

HOUSE BILL NO. HB0239

DUI-penalties.

Sponsored by: Representative(s) Mercer, Brechtel, Petersen, Quarberg and Shepperson and Senator(s) Aullman and Perkins

A BILL

for

1 AN ACT relating to driving while under the influence;
2 amending penalties for driving while under the influence as
3 specified; and providing for an effective date.

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

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

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

12

13 (e) Except as otherwise provided, a person convicted
14 of violating this section shall be ordered to or shall
15 receive a substance abuse assessment conducted by a
16 substance abuse provider certified by the department of

1 health pursuant to W.S. 9-2-2701(c) at or before
2 sentencing. The cost of the substance abuse assessment
3 shall be assessed to and paid by the offender. Except as
4 otherwise provided in this subsection or subsection (h) of
5 this section, a person convicted of violating this section
6 is guilty of a misdemeanor punishable by imprisonment for
7 not more than ~~six (6) months~~ one (1) year, a fine of not
8 more than ~~seven hundred fifty dollars (\$750.00)~~ one
9 thousand dollars (\$1,000.00), or both. On a second
10 conviction within five (5) years after a conviction for a
11 violation of this section or other law prohibiting driving
12 while under the influence, he shall be punished by
13 imprisonment for not less than ~~seven (7)~~ sixty (60) days
14 nor more than ~~six (6) months, he shall be ordered to or~~
15 ~~shall receive a substance abuse assessment conducted by a~~
16 ~~substance abuse provider certified by the department of~~
17 ~~health pursuant to W.S. 9-2-2701(c) before sentencing and~~
18 one (1) year. The person convicted shall not be eligible
19 for probation or suspension of sentence or release on any
20 other basis until he has served at least ~~seven (7)~~ sixty
21 (60) days in jail except that the court shall consider the
22 substance abuse assessment and may order the person to
23 undergo in-patient alcohol or substance abuse treatment
24 during any mandatory period of incarceration. The minimum

1 period of imprisonment for a second violation shall be
2 mandatory, but the court, having considered the substance
3 abuse assessment and the availability of public and private
4 resources, may suspend up to forty-six (46) days of the
5 mandatory period of imprisonment if, subsequent to the date
6 of the current violation, the offender completes an
7 inpatient treatment program approved by the court, or is
8 accepted to and participates in a drug court program in
9 accordance with W.S. 5-10-101 through 5-10-107. In
10 addition, the person may be fined not less than ~~two hundred~~
11 ~~dollars (\$200.00)~~ seven hundred fifty dollars (\$750.00) nor
12 more than ~~seven hundred fifty dollars (\$750.00)~~ three
13 thousand dollars (\$3,000.00). ~~On a third conviction within~~
14 ~~five (5) years after a conviction for a violation of this~~
15 ~~section or other law prohibiting driving while under the~~
16 ~~influence, he shall be punished by imprisonment for not~~
17 ~~less than thirty (30) days nor more than six (6) months,~~
18 ~~shall receive a substance abuse assessment pursuant to W.S.~~
19 ~~7-13-1302 and shall not be eligible for probation or~~
20 ~~suspension of sentence or release on any other basis until~~
21 ~~he has served at least thirty (30) days in jail except that~~
22 ~~the court shall consider the substance abuse assessment and~~
23 ~~may order the person to undergo outpatient alcohol or~~
24 ~~substance abuse treatment during any mandatory period of~~

1 ~~incarceration. The minimum period of imprisonment for a~~
2 ~~third violation shall be mandatory, but the court, having~~
3 ~~considered the substance abuse assessment and the~~
4 ~~availability of public and private resources, may suspend~~
5 ~~up to fifteen (15) days of the mandatory period of~~
6 ~~imprisonment if, subsequent to the date of the current~~
7 ~~violation, the offender completes an inpatient treatment~~
8 ~~program approved by the court. In addition, the person may~~
9 ~~be fined not less than seven hundred fifty dollars~~
10 ~~(\$750.00) nor more than three thousand dollars (\$3,000.00).~~

11 The judge may suspend part or all of the discretionary
12 portion of an imprisonment sentence under this subsection
13 and place the defendant on probation on condition that the
14 defendant pursues and completes an alcohol education or
15 treatment program as prescribed by the judge.
16 Notwithstanding any other provision of law, the term of
17 probation imposed by a judge under this section may exceed
18 the maximum term of imprisonment established for the
19 offense under this subsection provided the term of
20 probation together with any extension thereof, shall not
21 exceed three (3) years for up to and including a third
22 conviction. On a third or fourth ~~or subsequent~~ conviction
23 within ~~five (5)~~ seven (7) years, or on a fifth or
24 subsequent conviction in a lifetime, for a violation of

1 this section or other law prohibiting driving while under
2 the influence, he shall be guilty of a felony and fined not
3 more than ten thousand dollars (\$10,000.00), punished by
4 imprisonment for not more than ~~two (2)~~ ten (10) years, or
5 both.

6

7 **Section 2.** This act is effective July 1, 2007.

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(END)