

HOUSE BILL NO. HB0042

DUI evaluations.

Sponsored by: Representative(s) Warren, Berger, Hinckley,
Gingery, Osborn, Watt and White and
Senator(s) Burns, Cooper and Massie

A BILL

for

1 AN ACT relating to driving under the influence; providing
2 for substance abuse evaluation for all violations; and
3 providing for an effective date.

4

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

6

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

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10 **7-13-1302. Substance abuse assessment required.**

11

12 All persons convicted of ~~a third~~any misdemeanor under W.S.
13 31-5-233(e) or a felony shall receive before sentencing,
14 and as a part of a presentence report in the case of a
15 felony, a substance abuse assessment. The cost of the
16 substance abuse assessment shall be assessed to and paid by

1 the offender. A person who has undergone a substance abuse
2 assessment pursuant to W.S. 31-5-233(e) may receive a
3 second assessment under this section if the court finds
4 that enough time has passed to make the first assessment
5 inaccurate.

6

7 **31-5-233. Driving or having control of vehicle while**
8 **under influence of intoxicating liquor or controlled**
9 **substances; penalties.**

10

11 (e) A person convicted of violating this section
12 shall receive a substance abuse assessment before
13 sentencing pursuant to W.S. 7-13-1302. Except as otherwise
14 provided in this subsection or subsection (h) of this
15 section, a person convicted of violating this section is
16 guilty of a misdemeanor punishable by imprisonment for not
17 more than six (6) months, a fine of not more than seven
18 hundred fifty dollars (\$750.00), or both. On a second
19 conviction within five (5) years after a conviction for a
20 violation of this section or other law prohibiting driving
21 while under the influence, he shall be punished by
22 imprisonment for not less than seven (7) days nor more than
23 six (6) months and shall not be eligible for probation or
24 suspension of sentence or release on any other basis until

1 he has served at least seven (7) days in jail. In
2 addition, the person may be fined not less than two hundred
3 dollars (\$200.00) nor more than seven hundred fifty dollars
4 (\$750.00). On a third conviction within five (5) years
5 after a conviction for a violation of this section or other
6 law prohibiting driving while under the influence, he shall
7 be punished by imprisonment for not less than thirty (30)
8 days nor more than six (6) months, ~~shall receive a~~
9 ~~substance abuse assessment pursuant to W.S. 7-13-1302~~ and
10 shall not be eligible for probation or suspension of
11 sentence or release on any other basis until he has served
12 at least thirty (30) days in jail except that the court
13 shall consider the substance abuse assessment required
14 under W.S. 7-13-1302 and may order the person to undergo
15 outpatient alcohol or substance abuse treatment during any
16 mandatory period of incarceration. The minimum period of
17 imprisonment for a third violation shall be mandatory, but
18 the court, having considered the substance abuse assessment
19 and the availability of public and private resources, may
20 suspend up to fifteen (15) days of the mandatory period of
21 imprisonment if, subsequent to the date of the current
22 violation, the offender completes an inpatient treatment
23 program approved by the court. In addition, the person may
24 be fined not less than seven hundred fifty dollars

1 (\$750.00) nor more than three thousand dollars (\$3,000.00).
2 The judge may suspend part or all of the discretionary
3 portion of an imprisonment sentence under this subsection
4 and place the defendant on probation on condition that the
5 defendant pursues and completes an alcohol education or
6 treatment program as prescribed by the judge.
7 Notwithstanding any other provision of law, the term of
8 probation imposed by a judge under this section may exceed
9 the maximum term of imprisonment established for the
10 offense under this subsection provided the term of
11 probation together with any extension thereof, shall not
12 exceed three (3) years for up to and including a third
13 conviction. On a fourth or subsequent conviction within
14 five (5) years for a violation of this section or other law
15 prohibiting driving while under the influence, he shall be
16 guilty of a felony and fined not more than ten thousand
17 dollars (\$10,000.00), punished by imprisonment for not more
18 than two (2) years, or both.
19

1 **Section 2.** This act is effective immediately upon
2 completion of all acts necessary for a bill to become law
3 as provided by Article 4, Section 8 of the Wyoming
4 Constitution.

5

6

(END)