

ENROLLED ACT NO. 34, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

AN ACT relating to motor vehicles; providing an increased penalty for driving under the influence in specified circumstances; removing requirement relating to court ordered treatment; and providing for an effective date.

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

Section 1. W.S. 7-13-1302 and 31-5-233(e) are amended to read:

7-13-1302. Substance abuse assessment required.

All persons convicted of a third misdemeanor under W.S. 31-5-233(e) or a felony shall receive, as a part of a presentence report, a substance abuse assessment. The cost of the substance abuse assessment shall be assessed to and paid by the offender. A person who has undergone a substance abuse assessment pursuant to W.S. 31-5-233(e) may receive a second assessment under this section if the court finds that enough time has passed to make the first assessment inaccurate.

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

(e) Except as otherwise provided in this subsection or subsection (h) of this section, a person convicted of violating this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both. On a second conviction within five (5) years after a conviction for a violation of this section or other law prohibiting driving while under the influence, he shall be punished by imprisonment for not less than seven

ORIGINAL HOUSE
BILL NO. 0118

ENROLLED ACT NO. 34, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

(7) days nor more than six (6) months and shall not be eligible for probation or suspension of sentence or release on any other basis until he has served at least seven (7) days in jail. In addition, the person may be fined not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00). On a third ~~or subsequent~~ conviction within five (5) years after a conviction for a violation of this section or other law prohibiting driving while under the influence, he shall be punished by imprisonment for not less than thirty (30) days nor more than six (6) months, shall receive a substance abuse assessment pursuant to W.S. 7-13-1302 and shall not be eligible for probation or suspension of sentence or release on any other basis until he has served at least thirty (30) days in jail. ~~except that the court, after consultation with the sheriff,~~ shall consider the substance abuse assessment and may order the person to undergo outpatient alcohol or substance abuse treatment during any mandatory period of incarceration. The minimum period of imprisonment for a third ~~or subsequent~~ violation shall be mandatory, but the court, having considered the substance abuse assessment and the availability of public and private resources, may suspend up to fifteen (15) days of the mandatory period of imprisonment if, subsequent to the date of the current violation, the offender completes an inpatient treatment program approved by the court. In addition, the person may be fined not less than seven hundred fifty dollars (\$750.00) nor more than three thousand dollars (\$3,000.00). The judge may suspend part or all of the discretionary portion of an imprisonment sentence under this subsection and place the defendant on probation on condition that the defendant pursues and completes an alcohol education or treatment program as prescribed by the judge. Notwithstanding any other provision of law, the term of probation imposed by a judge under this section may exceed the maximum term of

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ENROLLED ACT NO. 34, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

imprisonment established for the offense under this subsection provided the term of probation together with any extension thereof, shall ~~in no case not~~ exceed three (3) years for up to and including a third conviction. On a fourth or subsequent conviction within five (5) years for a violation of this section or other law prohibiting driving while under the influence, he shall be guilty of a felony and fined not more than ten thousand dollars (\$10,000.00), punished by imprisonment for not more than two (2) years, or both.

Section 2. This act is effective July 1, 2003.

(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