

SENATE FILE NO. SF0007

Alternate penalties & pretrial release for alcohol crimes.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to criminal procedure and motor vehicles;
2 amending 24/7 sobriety program provisions to increase access
3 to the program and technology; creating a restricted driver's
4 license for participants in 24/7 programs; removing
5 restriction on state funding for the 24/7 administrator;
6 providing additional driving privilege sanctions for driving
7 while under the influence; providing penalties for
8 violations; clarifying credit for time spent using ignition
9 interlock devices; amending provisions relating to persons
10 prohibited from driving without an interlock device; creating
11 an account; repealing the sunset date for the 24/7 program;
12 making conforming amendments; and providing for effective
13 dates.

14

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

16

1 **Section 1.** W.S. 31-7-501 and 31-7-502 are created to
2 read:

3

4

ARTICLE 5

5

24/7 LICENSES

6

7

31-7-501. 24/7 licenses; definitions; account;

8

administration and enforcement.

9

10 (a) For purposes of this article:

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(i) "24/7 administrator" means the 24/7 sobriety
program director authorized by W.S. 7-13-1710. In the absence
of a 24/7 sobriety program director, the 24/7 administrator
shall mean the attorney general or his designee;

(ii) "24/7 restricted driver's license" means a
driver's license issued under W.S. 31-7-109(m);

(iii) "24/7 sobriety program" means the program
created under W.S. 7-13-1701 through 7-13-1710;

1 (iv) "Department" means the Wyoming department of
2 transportation;

3

4 (v) "Indigent person" means a person able to
5 produce evidence that he is eligible and qualified to
6 participate in the federal supplemental nutrition assistance
7 program.

8

9 (b) The department shall prescribe reasonable rules and
10 regulations and prescribe forms related to the issuance and
11 revocation of 24/7 restricted driver's licenses as provided
12 in this article.

13

14 (c) The department shall establish a fee chargeable to
15 every person applying for a 24/7 restricted driver's license.
16 The fee shall compensate the department for all the costs
17 directly associated with administering 24/7 restricted
18 driver's licenses required by this article, but in no event
19 shall the fee exceed one hundred twenty-five dollars
20 (\$125.00). The fee shall not be collected from any indigent
21 person.

22

1 (d) There is created the 24/7 restricted driver's
2 license account. All monies received by the department under
3 subsection (c) of this section shall be deposited into the
4 24/7 account. Interest earned on monies in the account shall
5 be credited to the account. All monies in the account
6 including earned interest are continuously appropriated to
7 the department and shall be expended only for the purpose of
8 administering 24/7 restricted driver's licenses required by
9 this article.

10

11 **31-7-502. 24/7 restricted license requirements;**
12 **revocation; penalties.**

13

14 (a) A person ordered to participate pursuant to W.S.
15 31-5-233(n) in a 24/7 sobriety program as an alternative to
16 the requirements of W.S. 31-5-233(f)(ii) through (iv) shall
17 not be eligible to receive an unrestricted driver's license
18 until he has held the 24/7 restricted license for the period
19 required by W.S. 31-5-233(n). The time during which a person
20 can demonstrate enrollment in and compliance with a 24/7
21 sobriety program prior to conviction for the same incident
22 shall be credited to the person's post-conviction restricted
23 license requirements under W.S. 31-5-233(n).

1

2 (b) If a person ordered to participate in a 24/7
3 sobriety program, as described in subsection (a) of this
4 section, fails to comply with the requirements of the program
5 or otherwise ceases to participate in the program prior to
6 completing the program, the 24/7 administrator shall
7 immediately notify the department. Upon receiving notice, the
8 department shall immediately revoke the person's 24/7
9 restricted driver's license.

10

11 (c) A person whose 24/7 restricted driver's license is
12 revoked shall apply to the department for an ignition
13 interlock restricted license for the balance of the period
14 required by W.S. 31-5-233(n).

15

16 (d) A person whose 24/7 restricted driver's license is
17 revoked under subsection (b) of this section shall not drive
18 any motor vehicle on the highways of this state unless the
19 person has been issued an ignition interlock restricted
20 license for the balance of the period required by W.S.
21 31-5-233(f).

22

1 (e) A person who violates subsection (d) of this
2 section is guilty of a misdemeanor and shall:

3

4 (i) For a first offense, be imprisoned for not
5 less than seven (7) days nor more than six (6) months, and
6 shall not be eligible for probation, suspension of sentence
7 or release on any other basis until serving at least seven
8 (7) days in jail. In addition, the person shall be fined not
9 less than two hundred dollars (\$200.00) nor more than seven
10 hundred fifty dollars (\$750.00);

11

12 (ii) For a second or subsequent violation of
13 subsection (d) of this section during the same license
14 revocation period, be imprisoned for not less than thirty
15 (30) days nor more than six (6) months, and shall not be
16 eligible for probation, suspension of sentence or release on
17 any other basis until serving at least thirty (30) days in
18 jail. In addition, the person shall be fined not less than
19 two hundred dollars (\$200.00) nor more than seven hundred
20 fifty dollars (\$750.00).

21

22 **Section 2.** W.S. 7-13-304(d), 7-13-1702(a) by creating
23 a new paragraph (vi), 7-13-1703(b), 7-13-1704(b),

1 7-13-1707(a), 7-13-1708(a), 7-13-1709(a), 7-13-1710,
2 31-5-233(f)(intro), (ii) through (iv) and by creating a new
3 subsection (n), 31-7-109 by creating a new subsection (m),
4 31-7-402(a), (b) and by creating new subsections (e) and (f)
5 and 31-7-404(a) and (c)(intro) are amended to read:

6

7 **7-13-304. Imposition or modification of conditions;**
8 **performance of work by defendant.**

9

10 (d) As a condition of probation or suspension of
11 sentence, the court may require a defendant to complete
12 successfully a court supervised treatment program qualified
13 under W.S. 7-13-1601 through 7-13-1615, a 24/7 sobriety
14 program under W.S. 7-13-1701 through ~~7-13-1711~~7-13-1710, or
15 both.

16

17 **7-13-1702. Definitions.**

18

19 (a) As used in this article:

20

21 (vi) "Remote electronic alcohol monitoring" means
22 continuous alcohol monitoring through the use of an installed
23 device capable of testing an offender to determine alcohol

1 consumption and which test results may be monitored at a
2 remote location.

3

4 **7-13-1703. 24/7 sobriety program created.**

5

6 (b) The program shall provide for frequent and certain
7 testing for drug or alcohol use. The testing methods may
8 include breath testing, drug patch testing, urinalysis,
9 continuous or transdermal alcohol monitoring, including
10 remote electronic alcohol monitoring or other testing methods
11 as provided by rule.

12

13 **7-13-1704. Inclusion in program.**

14

15 (b) The sheriff shall establish the testing locations
16 and times for his county but shall have at least one (1)
17 testing location and two (2) daily testing times
18 approximately twelve (12) hours apart unless the sheriff
19 establishes a remote electronic alcohol monitoring system
20 that complies with rules promulgated by the attorney general
21 pursuant to W.S. 7-13-1705.

22

23 **7-13-1707. 24/7 sobriety program account.**

1

2 (a) There is created a 24/7 sobriety program account.

3 The account shall be used by the attorney general to defray

4 all the costs of the program to the state, including the costs

5 of the attorney general in administering this article.

6 Disbursements from the account shall not exceed the monies

7 credited to it. All monies in the account are continuously

8 appropriated to the attorney general to be used solely for

9 the administration of the program and for no other purpose.

10 After paying participating vendors, the attorney general

11 shall return no less than seventy-five percent (75%) of the

12 remaining fees collected under W.S. 7-13-1706 to the sheriff

13 who collected the fee. The sheriff shall utilize the funds

14 only to administer or enhance the county's 24/7 sobriety

15 program. Notwithstanding W.S. 9-2-1008 and 9-4-207 funds in

16 the account shall not lapse at the end of the fiscal period.

17 Interest earned on funds in the account shall be deposited to

18 the account.

19

20 **7-13-1708. Authority of court to order participation in**

21 **program.**

22

1 (a) Upon a ~~second or subsequent~~ charge or offense for
2 conduct committed while intoxicated or under the influence of
3 a controlled substance, a court may order participation in
4 the program as a condition of pretrial release, bond,
5 suspension of sentence, probation or other conditional
6 release.

7

8 **7-13-1709. Apprehension of violators.**

9

10 (a) Upon the failure of a person to submit to ~~or pass~~
11 a test under the program or upon a positive test for alcohol
12 or controlled substance in violation of the program, a peace
13 officer or a probation and parole agent shall complete a
14 written statement establishing the person, in the judgment of
15 the officer or agent, violated a condition of release by
16 failing to submit to or pass a test. A peace officer shall
17 immediately arrest the person without warrant after
18 completing or receiving the written statement.

19

20 **7-13-1710. 24/7 sobriety program director;**
21 **appointment.**

22

1 The attorney general may appoint a director to administer the
2 program. The appointment shall be subject to senate
3 confirmation in the manner provided for in W.S. 28-12-101 and
4 28-12-102 for gubernatorial appointments. The director shall
5 receive an annual salary determined by the department of
6 administration and information human resources division. ~~No~~
7 ~~state funds shall be used to fund the salary or benefits of~~
8 ~~the director.~~

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 (f) Any person convicted under this section or other
15 law prohibiting driving while under the influence as defined
16 in W.S. 31-5-233(a)(v), or whose prosecution under this
17 section is deferred under W.S. 7-13-301, shall, in addition
18 to the penalty imposed:

19
20 (ii) Except as provided in subsection (n) of this
21 section, for a first conviction, or for a prosecution deferred
22 under W.S. 7-13-301, where the department's administrative
23 action indicates the person had an alcohol concentration of

1 fifteen one-hundredths of one percent (0.15%) or more,
2 operate only vehicles equipped with an ignition interlock
3 device, pursuant to W.S. 31-7-401 through 31-7-404, for a
4 period of six (6) months. For purposes of this paragraph, the
5 department's administrative action shall be deemed to
6 indicate a person had an alcohol concentration of fifteen
7 one-hundredths of one percent (0.15%) or more only after the
8 person is notified of and given the opportunity to pursue the
9 administrative procedures provided by W.S. 31-7-105;

10
11 (iii) Except as provided in subsection (n) of this
12 section, for a second conviction, operate only vehicles
13 equipped with an ignition interlock device, pursuant to W.S.
14 31-7-401 through 31-7-404, for a period of one (1) year;

15
16 (iv) Except as provided in subsection (n) of this
17 section, for a third conviction, operate only vehicles
18 equipped with an ignition interlock device, pursuant to W.S.
19 31-7-401 through 31-7-404, for a period of two (2) years;

20
21 (n) The court may, as an alternative or in addition to
22 the requirements of W.S. 31-5-233(f)(ii) through (iv),
23 require a person otherwise restricted to operating only motor

1 vehicles equipped with an ignition interlock device under
2 W.S. 31-5-233(f)(ii) through (iv) to participate in a program
3 established under the 24/7 Sobriety Program Act, W.S.
4 7-13-1701 et seq., for the period specified in W.S.
5 31-5-233(f)(ii) through (iv). A person required to
6 participate in a 24/7 sobriety program as an alternative to
7 the requirements of W.S. 31-5-233(f)(ii) through (iv) shall
8 be granted a restricted driver's license under W.S.
9 31-7-109(m) upon proper application under rules established
10 by the department and provided that the person enrolls in and
11 complies with the requirements of the 24/7 sobriety program.

12

13 **31-7-109. Classes of licenses.**

14

15 (m) The restricted driver's license "24/7" authorizes
16 the driver to operate a vehicle as provided in W.S.
17 31-5-233(n). This restricted license shall not permit a
18 driver to operate a motor vehicle that requires a commercial
19 driver's license.

20

21 **31-7-402. Issuance of ignition interlock restricted**
22 **license; eligibility.**

23

1 (a) A person whose driver's license has been suspended
2 pursuant to W.S. 31-7-128(b)(ii) as a result of a violation
3 related to operating a vehicle under the influence of alcohol,
4 or whose license is otherwise suspended and is required to
5 operate only vehicles equipped with an ignition interlock
6 device, ~~and who has served at least forty five (45) days of~~
7 ~~the suspension period~~ shall apply to the department for an
8 ignition interlock restricted license for ~~the balance of~~ the
9 suspension period or other period required by law.

10

11 (b) A person whose driver's license has been revoked
12 pursuant to W.S. 31-7-127(a)(ii) as a result of a violation
13 related to operating a vehicle under the influence of alcohol,
14 or whose license is otherwise suspended and is required to
15 operate only vehicles equipped with an ignition interlock
16 device, ~~and who has served at least forty five (45) days of~~
17 ~~the suspension or revocation period~~ or who is required to
18 operate only vehicles equipped with an ignition interlock
19 device under W.S. 31-5-233(f)(ii) shall apply to the
20 department for an ignition interlock restricted license for
21 ~~the balance of~~ the suspension or revocation period or other
22 period required by law.

23

1 (e) A person required to apply for an ignition
2 interlock restricted license under subsection (a) or (b) of
3 this section shall not be eligible to receive a driver's
4 license without an ignition interlock restriction until he
5 has held the ignition interlock license for the period
6 required by law. If a person required to apply for an ignition
7 interlock license resides in another state, the person may
8 meet the ignition interlock license requirement by completing
9 the ignition interlock program in another state for the period
10 required by Wyoming law.

11
12 (f) The time during which a person can demonstrate
13 installation and compliance with a department approved
14 ignition interlock device prior to conviction for the same
15 incident shall be credited to the person's post-conviction
16 ignition interlock restricted license requirements.

17
18 **31-7-404. Driving without interlock device.**

19
20 (a) No person ~~licensed under this article~~ shall drive
21 any motor vehicle~~,~~ without a functioning and certified
22 ignition interlock device~~.~~ if:

23

1 (i) He is licensed under this article;

2

3 (ii) He is required to apply for an interlock
4 restricted license under W.S. 31-7-402(a) or (b); or

5

6 (iii) His driving privileges have been restricted
7 to operating vehicles with an interlock device by a court or
8 by operation of law.

9

10 (c) A person ~~holding a restricted license under this~~
11 ~~article~~ who violates subsection (a) or (b) of this section is
12 guilty of a misdemeanor and shall:

13

14 **Section 3.** W.S. 7-13-1711 is repealed.

15

16 **Section 4.** On or before July 1, 2019, the department of
17 transportation shall promulgate rules and prescribe forms as
18 required by W.S. 31-7-501(b) as created by section 1 of this
19 act.

20

21 **Section 5.**

22

1 (a) Except as provided in subsection (b) of this
2 section, this act is effective July 1, 2019.

3

4 (b) Section 4 of this act is effective immediately upon
5 completion of all acts necessary for a bill to become law as
6 provided by Article 4, Section 8 of the Wyoming Constitution.

7

8

(END)