamp at no cost to any resident who is permanently and totally disabled. As used in this subsection, "permanently and totally disabled" means the presence of a permanent physical or mental condition that prevents a person from engaging in substantial gainful

activity.

**(r)** The following shall apply to information collected by the commission or the department:

**(i)** Personally identifiable and geographic information associated with the legal taking of wildlife within this state is solely for the use of the commission, department or appropriate law enforcement office and is not a public record for purposes of W.S. 16-4-201 through 16-4-205;

**(ii)** Information subject to paragraph (i) of this subsection shall not be released or otherwise publicly disseminated by the commission or department for any purpose unless authorized in writing by the person legally taking wildlife;

**(iii)** Subject to paragraphs (i) and (ii) of this subsection, information related to legally taking wildlife on private land shall not be a public record for purposes of W.S. 16-4-201 through 16-4-205 and shall not be released or otherwise publicly disseminated by the commission or department unless authorized in writing by the landowner or manager of the land where the taking occurred;

**(iv)** The department shall promulgate rules necessary to implement this subsection.

## History

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Laws 1939, ch. 65, §§ 10, 11; 1943, ch. 112, § 4; C.S. 1945, §§ 47-110, 47-111; W.S. 1957, §§ 23-15, 23-16; Laws 1971, ch. 29, §§ 1, 2; 1973, ch. 249, § 1; Rev. W.S. 1957, § 23.1-10; Laws 1974, ch. 16, § 2; 1975, ch. 83, § 1; 1979, ch. 63, § 2; 1981, ch. 169, § 1; 1985, ch. 53, § 1; ch. 173, § 1; 1986, Sp. Sess., ch. 4, § 1; 1988, ch. 79, § 11; 1992, ch. 3, § 1; 1996, ch. 121, § 2; 1997, ch. 128, § 2; 1999, ch. 92, § 1; ch. 120, § 1; 2003, ch. 68, § 1; ch. 115, § 2; ch. 117, § 1; 2005, ch. 35, § 1; 2006, ch. 9, § 1; ch. 114, § 1; 2007 ch. 168, § 3; 2009, ch. 1, § 1, ch. 118, § 1; 2010, ch. 7, § 1; 2011, ch. 197, § 1; 2012, ch. 25, § 1; 2013 ch. 54, § 2, effective February 15, 2013; 2013 ch. 55, § 1, effective July 1, 2013; 2019 ch. 122, § 1, effective July 1, 2019; 2019 ch. 131, § 1, effective July 1, 2019; 2019 ch. 86, § 1, effective July 1, 2019; 2020 ch. 48, § 1, effective January 1, 2021; 2020 ch. 108, § 1, effective July 1, 2020; 2021 ch. 97, § 2, effective July 1, 2021; 2022 ch. 43, § 1, effective July 1, 2022.

### ▼ Annotations

## Notes

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**The 2005 amendment**, effective July 1, 2005, rewrote (a)(v), which formerly read: "To sell or exchange land, water, or other property which is no longer of any practical use to the commission."

### **The 2006 amendments. —**

The first 2006 amendment, by ch. 9, § 1, rewrote (a)(xiv) by adding the language referring to electronic licensing and stamps; and added (o).

The second 2006 amendment, by ch. 114, § 1, added "and" in (a)(xxviii); and made a related change.

Pursuant to the conflicting laws provision, both of these amendments have been given effect in this section as set out above.

**The 2007 amendment**, added "or as necessary to carry out the commission's duties under this act" at the end of (a)(xxix).

### **The 2009 amendments. —**

The first 2009 amendment, by ch. 1, § 1, effective July 1, 2009, added (a)(xxx) and made a related change.

The second 2009 amendment, by ch. 118, § 1, effective July 1, 2009, added (a)(xxxi).

This section is set out as reconciled by the Wyoming legislative service office.

**The 2010 amendment**, effective July 1, 2010, inserted "including providing for season extensions for hunters with disabilities as established by commission rules and regulation" in (a)(i).

**The 2011 amendment**, effective July 1, 2011, added (b)(iii).

**The 2012 amendment**, added "with the exception of gray wolves" in (a)(ii); and substituted "set seasons and bag limits for gray wolves designated as trophy game animals pursuant to W.S. 23-1-101(a)(xii)(B)(I) and (II)" for "classify gray wolves as predatory or trophy game animals in accordance with W.S. 23-1-304" in (a)(xxix).

### **The 2013 amendments. —**

The first 2013 amendment, by ch. 54, § 2, repealed former (m)(i), which read: "Upon application of a disabled licensed hunter, be issued to an individual designated by the licensed hunter in accordance with the requirements established under this subsection."

Laws 2013, ch. 54, § 3, makes the act effective immediately upon completion of all acts necessary for a bill to become law as provided by art. 4, § 8, Wyo Const. Approved February 15, 2013.

The second 2013 amendment, by ch. 55, § 1, effective July 1, 2013, added (p).

While neither amendment gave effect to the other, both have been given effect in this section as set out above.

**The 2019 amendment**, effective July 1, 2019, in (a)(xxxi), substituted "west of Interstate 90



from the Wyoming-Montana state line to Buffalo and west of Interstate 25 from Buffalo to the Wyoming-Colorado state line any time during the year, subject to the provisions for bighorn sheep horns in W.S. 23-3-117" for "west of the Continental Divide any time between January 1 and May 1 of each year."

### **The 2020 amendments. —**

The first 2020 amendment, by ch. 48, § 1, effective January 1, 2021, in (j) added "plus any amount collected under W.S. 23-2-101(p)" following "this title annually."

The second 2020 amendment, by ch. 108, § 1, effective July 1, 2020, added (r).

This section is set out as reconciled by the Wyoming legislative service office.

**The 2021 amendment**, effective July 1, 2021, substituted "elk subject to the requirements imposed under W.S. 23-1-305, and other" for "the" in (a)(ix).

**The 2022 amendment**, effective July 1, 2022, in (p), added "or wild bison" in the third sentence, in the fourth sentence, substituted "bighorn" for "big horn," added "bighorn sheep, wild bison or moose," and made related changes.

### **Editor's notes. —**

Laws 2007, ch. 168, § 1, effective July 1, 2007, provides: "This act shall be effective only if W.S. 23-1-109 as created by this act is in effect in accordance with the provisions of that section. The legislative service office is authorized and directed to publish the provisions of this act in the manner which most effectively displays the contingencies provided in this act."

Paragraph (a)(xxix) of this section was amended by 2007 Wyoming Session Laws, Chapter 168, which provided the act was effective on and after July 1, 2007 only upon certification by the Governor to the Secretary of State of the occurrence of specified acts. On February 27, 2008, in accordance with W.S. 23-1-109(f), the Governor filed with the Secretary of State his certification that all act necessary for House Enrolled Act 123 (2007 Wyoming Session Laws, Chapter 168) to become effective had occurred. 2012 Wyoming Session Laws, Chapter 25, Section 3, provided that the legislature found that the contingencies required by 2007 Wyoming Session Laws, Chapter 168, occurred and that the provisions became effective. 2012 Wyoming Session Laws, Chapter 25, further amended paragraph (a)(xxix) of this section.

There is no subsection (i) or (l) in this section as it appears in the printed acts.

Laws 2022, ch. 43, § 3, provides, "The game and fish commission shall promulgate all rules necessary to implement the provisions of this act by January 1, 2023."

### **Wyoming Administrative Procedure Act. —**

See § 16-3-101(a), (b)(xi).

### **Meaning of "this act." —**

For the definition of "this act," referred in subsections (a) and (m), see § 23-1-102(a)(xiii).

### **Conflicting legislation. —**

Laws 2006, ch. 114, § 3, provides: "[A]ny 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."

**Constitutionality. —**

This section is constitutional, and it does not manifest an unconstitutional delegation of legislative power. It is justified by sufficiently identifiable general standards together with procedural safeguards that inhibit any unlawful, arbitrary, or capricious rulemaking by the Wyoming Coalition v. Wyoming Game & Fish Comm'n, 875 P.2d 729, 1994 Wyo. LEXIS 74 (Wyo. 1994).

**The takings clause. —**

Wyoming game and fish department regulation providing for a two-license limit on supplemental hunting licenses issued to large landowners does not require the state to reimburse property owners; the regulation does not deprive the land of all economic benefit so as to effect an unconstitutional regulatory taking. Clajon Prod. Corp. v. Petera, 70 F.3d 1566, 1995 U.S. App. LEXIS 32528 (10th Cir. Wyo. 1995).

**Power to direct game warden to kill game does not prevent landowner from protecting property. —**

Where a landowner had made a great many complaints to the game and fish commission concerning damage to his property by wild game, former W.S. 1957, § 23-15 (f) (similar to subsection (a)(viii) of this section) was held not to be such a remedy as precluded his killing such animals while they were damaging his property. Cross v. State, 370 P.2d 371, 1962 Wyo. LEXIS 78 (Wyo. 1962).

**Expense of fence not a claim for damages. —**

Arbitrators exceeded their authority when they compensated a landowner for the construction of a stack yard fence the landowner had constructed as a measure to avoid further damage by wildlife; this expense was not a claim for damage within § 23-1-901. Wyoming Game & Fish Comm'n v. Thornock, 851 P.2d 1300, 1993 Wyo. LEXIS 89 (Wyo. 1993).

**Stated in**

O'Brien v. State, 711 P.2d 1144, 1986 Wyo. LEXIS 443 (Wyo. 1986).

**Research References & Practice Aids****Cross references. —**

As to a trust account within the Wyoming game and fish fund, see § 23-1-501.

As to enforcement generally, see §§ 23-6-101 to 23-6-111.

**Law reviews. —**

For article, "Transfer of Water Rights — Errata and Addenda — Sales for Recreational Purposes and to Districts," see II Land & Water L. Rev. 321 (1967).

For comment, "Statutory Recognition of Instream Flow Preservation: A Proposed Solution for Wyoming," see XVII Land & Water L. Rev. 139 (1982).

For comment, "State Participation in Federal Policy Making for the Yellowstone Ecosystem: A Meaningful Solution or Business as Usual?" see XXI Land & Water L. Rev. 397 (1986).

For comment, "Wyoming's New Instream Flow Act: An Administrative Quagmire," see XXI Land & Water L. Rev. 455 (1986).

For article, "Bison, Brucellosis, and Law in the Greater Yellowstone Ecosystem," see XXVIII Land & Water L. Rev. 1 (1993).

For comment, "Reserving Wildlife for Resident Consumption: Is the Dormant Commerce Clause the Outfitters' White Knight?," see XXXII Land & Water L. Rev. 125 (1997).

#### **Hierarchy Notes:**

Wyo. Stat. Title 23

Wyo. Stat. Title 23, Ch. 1

Wyo. Stat. Title 23, Ch. 1, Art. 3

Wyoming Statutes Annotated

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