

HOUSE BILL NO. HB0183

Driving under the influence-enhanced penalties.

Sponsored by: Representative(s) Hinckley, Berger,
Buchanan, Cohee, Cooper, Harshman, Harvey,
Illoway, Morgan, Olsen, Parady, Ross and
Warren

A BILL

for

1 AN ACT relating to motor vehicles; enhancing the penalties
2 that may be imposed for subsequent convictions for driving
3 under the influence as specified; conforming a provision;
4 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. 7-13-1302 and 31-5-233(e) are
9 amended to read:

10

11 **7-13-1302. Substance abuse assessment required.**

12

13 All persons convicted of a ~~third~~second misdemeanor under
14 W.S. 31-5-233(e) or a felony shall receive, as a part of a
15 presentence report, a substance abuse assessment. The cost

1 of the substance abuse assessment shall be assessed to and
2 paid by the offender. A person who has undergone a
3 substance abuse assessment pursuant to W.S. 31-5-233(e) may
4 receive a second assessment under this section if the court
5 finds that enough time has passed to make the first
6 assessment inaccurate.

7

8 **31-5-233. Driving or having control of vehicle while**
9 **under influence of intoxicating liquor or controlled**
10 **substances; penalties.**

11

12 (e) Except as otherwise provided in this subsection
13 or subsection (h) of this section, a person convicted of
14 violating this section is guilty of a misdemeanor
15 punishable by imprisonment for not more than six (6)
16 months, a fine of not more than seven hundred fifty dollars
17 (\$750.00), or both. On a second conviction within five (5)
18 years after a conviction for a violation of this section or
19 other law prohibiting driving while under the influence, he
20 shall be punished by imprisonment for not less than ~~seven~~
21 ~~(7)~~ ten (10) days nor more than six (6) months, shall
22 receive a substance abuse assessment pursuant to W.S.
23 7-13-1302 and shall not be eligible for probation or
24 suspension of sentence or release on any other basis until

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

1 subsequent to the date of the current violation, the
2 offender completes an inpatient treatment program approved
3 by the court. ~~In addition, the person may be fined not less~~
4 ~~than seven hundred fifty dollars (\$750.00) nor more than~~
5 ~~three thousand dollars (\$3,000.00).~~ The judge may suspend
6 part or all of the discretionary portion of an imprisonment
7 sentence under this subsection and place the defendant on
8 probation on condition that the defendant pursues and
9 completes an alcohol education or treatment program as
10 prescribed by the judge. Notwithstanding any other
11 provision of law, the term of probation imposed by a judge
12 under this section may exceed the maximum term of
13 imprisonment established for the offense under this
14 subsection provided the term of probation together with any
15 extension thereof, shall not exceed three (3) years for up
16 to and including a ~~third~~second conviction. On a ~~fourth~~
17 third or subsequent conviction within ~~five (5)~~seven (7)
18 years for a violation of this section or other law
19 prohibiting driving while under the influence, he shall be
20 guilty of a felony and fined not more than ten thousand
21 dollars (\$10,000.00), punished by imprisonment for not more
22 than two (2) years, or both. For purposes of calculating if
23 an individual has a third or subsequent conviction within a
24 seven (7) year period for a violation of this section or

1 other law prohibiting driving while under the influence,
2 any dismissal of a charge pursuant to W.S. 7-13-301 for a
3 violation of this section or other law prohibiting driving
4 while under the influence shall be counted as a conviction
5 for purposes of this section.

6

7 **Section 2.** This act is effective July 1, 2004.

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9

(END)