

ENROLLED ACT NO. 34, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2004 BUDGET SESSION

AN ACT relating to game and fish; modifying and clarifying residency requirements for purposes of purchasing hunting and fishing licenses, preference points, permits and tags; and providing for an effective date.

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

Section 1. W.S. 23-1-107 is repealed and recreated as 23-1-107 to read:

23-1-107. Residency for obtaining game and fish licenses.

(a) Except as otherwise provided in this section, to qualify for any resident game and fish license, preference point, permit or tag issued under this act, a person shall be domiciled in Wyoming for not less than one (1) full year immediately preceding the date the person applies for the license, preference point, permit or tag and shall not have claimed residency in any other state, territory or country for any purpose during that one (1) year period.

(b) Each person applying for a license, preference point, permit or tag under this act shall establish his own residency status independently or as provided in this subsection or subsection (g) of this section. A minor dependent shall qualify as a resident if:

(i) His custodial parent qualifies as a resident under this act; or

(ii) His noncustodial parent qualifies as a resident under this act and the minor is or will be residing in this state with the noncustodial parent during any portion of the calendar year in which the license,

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permit or stamp is to be used or in the case of a preference point the calendar year in which the preference point is to be accumulated.

(c) A person other than a minor dependent qualifying under subsection (b) of this section, shall lose his residency in Wyoming if he moves to another state, territory or country and makes it his domicile, or makes any claim of residency for any purpose to that state, territory or country. Provided he does not claim residency in any other state, territory or country for any purpose, a person shall not gain or lose residency in Wyoming merely by reason of his presence in or absence from the state while:

(i) Temporarily employed in the service of the United States; or

(ii) A patient at a hospital or institution.

(d) A person shall lose his residency in Wyoming if he resides in any other state, territory or country for an aggregate of one hundred eighty (180) days or more in a calendar year, unless he qualifies as a resident under subsection (b), (c), (e) or (f) of this section. A person who resides in any other state, territory or country other than Wyoming, for less than an aggregate of one hundred eighty (180) days in a calendar year, may maintain residency in Wyoming under this act only if he qualifies as a resident under subsection (b), (c), (e) or (f) of this section or if:

(i) The person had originally established residency by being domiciled for one (1) full year in Wyoming prior to leaving the state for a temporary purpose;

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(ii) The person's domicile or established, fixed and permanent home consists of real property situated in Wyoming. A mailing address is not sufficient evidence of domicile or a permanent home. Mere ownership of real property is not sufficient evidence to establish domiciliary intent;

(iii) The person is absent from Wyoming on a temporary basis and has the intention of returning to the state; and

(iv) The person makes no claim for residency in any other state, territory or country for any purpose during the time the person is absent from Wyoming.

(e) A person may remain a Wyoming resident while attending school in another state, territory or country if:

(i) The person does not pay resident tuition fees; and

(ii) The person continues to maintain Wyoming residency and does not claim residency in any other state, territory or country for any purpose.

(f) Any active duty member of the armed forces of the United States who has been stationed in Wyoming for ninety (90) days shall qualify as a resident under this section so long as the member remains stationed in Wyoming. Any person serving in active military duty in any other state, territory or country, may maintain resident status if the person:

(i) Is not a civilian employee of the military;

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(ii) Makes no claim of residency in any other state, territory or country for any purpose; and

(iii) Was a resident of Wyoming when he entered the military service and Wyoming remains his declared home of record or the person:

(A) Makes no current claim of residency in any other state, territory or country for any purpose;

(B) Has established his home of record in Wyoming; and

(C) Has maintained his voter registration in Wyoming.

(g) The spouse and minor dependents of a person qualifying as a resident under subsection (f) of this section shall qualify as resident for the same periods unless they have made a claim of residency in any other state, territory or country for any purposes during those periods.

(h) An applicant shall provide proof of residency and swear to an oath of residency when making application for, or attempting to purchase, a resident license, preference point, permit or tag under this act. License selling agents and the department shall consider as documentary evidence of residency any of the following:

(i) A Wyoming driver's license, identification card issued under title 31 of the Wyoming statutes, or a copy thereof;

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(ii) A copy of the applicant's school records or military form DD 214, which indicates Wyoming as the applicant's domicile and home of record;

(iii) A proof of residency statement on a form provided by the department that has been completed and signed by the applicant. Any active duty member of the armed forces, his spouse or minor dependent of the active duty member making application for or purchasing a resident license, preference point, permit or tag shall be required to complete and submit the proof of residency statement; or

(iv) A minor dependent may use as proof of residency the documentary evidence of his parent or legal guardian.

(j) The commission may promulgate rules and regulations in accordance with the Wyoming Administrative Procedure Act to ensure that only bona fide Wyoming residents as defined in this act are issued resident game and fish licenses, preference points, permits and tags.

Section 2. W.S. 23-1-102(a)(ix), (xv) and by creating a new paragraph (xvii) is amended to read:

23-1-102. General definitions.

(a) As used in this act:

(ix) "Resident" means a United States citizen or legal alien who ~~has been a resident of Wyoming and domiciled in Wyoming for not less than one (1) year and who has not claimed residency elsewhere for any purpose during that one (1) year period immediately preceding the date of application for a license, permit or certificate. Having a Wyoming mailing address shall not alone prove Wyoming~~

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~~residency. "Resident" also includes any alien who has resided continuously in Wyoming for at least one (1) year immediately prior to the date of making application for a game and fish license. "Resident" also includes any active duty member, the spouse or minor child of any active duty member of the armed forces of the United States who has been stationed in Wyoming for ninety (90) days so long as the member remains stationed in Wyoming~~ meets the requirements specified in W.S. 23-1-107 and rules of the commission;

(xv) "Domicile" means that place where a person has his true, fixed and permanent home to which whenever the person is temporarily absent the person has the intention of returning. ~~A person may have more than one (1) residence, as set forth in W.S. 23-1-107, but only one (1) domicile;~~ To prove domicile in Wyoming under this act a person shall be able to establish that he:

(A) Physically resides in Wyoming;

(B) Has made his permanent home in Wyoming;

(C) Is not residing in Wyoming for a special or temporary purpose; and

(D) Has abandoned his domicile in all other states, territories or countries.

(xvii) "Home of record" means the place recorded, on military form DD 214, as the home of the individual at the time he enlisted, was commissioned or initially ordered to active duty in the military. The home of record may be changed only if there has been a break in service of one (1) full day.

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Section 3. W.S. 23-2-301(b) is repealed.

Section 4. This act is effective January 1, 2005.

(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