

HOUSE BILL NO. HB0139

Driving under the influence-penalties.

Sponsored by: Representative(s) Hinckley, Berger, Gingery,
Harvey, IlLOWay, Pedersen, Warren and White
and Senator(s) Cooper and Ross

A BILL

for

1 AN ACT relating to motor vehicles; enhancing the penalties
2 that may be imposed for convictions for driving under the
3 influence as specified; providing for substance abuse
4 assessments; and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 31-5-233(e) is amended to read:

9

10 **31-5-233. Driving or having control of vehicle while**
11 **under influence of intoxicating liquor or controlled**
12 **substances; penalties.**

13

14 (e) Except as otherwise provided in this subsection
15 or subsection (h) of this section, a person convicted of
16 violating this section is guilty of a misdemeanor

1 punishable by imprisonment for not more than six (6)
2 months, a fine of not more than seven hundred fifty dollars
3 (\$750.00), or both. On a second conviction within five (5)
4 years after a conviction for a violation of this section or
5 other law prohibiting driving while under the influence, he
6 may be fined not less than two hundred dollars (\$200.00)
7 nor more than seven hundred fifty dollars (\$750.00) and
8 shall be punished by imprisonment for not less than ~~seven~~
9 ~~(7)~~ ten (10) days nor more than six (6) months, shall
10 receive a substance abuse assessment conducted by a
11 substance abuse provider certified by the department of
12 health pursuant to W.S. 9-2-2701(c) at or before sentencing
13 and shall not be eligible for probation or suspension of
14 sentence or release on any other basis until he has served
15 at least ~~seven (7)~~ ten (10) days in jail. ~~In addition, the~~
16 ~~person may be fined not less than two hundred dollars~~
17 ~~(\$200.00) nor more than seven hundred fifty dollars~~
18 ~~(\$750.00). On a third conviction within five (5) years~~
19 ~~after a conviction for a violation of this section or other~~
20 ~~law prohibiting driving while under the influence, he shall~~
21 ~~be punished by imprisonment for not less than thirty (30)~~
22 ~~days nor more than six (6) months, shall receive a~~
23 ~~substance abuse assessment pursuant to W.S. 7-13-1302 and~~
24 ~~shall not be eligible for probation or suspension of~~

1 ~~sentence or release on any other basis until he has served~~
2 ~~at least thirty (30) days in jail except that the court~~
3 ~~shall consider the substance abuse assessment and may order~~
4 ~~the person to undergo outpatient alcohol or substance abuse~~
5 ~~treatment during any mandatory period of incarceration. The~~
6 ~~minimum period of imprisonment for a third violation shall~~
7 ~~be mandatory, but~~ except that the court shall consider the
8 substance abuse assessment and may order the person to
9 undergo outpatient alcohol or substance abuse treatment
10 during any mandatory period of incarceration. The cost of
11 the substance abuse assessment and any treatment ordered
12 shall be assessed to and paid by the offender. The court,
13 having considered the substance abuse assessment and the
14 availability of public and private resources, may suspend
15 up to ~~fifteen (15)~~ three (3) days of the mandatory period
16 of imprisonment if, subsequent to the date of the current
17 violation, the offender completes an inpatient treatment
18 program approved by the court. ~~In addition, the person may~~
19 ~~be fined not less than seven hundred fifty dollars~~
20 ~~(\$750.00) nor more than three thousand dollars (\$3,000.00).~~
21 The ~~judge~~ court may suspend part or all of the
22 discretionary portion of an imprisonment sentence under
23 this subsection and place the defendant on probation on
24 condition that the defendant pursues and completes an

1 alcohol education or treatment program as prescribed by the
2 ~~judge~~ court. Notwithstanding any other provision of law,
3 the term of probation imposed ~~by a judge~~ under this section
4 may exceed the maximum term of imprisonment established for
5 the offense under this subsection provided the term of
6 probation together with any extension thereof, shall not
7 exceed three (3) years for ~~up to and including a third~~ a
8 first or second conviction. On a ~~fourth~~ third or subsequent
9 conviction within ~~five (5)~~ seven (7) years for a violation
10 of this section or other law prohibiting driving while
11 under the influence, he shall be guilty of a felony and
12 fined not more than ten thousand dollars (\$10,000.00),
13 punished by imprisonment for not more than two (2) years,
14 or both. For purposes of calculating if an individual has
15 a third or subsequent conviction within a seven (7) year
16 period for a violation of this section or other law
17 prohibiting driving while under the influence, any
18 dismissal of a charge pursuant to W.S. 7-13-301 for a
19 violation of this section or other law prohibiting driving
20 while under the influence shall be counted as a conviction
21 for purposes of this section.

22

1 **Section 2.** This act is effective July 1, 2005.

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(END)