

ENROLLED ACT NO. 30, HOUSE OF REPRESENTATIVES

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

AN ACT relating to alcohol related offenses; reducing the blood-alcohol level for offenses of driving or having control of a vehicle while under the influence of intoxicating liquor; amending presumption accordingly; and providing for an effective date.

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

Section 1. W.S. 31-5-233(b)(i) and (c)(ii), 31-6-102(e)(intro) and (iii) and 31-6-103(b) are amended to read:

31-5-233. Driving or having control of vehicle while under influence of intoxicating liquor or controlled substances; penalties.

(b) No person shall drive or have actual physical control of any vehicle within this state if the person:

(i) Has an alcohol concentration of ~~ten one-hundredths of one percent (0.10%)~~ eight one-hundredths of one percent (0.08%) or more; or

(c) Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or being in actual physical control of a vehicle while under the influence of alcohol, the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

(ii) If there was at that time an alcohol concentration of more than five one-hundredths of one percent (0.05%) and less than ~~ten one-hundredths of one~~

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~~percent (0.10%)~~ eight one-hundredths of one percent (0.08%), that fact shall not give rise to any presumption that the person was or was not under the influence of alcohol, but it may be considered with other competent evidence in determining whether the person was under the influence of alcohol to a degree which renders him incapable of safely driving a motor vehicle.

31-6-102. Test to determine alcoholic or controlled substance content of blood; suspension of license.

(e) If a person submits to chemical testing and the test result indicates the person has an alcohol concentration of ~~ten one-hundredths of one percent (0.10%)~~ eight one-hundredths of one percent (0.08%) or more, the peace officer shall submit his signed statement to the department. Based upon the statement the department shall suspend the person's Wyoming driver's license or his privilege to operate a motor vehicle in this state for ninety (90) days. If a criminal conviction results from the same incident on which a suspension under this subsection is based, the suspension under W.S. 31-7-128(b) or revocation under W.S. 31-7-127(a)(ii) shall be reduced by ninety (90) days. The statement submitted by the officer shall contain:

(iii) The person had an alcohol concentration of ~~ten one-hundredths of one percent (0.10%)~~ eight one-hundredths of one percent (0.08%) or more.

31-6-103. Application for hearing; stay of suspension of license; scope of hearing.

(b) The scope of a hearing for the purposes of this act shall cover the issues of whether a peace officer had probable cause to believe the arrested person had been

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driving or was in actual physical control of a motor vehicle upon a public street or highway in this state in violation of W.S. 31-5-233(b) or any other law prohibiting driving under the influence as defined by W.S. 31-5-233(a)(v), whether the person was placed under arrest, whether he refused to submit to a test upon request of the peace officer or if he submitted to a test whether the test results indicated that the person had an alcohol concentration of ~~ten one-hundredths of one percent (0.10%)~~ eight one-hundredths of one percent (0.08%) or more, and whether, except for the persons described in this act who are incapable of refusing, he had been advised that his Wyoming driver's license or privilege to operate a motor vehicle shall be suspended for the period provided by W.S. 31-6-107 if he refused to submit to a test and suspended for ninety (90) days and subject him to criminal penalties if he submitted to the test and the results indicate the person is under the influence of alcohol. At the conclusion of the hearing, the hearing examiner shall order that the suspension either be rescinded or sustained. If the person submitted to a chemical test, the hearing examiner has the same authority to modify a license suspension under this act as he does under W.S. 31-7-105.

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Section 2. This act is effective July 1, 2002.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk