

HOUSE BILL NO. HB0139

Driving under the influence-penalties.

Sponsored by: Representative(s) Hinckley, Illoway and
Warren 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; making conforming and clarifying
4 amendments; 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. 7-13-301(d), 7-13-1302 and
9 31-5-233(e) are amended to read:

10

11 **7-13-301. Placing person found guilty, but not**
12 **convicted, on probation.**

13

14 (d) Discharge and dismissal under this section shall
15 be without adjudication of guilt and is not a conviction
16 for any purpose. If a person is charged with or is found

1 guilty of or pleads guilty or no contest to a violation of
2 W.S. 31-5-233 under this section, that charge, finding of
3 guilt or plea may be considered for purposes of W.S.
4 31-5-233(e), regardless of any discharge and dismissal for
5 that violation under this section.

6
7 **7-13-1302. Substance abuse assessment required.**

8
9 All persons convicted of a ~~third~~second misdemeanor under
10 W.S. 31-5-233(e) or a felony shall receive, as a part of a
11 presentence report, a substance abuse assessment. The cost
12 of the substance abuse assessment shall be assessed to and
13 paid by the offender. A person who has undergone a
14 substance abuse assessment pursuant to W.S. 31-5-233(e) may
15 receive a second assessment under this section if the court
16 finds that enough time has passed to make the first
17 assessment inaccurate.

18
19 **31-5-233. Driving or having control of vehicle while**
20 **under influence of intoxicating liquor or controlled**
21 **substances; penalties.**

22
23 (e) Except as otherwise provided in this subsection
24 or subsection (h) of this section, a person convicted of

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

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

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

19

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

21

22

(END)