

HOUSE BILL NO. HB0092

DUI amendments.

Sponsored by: Representative(s) Meuli

A BILL

for

1 AN ACT relating to motor vehicles; amending the "driving or
2 having physical control of a vehicle while under the
3 influence" prohibitions; shifting the burden of proof in
4 some circumstances; specifying requirements for putting on
5 a defense in some circumstances; and providing for an
6 effective date.

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

9

10 **Section 1.** W.S. 31-5-233(b)(i), by creating a new
11 paragraph (ii), by renumbering paragraph (ii) as (iii),
12 (c)(intro) and (d) is amended to read:

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14 **31-5-233. Driving or having control of vehicle while**
15 **under influence of intoxicating liquor or controlled**
16 **substances; penalties.**

17

1 (b) No person shall drive or have actual physical
2 control of any vehicle within this state if the person:

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4 (i) Has an alcohol concentration of ten one-
5 hundredths of one percent (0.10%) or more; ~~or~~

6

7 (ii) Has an alcohol concentration of ten one-
8 hundredths of one percent (0.10%) or more as measured
9 within three (3) hours of the time of operation or actual
10 physical control;

11

12 ~~(ii)~~ (iii) To a degree which renders him
13 incapable of safely driving:

14

15 (A) Is under the influence of alcohol;

16

17 (B) Is under the influence of a controlled
18 substance; or

19

20 (C) Is under the influence of a combination
21 of any of the elements named in subparagraphs (A) and (B)
22 of this paragraph.

23

1 (c) Upon the trial of any criminal action or
2 proceeding arising out of acts alleged to have been
3 committed by any person while driving or being in actual
4 physical control of a vehicle while under the influence of
5 alcohol, the ~~amount of alcohol in the person's blood~~
6 person's alcohol concentration at the time alleged as shown
7 by chemical analysis of the person's blood, urine, breath,
8 or other bodily substance shall give rise to the following
9 presumptions:

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11 (d) Subsection (c) of this section shall not be
12 construed as limiting the introduction of any other
13 competent evidence bearing upon the question of whether the
14 person was under the influence of alcohol, including tests
15 obtained more than three (3) hours after the alleged
16 violation. The fact that any person charged with a
17 violation of subsection (b) of this section is or has been
18 entitled to use the controlled substance under the laws of
19 this state shall not constitute a defense against any
20 charge under subsection (b) of this section. It is an
21 affirmative defense to a violation of paragraph (b)(ii) of
22 this section that the defendant consumed a sufficient
23 quantity of alcohol after the time of actual operation or
24 physical control of a motor vehicle and before the

1 administration of the evidentiary test to cause the
2 defendant's alcohol concentration to exceed ten one-
3 hundredths of one percent (0.10%) but evidence of the
4 consumption may not be admitted unless notice is given to
5 the prosecution pursuant to rule 12.1 of the Wyoming Rules
6 of Criminal Procedure.

7

8 **Section 2.** This act is effective July 1, 2002.

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(END)