

SENATE FILE NO. SF0033

Vehicle registration-shell businesses.

Sponsored by: Joint Transportation, Highways & Military
Affairs Interim Committee

A BILL

for

1 AN ACT relating to motor vehicles; creating a rebuttable
2 presumption relating to vehicles registered under the laws
3 of another jurisdiction for purposes of titling,
4 registration and ownership; providing a penalty; creating
5 a definition; amending vehicle registration exemptions; and
6 providing for effective dates.

7

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

9

10 **Section 1.** W.S. 31-1-101(a) by creating a new
11 paragraph (xxxiv), 31-2-201 by creating new subsections (o)
12 through (q) and 31-2-224(a) (v) (intro) are amended to read:

13

14 **31-1-101. Definitions.**

15

1 (a) Except as otherwise provided, as used in this
2 act:

3
4 (xxxiv) "Shell business" means any partnership,
5 limited liability company, limited liability partnership,
6 corporation or other legal entity organized under the laws
7 of another jurisdiction which owns or holds title to a
8 vehicle to avoid proper registration of the vehicle in this
9 state. Factors which may indicate a legal entity is a
10 shell business include but are not limited to the
11 following:

12
13 (A) The primary business activity or
14 purpose of the legal entity is the avoidance of paying
15 Wyoming taxes and fees;

16
17 (B) Failure to maintain a physical location
18 in the foreign jurisdiction for at least one (1) year.
19 Under no circumstances shall a registered agent be deemed
20 to provide the legal entity with a physical location;

21

1 (C) Failure to employ individual persons
2 and provide those persons with internal revenue service
3 form W-2 wage and tax statements; or

4
5 (D) Failure to file or pay federal tax
6 returns or failure to file or pay a required state tax
7 return in the foreign jurisdiction;

8
9 (E) The business entity has not deducted
10 vehicle depreciation or expenses in a federal income tax
11 return.

12
13 **31-2-201. Registration required; timelines.**

14
15 (o) If the department, in consultation with the
16 department of revenue, a county treasurer or a Wyoming
17 peace officer, determines a resident is in control of a
18 vehicle owned by a shell business, it shall be rebuttably
19 presumed the resident is the actual owner of the vehicle
20 and the resident shall be required to obtain a Wyoming
21 certificate of title, to register the vehicle and to pay
22 any sales or use taxes due on the purchase of the vehicle
23 in accordance with W.S. 39-15-107(b)(i) or

1 39-16-107(b)(ii). The department shall promulgate rules
2 and regulations to determine if a resident is in control of
3 a vehicle owned by a shell business which may include
4 consideration of the following factors:

5
6 (i) The resident was the initial purchaser of
7 the vehicle;

8
9 (ii) The resident operated or stored the vehicle
10 in Wyoming for any period of time;

11
12 (iii) The resident is a partner, member or
13 shareholder of the shell business that purports to be the
14 owner of the vehicle; or

15
16 (iv) The resident is insured to drive the
17 vehicle.

18
19 (p) If the department, in consultation with the
20 department of revenue, a county treasurer or a Wyoming
21 peace officer, determines that a resident is the presumed
22 owner of a vehicle under subsection (o) of this section,
23 the department shall notify the resident in writing, that

1 the resident is required to obtain a Wyoming certificate of
2 title, to register the vehicle and to pay any sales or use
3 taxes due on the purchase of the vehicle in accordance with
4 W.S. 39-15-107(b)(i) or 39-16-107(b)(ii) within thirty (30)
5 days from the date of the notice. The department shall
6 promulgate rules and regulations in accordance with the
7 Wyoming Administrative Procedure Act necessary to implement
8 this section, including rules and regulations to provide
9 the resident an opportunity for a hearing and appeal.
10 Following a final determination in the appeal in favor of
11 the department, the resident shall owe the taxes and fees
12 determined to be due.

13

14 (q) If a person found to be in control of a vehicle
15 owned by a shell business under subsection (o) of this
16 section fails to pay registration fees or applicable sales
17 or use taxes due within thirty (30) days from the date of
18 the notice required under subsection (p) of this section or
19 within thirty (30) days following a final determination in
20 favor of the department under subsection (p) of this
21 section, the person shall be charged a civil penalty in an
22 amount not more than seventy-five percent (75%) of the
23 unpaid registration fees.

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2 **31-2-224. Registration exemptions.**

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4 (a) The following vehicles are exempt from the
5 provisions of this article:

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7 (v) Except as otherwise provided in W.S.
8 31-2-101(o), vehicles owned by a nonresident, validly
9 registered in another state or country, displaying
10 registration numbers or plates in accordance with the laws
11 of that state or country and:

12

13 **Section 2.** The department of transportation shall
14 promulgate rules and regulations necessary to implement
15 this act on or before July 1, 2016.

16

1 **Section 3.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective July 1, 2017.

5

6 (b) Section 2 of this act is effective immediately
7 upon completion of all acts necessary for a bill to become
8 law as provided by Article 4, Section 8 of the Wyoming
9 Constitution.

10

11

(END)