

ENROLLED ACT NO. 30, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

AN ACT relating to driving under the influence; providing additional penalties for driving under the influence with a child in the vehicle; providing for investigation by child protective services; and providing for an effective date.

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

Section 1. W.S. 14-3-202(a)(ii)(D) and 31-5-233(a) by creating a new paragraph (vi), (e) and by creating a new subsection (m) are amended to read:

14-3-202. Definitions.

(a) As used in W.S. 14-3-201 through 14-3-216:

(ii) "Abuse" means inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, unless the abandonment is a relinquishment substantially in accordance with W.S. 14-11-101 through 14-11-109, excessive or unreasonable corporal punishment, malnutrition or substantial risk thereof by reason of intentional or unintentional neglect, and the commission or allowing the commission of a sexual offense against a child as defined by law:

(D) "Imminent danger" includes threatened harm and means a statement, overt act, condition or status which represents an immediate and substantial risk of sexual abuse or physical or mental injury. "Imminent danger" includes violation of W.S. 31-5-233(m).

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

(a) As used in this section:

(vi) "Child passenger" means a person traveling in a vehicle who is under sixteen (16) years of age.

(e) Except as otherwise provided, a person convicted of violating this section shall be ordered to or shall receive a substance abuse assessment conducted by a substance abuse provider certified by the department of health pursuant to W.S. 9-2-2701(c) at or before sentencing. The cost of the substance abuse assessment shall be assessed to and paid by the offender. Except as otherwise provided in this subsection or subsection (h) or (m) 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 (7) days nor more than six (6) months, he shall be ordered to or shall receive a substance abuse assessment conducted by a substance abuse provider certified by the department of health pursuant to W.S. 9-2-2701(c) before sentencing 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 conviction within five (5) years after a conviction for a violation of this section or other law prohibiting

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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 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 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 imprisonment established for the offense under this subsection provided the term of probation together with any extension thereof, shall 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),

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punished by imprisonment for not more than two (2) years,
or both.

(m) Any person eighteen (18) years of age or older who has a child passenger in the vehicle during a violation of this section shall be punished upon conviction as follows:

(i) For a first conviction under this subsection, by imprisonment for not more than one (1) year;

(ii) If previously convicted and sentenced under this subsection, or any other law substantially conforming to the provisions of this subsection, by imprisonment for not more than five (5) years.

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk