

ENROLLED ACT NO. 54, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2024 BUDGET SESSION

AN ACT relating to the protection of constitutional rights; prohibiting the implementation or enforcement of a red flag gun seizure; preempting local law; providing definitions; providing for a civil action; providing a penalty; waiving sovereign immunity; authorizing attorney's fees; authorizing the attorney general to initiate a civil action; and providing for an effective date.

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

Section 1. W.S. 1-39-122 and 9-14-301 through 9-14-303 are created to read:

1-39-122. Liability; enforcement of a red flag gun seizure.

A governmental entity is liable for damages resulting from a violation of W.S. 9-14-302(b) pursuant to W.S. 9-14-303.

ARTICLE 3
PROHIBIT RED FLAG GUN SEIZURE ACT

9-14-301. Short title.

This article shall be known and may be cited as the "Prohibit Red Flag Gun Seizure Act."

9-14-302. Prohibiting the implementation or enforcement of a red flag gun seizure, preempting local law, penalties.

(a) For purposes of this act:

(i) "Red flag gun seizure" means a federal statute, rule, executive order, judicial order or judicial

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finding or any state statute, rule, executive order, judicial order or judicial finding that does any of the following:

(A) Prohibits a specific person from owning, possessing, transporting, transferring or receiving a firearm, ammunition or related accessories unless the person has been convicted of a felony crime, is currently adjudicated to be legally incompetent, has been committed to a mental institution, is an alien who is illegally or unlawfully in the state of Wyoming, has been dishonorably discharged from a branch of the armed forces of the United States, has been convicted of a crime listed under W.S. 6-2-510(b)(ii) or 6-2-511(b)(ii), is a fugitive from justice under 7-3-213, is subject to an order of protection prohibiting firearms pursuant to W.S. 7-3-508, 7-3-509, 35-21-104, 35-21-105 or a substantially similar law of another jurisdiction, is ordered not to possess a firearm, ammunition or related accessories as a condition of bond, parole or probation, is subject to an order of involuntary hospitalization under W.S. 25-10-110 or is subject to an order to seize a firearm, ammunition or related accessories under W.S. 23-6-208; or

(B) Orders the removal or requires the surrender of a firearm, ammunition or related accessories from a specific person unless the person has been convicted of a felony crime, is currently adjudicated to be legally incompetent, has been committed to a mental institution, is an alien who is illegally or unlawfully in the state of Wyoming, has been dishonorably discharged from a branch of the armed forces of the United States, has been convicted of a crime listed under W.S. 6-2-510(b)(ii) or 6-2-511(b)(ii), is a fugitive from justice under 7-3-213, is subject to an order of protection prohibiting firearms

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pursuant to W.S. 7-3-508, 7-3-509, 35-21-104, 35-21-105 or a substantially similar law of another jurisdiction, is ordered not to possess a firearm, ammunition or related accessories as a condition of bond, parole or probation, is subject to an order of involuntary hospitalization under W.S. 25-10-110 or is subject to an order to seize a firearm, ammunition or related accessories under W.S. 23-6-208.

(ii) "This act" means W.S. 9-14-301 through 9-14-303.

(b) The state of Wyoming, including any agency or any political subdivision in the state, shall be prohibited from implementing or enforcing any federal statute, rule, executive order, judicial order or judicial findings or any state statute, rule, executive order, judicial order or judicial findings that would enforce a red flag gun seizure order against or upon a resident of Wyoming.

(c) This state and any agency or any political subdivision, including any law enforcement agency, in the state of Wyoming shall be prohibited from using any personnel or funds appropriated by the legislature of the state of Wyoming, any other source of funds that originated within the state of Wyoming or accepting any federal funds to implement any federal statute, rule, executive order, judicial order or judicial findings or any state statute, rule, executive order, judicial order or judicial findings that would enforce a red flag gun seizure order against or upon a resident of Wyoming. Nothing in this section shall be construed to prohibit Wyoming officials from accepting aid from federal officials to enforce any Wyoming law not in conflict with this act.

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(d) This act shall preempt any local law, ordinance or regulation regarding a red flag gun seizure order or any other law, ordinance or regulation that may conflict with any provision of this act.

(e) Nothing in this act shall be construed to prohibit or prevent a firearm, firearm accessory or ammunition from being seized as evidence or collected by law enforcement in the course of a lawful investigation.

9-14-303. Civil actions permitted, remedies.

(a) Any agency of the state, political subdivision or law enforcement agency that employs any public officer or peace officer, as defined in W.S. 7-2-101(a)(iv), who knowingly violates any provision of this act and enforces a red flag gun seizure against any resident of the state of Wyoming while acting within the scope of their employment shall be liable to the injured party for damages resulting from the public officer's or peace officer's conduct in a civil action before the district court in which county the red flag gun seizure was enforced. The court, upon a finding of a violation of this act, may impose a civil penalty against the agency or political subdivision in an amount not to exceed fifty thousand dollars (\$50,000.00) per violation and may order any injunctive or other equitable relief as permitted by law. The court shall hold a hearing on a motion for injunctive or equitable relief of a red flag gun seizure within thirty (30) days of service of the petition.

(b) An interested party may bring a civil action to enforce the provisions of this act. The district court may order injunctive or other equitable relief, recovery of

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damages or other legal remedies permitted by law and payment of reasonable attorney fees.

(c) In any action brought under subsection (b) of this section, the court may award the prevailing party, other than the state of Wyoming or any political subdivision of the state, reasonable attorney fees. Sovereign immunity shall not be an affirmative defense in any action pursuant to this section.

Section 2. W.S. 1-39-104(a) is amended to read:

1-39-104. Granting immunity from tort liability; liability on contracts; exceptions.

(a) A governmental entity and its public employees while acting within the scope of duties are granted immunity from liability for any tort except as provided by W.S. 1-39-105 through 1-39-112 and 1-39-122. Any immunity in actions based on a contract entered into by a governmental entity is waived except to the extent provided by the contract if the contract was within the powers granted to the entity and was properly executed and except as provided in W.S. 1-39-120(b). The claims procedures of W.S. 1-39-113 apply to contractual claims against governmental entities.

ORIGINAL SENATE
FILE NO. SF0109

ENGROSSED

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Section 3. This act is effective immediately upon the completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(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