

HOUSE BILL NO. HB0037

Consumer health services transfer.

Sponsored by: Representative(s) Meuli, McMurtrey, Osborn
and Thompson and Senator(s) Barrasso and
Boggs

A BILL

for

1 AN ACT relating to the transfer of consumer health services
2 as specified; transferring the authority for implementation
3 of the Wyoming Food, Drug and Cosmetic Safety Act and the
4 public pool and spa health safety program from the
5 department of agriculture to the department of health;
6 retaining the meat inspection program within the department
7 of agriculture; conforming provisions; transferring
8 personnel, property, equipment and authority as specified;
9 providing for the validity of program rules, regulations,
10 contracts, agreements or other obligations as specified;
11 and providing for an effective date.

12

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

14

15 **Section 1.** W.S. 11-2-202(a) by creating a new
16 paragraph (viii), 35-7-110(a)(vii), (ix) and (xxvii),

1 35-7-112(a), 35-7-123(a)(intro), (iii), (ix) and (c)(ii)
2 through (iv), 35-7-124(a), (b), (c)(i), (ii) and (d),
3 35-7-127(c) and (d), 35-28-101(a)(ii), (iii) and (ix),
4 35-28-102(a)(intro), (b)(intro), (i) and (c)(ii),
5 35-28-104(a), 35-28-108 and 35-28-110(c) are amended to
6 read:

7

8 **11-2-202. Powers and duties of director generally.**

9

10 (a) The director shall have his office in Cheyenne
11 and shall:

12

13 (viii) Establish and maintain a meat inspection
14 program for this state. However, nothing in this paragraph
15 shall be construed to grant authority to the director for
16 the inspection or regulation of live animal production or
17 the processing and storage of meat by a producer of live
18 animals for nonprofit consumption.

19

20 **35-7-110. Definitions.**

21

22 (a) As used in this act:

23

1 (vii) "Department" means the department of
2 ~~agriculture~~ health;

3

4 (ix) "Director" means the director of the
5 Wyoming department of ~~agriculture~~ health or his duly
6 authorized representative;

7

8 (xxvii) "Regulatory authority" means the
9 authority which issued the license or promulgated the rule
10 or regulation being enforced including the department of
11 ~~agriculture~~ health or local health department;

12

13 **35-7-112. Cease operations order; injunction**
14 **proceedings.**

15

16 (a) If the director ~~or the director of the department~~
17 ~~of health~~ pursuant to W.S. 35-7-123(b)(vi) has probable
18 cause to believe that an imminent hazard to the public
19 health exists from a violation of this act, he may order
20 any person to immediately cease the practice believed to be
21 a violation and shall provide the person an opportunity for
22 a hearing pursuant to the Wyoming Administrative Procedure
23 Act within ten (10) days after issuing the order.

24

1 **35-7-123. Establishment of food safety system.**

2

3 (a) The director ~~of the department of agriculture~~
4 shall establish and maintain a food safety program located
5 within the department. The director shall carry out the
6 provisions of the food safety program. ~~and shall be~~
7 ~~assisted by the director of the department of health.~~ A
8 local department of health, if established according to
9 law, may establish and maintain its own local food safety
10 program so long as the program meets the requirements of
11 this act. The director ~~of the department of agriculture~~ or
12 his designee shall:

13

14 (iii) Regulate the safety of foods and work
15 together with the department of ~~health~~agriculture and the
16 governor's food safety council established pursuant to W.S.
17 35-7-127 to promulgate rules and regulations necessary to
18 carry out the provisions of this act. In any area which
19 does not have a local food safety program established
20 pursuant to law, the department shall issue licenses,
21 conduct inspections, hold hearings to enforce any legal
22 provision or rule promulgated under this act;

23

1 (ix) Assist ~~the department of health, or~~ any
2 local jurisdiction, when requested to investigate possible
3 food borne and water related illness;

4

5 (c) Duties of a local board of health shall include:

6

7 (ii) Promulgating rules containing provisions
8 for inspections which may differ from state food safety
9 regulations promulgated under this act so long as direct
10 food safety and disease transmission requirements including
11 cooking temperatures, hot and cold holding temperatures,
12 reheating times and temperatures, cooling times and
13 temperatures, and such other requirements as determined by
14 the department of ~~agriculture~~health, do not differ;

15

16 (iii) Coordinating activities with the
17 department ~~of agriculture~~ in order to provide for statewide
18 consistency;

19

20 (iv) Providing the department ~~of agriculture~~
21 with a quarterly report providing information on any food
22 licenses issued and the results of any food inspections;

23

24 **35-7-124. License required; exemptions.**

1

2 (a) Any person processing, distributing, storing or
3 preparing any food for wholesale or retail use shall obtain
4 a license from the department ~~of agriculture~~ or a local
5 health department. The license is not transferable, shall
6 be renewed on an annual basis and shall be prominently
7 displayed in the establishment. No food establishment shall
8 serve, hold for sale or sell food to the public without a
9 valid license. An agricultural producer shall be exempt
10 from the licensure requirement in this section for
11 processing, distributing, storing or sale of any raw
12 agricultural commodity he produces.

13

14 (b) Written application for a new license shall be
15 made on a form approved by the department ~~of agriculture~~
16 and provided by the department ~~of agriculture~~ or the local
17 health department and shall be signed by the applicant. An
18 initial license fee of one hundred dollars (\$100.00) shall
19 accompany each application. The license fee for a temporary
20 food event shall be twenty-five dollars (\$25.00) which
21 event shall not exceed fourteen (14) days. License
22 requirements and fees for temporary food events operated by
23 nonprofit organizations shall be waived. Licenses shall
24 expire one (1) year after the date of issuance unless

1 suspended or revoked. Licenses may be renewed each year
2 upon application to the department or local health
3 department accompanied by a fee of fifty dollars (\$50.00).
4 Any establishment which has a license on the effective date
5 of this section shall pay a fee of fifty dollars (\$50.00)
6 for the following year and shall not be liable to pay the
7 initial license fee of one hundred dollars (\$100.00).

8

9 (c) Fees collected under this section shall be
10 distributed as follows:

11

12 (i) In any county, city or district without a
13 local health department established pursuant to W.S.
14 35-1-301 et seq., the department ~~of agriculture~~ shall
15 receive ~~ninety percent (90%) of the~~ total amount of the fee
16 collected. ~~and the department of health shall receive ten~~
17 ~~percent (10%).~~ The revenues shall be deposited into a
18 special account and shall be used to defer the cost
19 associated with the food safety program;

20

21 (ii) In any county, city or district with a
22 local health department established pursuant to W.S.
23 35-1-301 et seq., the local health department shall receive
24 eighty-five percent (85%) of the amount of the fee

1 collected, the department ~~of agriculture~~ shall receive ~~ten~~
2 ~~percent (10%)~~ and the department of health shall receive
3 ~~five percent (5%)~~ fifteen percent (15%). The revenues shall
4 be deposited into a special account and shall be used to
5 defer the cost associated with the food safety program.

6
7 (d) Before approving an application, the department
8 ~~of agriculture~~ or the local health department shall
9 determine that the establishment is in compliance with this
10 act and any regulations promulgated hereunder.

11
12 **35-7-127. Governor's food safety council.**

13
14 (c) No rule shall be promulgated by the department ~~of~~
15 ~~agriculture~~ or a local health department under this act
16 until the department has consulted with the governor's food
17 safety council and received comment from the council.

18
19 (d) The members of the council shall not receive
20 compensation for their service, but shall receive
21 reimbursement for traveling expenses as provided by W.S.
22 9-3-102 for state employees from the department of
23 ~~agriculture~~ health.

24

1 **35-28-101. Definitions.**

2

3 (a) As used in this act:

4

5 (ii) "Department" means the Wyoming department
6 of ~~agriculture~~ health;

7

8 (iii) "Director" means the director of the
9 Wyoming department of ~~agriculture~~ health or his duly
10 authorized representative;

11

12 (ix) "Regulatory authority" means the authority
13 which issued the license or adopted the rule or regulation
14 being enforced including the department of ~~agriculture~~
15 health or local health department;

16

17 **35-28-102. Establishment of a safety program.**

18

19 (a) The director shall establish and maintain a
20 public pool and spa health and safety program. The director
21 shall carry out provisions of the public pool and spa
22 health and safety program. ~~and shall be assisted by the~~
23 ~~department of health.~~ A local department of health, if
24 established according to law, may establish and maintain

1 its own local public pool and spa health and safety program
2 so long as the program meets the requirements of this act
3 and regulations adopted pursuant to this act. The director
4 or his designee shall:

5

6 (b) The director ~~of the department of health~~ or his
7 designee shall:

8

9 (i) Investigate all possible waterborne
10 illnesses and outbreaks and request assistance from ~~the~~
11 ~~department of agriculture and~~ local health departments as
12 necessary;

13

14 (c) Duties of a local health department shall
15 include:

16

17 (ii) Coordinating activities with the department
18 of ~~agriculture~~ health in order to provide for statewide
19 consistency; and

20

21 **35-28-104. Cease operations order; injunctive**
22 **proceedings.**

23

1 (a) If the director ~~of the department of agriculture~~
2 ~~or the director of the department of health~~ has probable
3 cause to believe that an imminent hazard to the public
4 exists from a violation of this act, he may order any
5 person to immediately cease the practice believed to be a
6 violation of this act and shall provide the person an
7 opportunity for hearing pursuant to the Wyoming
8 Administrative Procedure Act within ten (10) days after
9 issuing the order.

10

11 **35-28-108. License required.**

12

13 (a) Any person operating a public pool or spa shall
14 obtain a license from the department ~~of agriculture~~ or a
15 local health department and shall be thoroughly
16 knowledgeable on good practices of swimming pool and spa
17 operation and with the laws and rules pertaining to public
18 swimming pools, spas and similar installations. The license
19 is not transferable, shall be renewed on an annual basis
20 and shall be prominently displayed in the facility. No
21 public pool or spa shall operate without a valid license.

22

23 (b) Written application for a new license shall be
24 made on a form approved by the department ~~of agriculture~~

1 and provided by the department ~~of agriculture~~ or the local
2 health department and shall be signed by the applicant. An
3 initial license fee of one hundred dollars (\$100.00) shall
4 accompany each application. All licenses shall expire June
5 30 of each year unless suspended, revoked or renewed.
6 Licenses shall be renewed each year upon application to the
7 department accompanied by a fee of fifty dollars (\$50.00).
8 Any public pool or spa which has a license on the effective
9 date of this section shall pay a fee of fifty dollars
10 (\$50.00) for the following year and shall not be liable to
11 pay the initial license fee of one hundred dollars
12 (\$100.00).

13

14 (c) Fees collected under this section shall be
15 deposited in a special account within the department of
16 ~~agriculture's~~ health's consumer health services food and
17 license account and distributed monthly as follows:

18

19 (i) In any county, city or district without a
20 local health department established pursuant to W.S.
21 35-1-301 et seq., the department ~~of agriculture~~ shall
22 receive ~~ninety percent (90%) of the~~ total fee collected.
23 ~~and the department of health shall receive ten percent~~
24 ~~(10%).~~ The revenues received by the department ~~of~~

1 ~~agriculture~~ under this paragraph shall be used to defray
2 the cost associated with the public health and safety
3 program related to public pools and spas;

4
5 (ii) In any county, city or district with a
6 local health department established pursuant to W.S.
7 35-1-301 et seq., the local health department shall receive
8 eighty-five percent (85%) of the amount of the fee
9 collected, the department ~~of agriculture~~ shall receive ~~ten~~
10 ~~percent (10%)~~ and the department ~~of health~~ shall receive
11 ~~five percent (5%)~~ fifteen percent (15%). The revenues
12 received by the department ~~of agriculture~~ under this
13 paragraph shall be used to defray the cost associated with
14 the public health and safety program related to public
15 pools and spas.

16
17 (d) Before approving an application, the department
18 ~~of agriculture~~ or the local health department shall
19 determine that the facility is in compliance with this act
20 and any regulations adopted pursuant to this act.

21
22 **35-28-110. License revocation.**

23

1 (c) If, upon completion of the hearing and
2 consideration of the record, the department ~~of agriculture~~
3 or local department of health finds that the conditions
4 present at the facility pose an imminent health hazard,
5 there is a history of noncompliance with this act or the
6 regulations adopted under this act or there was a refusal
7 to grant access to the regulatory authority, the regulatory
8 authority shall issue an order of license revocation which
9 shall include findings of fact and conclusions of law, and
10 findings of actions necessary to cure the causes leading to
11 the revocation.

12

13 **Section 2.** W.S. 35-7-123(a)(viii) and (x) and
14 35-28-102(a)(ii) are repealed.

15

16 **Section 3.** Effective July 1, 2004, all positions,
17 personnel, property, equipment and authority in agencies or
18 programs specified in section 1 of this act are transferred
19 to the department of health from the department of
20 agriculture and shall be under the control and are the
21 responsibility of the department of health. The terms of
22 all persons previously appointed to the governor's food
23 safety council which is transferred to the department of
24 health are also transferred under this act. The validity of

1 rules, regulations, contracts, agreements or other
2 obligations of agencies or programs transferred to the
3 department of health under this act is not affected by this
4 act.

5

6 **Section 4.** This act is effective July 1, 2004.

7

8

(END)