

HOUSE BILL NO. HB0060

Money Transmitters Act amendments.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to trade and commerce; amending the Wyoming
2 Money Transmitters Act; authorizing the use of subdelegates
3 by authorized delegates of licensees under the Money
4 Transmitters Act; providing authority of the banking
5 commissioner over subdelegates; providing a definition; and
6 providing for an effective date.

7

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

9

10 **Section 1.** W.S. 40-22-102(a)(xiv), (xvi)(H) and by
11 creating a new paragraph (xix), 40-22-103(b) through (e),
12 40-22-104(a)(iv), 40-22-107(a), 40-22-108(a)(v) and (viii),
13 40-22-111(a) and (b)(v), 40-22-112, 40-22-116(a)(i) and
14 (iv) through (vi), 40-22-117(a), 40-22-118(a)(ii),
15 40-22-119(a), (b), (d) and by creating new subsections (e)

1 and (f), 40-22-121, 40-22-122(a) and (b) and 40-22-128 are
2 amended to read:

3

4 **40-22-102. Definitions.**

5

6 (a) As used in this act:

7

8 (xiv) "Outstanding payment instrument" means any
9 payment instrument issued by the licensee which has been
10 sold in the United States directly by the licensee or any
11 payment instrument issued by the licensee which has been
12 sold by an authorized delegate or subdelegate of the
13 licensee in the United States, which has been reported to
14 the licensee as having been sold and which has not yet been
15 paid by or for the licensee;

16

17 (xvi) "Permissible investments" means:

18

19 (H) Receivables which are due to a licensee
20 from its authorized delegates ~~pursuant to a contract~~
21 ~~described in W.S. 40-22-118~~ or subdelegates which are not
22 past due or doubtful of collection; or

23

1 (xix) "Subdelegate" means an entity designated
2 by an authorized delegate by written contract to engage in
3 the business of money transmission on behalf of a licensee.

4
5 **40-22-103. License required.**

6
7 (b) A person is engaged in the business of money
8 transmission if the person ~~regularly~~ advertises, offers or
9 provides services to Wyoming residents, for personal,
10 family or household use, through any medium including, but
11 not limited to, internet or other electronic means.

12
13 (c) A licensee with a physical presence in this state
14 may conduct its business at one (1) or more locations,
15 directly or indirectly owned, or through one (1) or more
16 authorized delegates or subdelegates, or both, pursuant to
17 a single license granted to the licensee, provided that for
18 each business name, a separate license shall be required.

19
20 (d) Every licensee, ~~and~~ authorized delegate and
21 subdelegate shall comply with the Bank Secrecy Act, 12
22 U.S.C. 1951 et seq.

23

1 (e) Authorized delegates or subdelegates of a
2 licensee, acting within the scope of authority conferred by
3 a written contract as described in W.S. 40-22-118 shall not
4 be required to obtain a license.

5

6 **40-22-104. Exemptions.**

7

8 (a) This act shall not apply to:

9

10 (iv) Banks, bank holding companies, credit
11 unions, building and loan associations, savings and loan
12 associations, savings banks or mutual banks organized under
13 the laws of any state or the United States provided that
14 they do not issue or sell payment instruments through
15 authorized delegates or subdelegates who are not banks,
16 bank holding companies, credit unions, building and loan
17 associations, savings and loan associations, savings banks
18 or mutual banks; and

19

20 **40-22-107. Permissible investments and statutory**
21 **trust.**

22

23 (a) Each licensee shall at all times possess
24 permissible investments having an aggregate market value

1 calculated in accordance with generally accepted accounting
2 principles, of not less than the aggregate face amount of
3 all outstanding payment instruments ~~and stored value~~ issued
4 or sold by the licensee in the United States. This
5 requirement may be waived by the commissioner if the dollar
6 volume of a licensee's outstanding payment instruments ~~and~~
7 ~~stored value~~ does not exceed the bond or other security
8 devices posted by the licensee pursuant to W.S. 40-22-106.

9

10 **40-22-108. Application for license.**

11

12 (a) Each application for a license shall be made in
13 writing and in a form prescribed by the commissioner. Each
14 application shall include the following:

15

16 (v) A list identifying the applicant's proposed
17 authorized delegates or subdelegates in the state, if any,
18 at the time of the filing of the license application;

19

20 (viii) The location at which the applicant and
21 its authorized delegates and its subdelegates, if any,
22 propose to conduct the licensed activities in the state;
23 and

24

1 **40-22-111. Renewal of license and annual report.**

2

3 (a) Every year on October 1 each licensee shall pay
4 an annual renewal fee not to exceed two thousand dollars
5 (\$2,000.00), plus not more than one hundred dollars
6 (\$100.00) for each authorized delegate and subdelegate not
7 to exceed seven thousand dollars (\$7,000.00), as set by
8 rule of the commissioner.

9

10 (b) The renewal fee shall be accompanied by a report,
11 in a form approved by the commissioner, which shall
12 include:

13

14 (v) A list of the locations, if any, within this
15 state at which business regulated by this act is being
16 conducted by either the licensee or its authorized
17 delegates or its subdelegates;

18

19 **40-22-112. Licensee liability.**

20

21 A licensee's liability to any person for a money
22 transmission conducted on that person's behalf by the
23 licensee or an authorized delegate or a subdelegate shall

1 be limited to the amount of money transmitted or the face
2 amount of the payment instrument ~~or stored value~~ purchased.

3

4 **40-22-116. Maintenance of records.**

5

6 (a) Each licensee shall make, keep and preserve the
7 following books, accounts and other records for a period of
8 five (5) years and these records shall be open to
9 inspection by the commissioner:

10

11 (i) A record of each payment instrument; ~~and~~
12 ~~stored value sold;~~

13

14 (iv) Outstanding payment instruments; ~~and stored~~
15 ~~value;~~

16

17 (v) Records of each payment instrument ~~and~~
18 ~~stored value~~ paid;

19

20 (vi) A list of the names and addresses of all
21 authorized delegates and subdelegates; and

22

23 **40-22-117. Confidentiality of records; exception.**

24

1 (a) Except as provided in subsection (b) of this
2 section, all information or reports obtained by the
3 commissioner from an applicant, licensee or authorized
4 delegate or subdelegate are confidential.

5

6 **40-22-118. Authorized delegate contracts.**

7

8 (a) A licensee shall designate an authorized delegate
9 by express written contract including the following:

10

11 (ii) That ~~neither a licensee nor~~ an authorized
12 delegate may not authorize subdelegates without the written
13 consent of the commissioner; and

14

15 **40-22-119. Authorized delegate and subdelegate**
16 **conduct.**

17

18 (a) An authorized delegate or subdelegate shall not
19 make any fraudulent or false statement or misrepresentation
20 to a licensee or to the commissioner.

21

22 (b) All money transmission activities conducted by an
23 authorized delegate or subdelegate shall be in strict

1 accord with the licensee's written procedures provided to
2 the authorized delegate and subdelegate.

3

4 (d) An authorized delegate ~~is~~ and subdelegate are
5 deemed to consent to the commissioner's inspection with or
6 without prior notice to the licensee, ~~or~~ authorized
7 delegate or subdelegate pursuant to W.S. 40-22-115.

8

9 (e) A subdelegate shall remit all money owing to the
10 authorized delegate or licensee in accordance with the
11 terms of the contract between the authorized delegate and
12 the subdelegate.

13

14 (f) An authorized delegate shall not enter into
15 contracts with subdelegates without the consent of the
16 licensee and the commissioner.

17

18 **40-22-121. Suspension or revocation of authorized**
19 **delegates.**

20

21 (a) The commissioner may issue an order to the
22 licensee suspending or revoking the designation of an
23 authorized delegate or subdelegate if the commissioner
24 finds that:

1

2 (i) The authorized delegate or subdelegate
3 violated this act or a rule adopted or an order issued
4 under this act;

5

6 (ii) The authorized delegate or subdelegate has
7 not cooperated with an examination or investigation by the
8 commissioner;

9

10 (iii) The authorized delegate or subdelegate has
11 engaged in fraud, intentional misrepresentation or gross
12 negligence;

13

14 (iv) The authorized delegate or subdelegate has
15 been convicted of a violation of a state or federal money
16 laundering statute;

17

18 (v) The competence, experience, character or
19 general fitness of the authorized delegate or subdelegate
20 or a person in control of the authorized delegate or
21 subdelegate indicates that it is not in the public interest
22 to permit the authorized delegate or subdelegate to provide
23 money transmission services; or

24

1 (vi) The authorized delegate or subdelegate has
2 engaged in an unsafe or unsound practice.

3

4 (b) In determining whether an authorized delegate or
5 subdelegate has engaged in an unsafe or unsound practice
6 the commissioner may consider the size and condition of the
7 authorized delegate's or subdelegate's provision of money
8 services, the magnitude of the loss, the gravity of the
9 violation of this act and the previous conduct of the
10 authorized delegate or subdelegate.

11

12 (c) An authorized delegate or subdelegate may apply
13 for relief from a suspension or revocation designation as
14 an authorized delegate or subdelegate according to
15 procedures prescribed by the commissioner.

16

17 **40-22-122. Orders to cease and desist.**

18

19 (a) If the commissioner determines that a violation
20 of this act or of a rule adopted or an order issued under
21 this act by a licensee, ~~or~~ authorized delegate or
22 subdelegate is likely to cause immediate and irreparable
23 harm to the licensee, its customers or the public as a
24 result of the violation or cause insolvency or significant

1 dissipation of assets of the licensee, the commissioner may
2 issue an order requiring the licensee, ~~or~~ authorized
3 delegate or subdelegate to cease and desist from the
4 violation. The order becomes effective upon service upon
5 the licensee, ~~or~~ authorized delegate or subdelegate.

6
7 (b) The commissioner may issue an order against a
8 licensee to cease and desist from providing money
9 transmission services through an authorized delegate or
10 subdelegate that is the subject of a separate order
11 pursuant to W.S. 40-22-121 by the commissioner.

12

13 **40-22-128. Hearings.**

14

15 Except as otherwise provided in W.S. 40-22-111(c) and
16 40-22-122(c), the commissioner may not suspend or revoke a
17 license, issue an order to cease and desist, suspend or
18 revoke the designation of an authorized delegate or
19 subdelegate, or assess a civil penalty without notice and
20 an opportunity to be heard. The commissioner shall also
21 hold a hearing when requested to do so by an applicant
22 whose application for a license is denied.

23

