

HOUSE BILL NO. HB0042

DUI evaluations.

Sponsored by: Representative(s) Warren, Berger, Hinckley,
Gingery, Osborn, Watt and White and
Senator(s) Burns, Cooper and Massie

A BILL

for

1 AN ACT relating to driving under the influence; providing
2 for substance abuse evaluation for all violations; and
3 providing for an effective date.

4

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

6

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, a fine of not more than seven
8 hundred fifty dollars (\$750.00), or both. On a second
9 conviction within five (5) years after a conviction for a
10 violation of this section or other law prohibiting driving
11 while under the influence, he shall be punished by
12 imprisonment for not less than seven (7) days nor more than
13 six (6) months, he shall be ordered to or shall receive a
14 substance abuse assessment conducted by a substance abuse
15 provider certified by the department of health pursuant to
16 W.S. 9-2-2701(c) before sentencing and shall not be
17 eligible for probation or suspension of sentence or release
18 on any other basis until he has served at least seven (7)
19 days in jail. In addition, the person may be fined not
20 less than two hundred dollars (\$200.00) nor more than seven
21 hundred fifty dollars (\$750.00). On a third conviction
22 within five (5) years after a conviction for a violation of
23 this section or other law prohibiting driving while under
24 the influence, he shall be punished by imprisonment for not

1 less than thirty (30) days nor more than six (6) months,
2 shall receive a substance abuse assessment pursuant to W.S.
3 7-13-1302 and shall not be eligible for probation or
4 suspension of sentence or release on any other basis until
5 he has served at least thirty (30) days in jail except that
6 the court shall consider the substance abuse assessment and
7 may order the person to undergo outpatient alcohol or
8 substance abuse treatment during any mandatory period of
9 incarceration. The minimum period of imprisonment for a
10 third violation shall be mandatory, but the court, having
11 considered the substance abuse assessment and the
12 availability of public and private resources, may suspend
13 up to fifteen (15) days of the mandatory period of
14 imprisonment if, subsequent to the date of the current
15 violation, the offender completes an inpatient treatment
16 program approved by the court. In addition, the person may
17 be fined not less than seven hundred fifty dollars
18 (\$750.00) nor more than three thousand dollars (\$3,000.00).
19 The judge may suspend part or all of the discretionary
20 portion of an imprisonment sentence under this subsection
21 and place the defendant on probation on condition that the
22 defendant pursues and completes an alcohol education or
23 treatment program as prescribed by the judge.
24 Notwithstanding any other provision of law, the term of

1 probation imposed by a judge under this section may exceed
2 the maximum term of imprisonment established for the
3 offense under this subsection provided the term of
4 probation together with any extension thereof, shall not
5 exceed three (3) years for up to and including a third
6 conviction. On a fourth or subsequent conviction within
7 five (5) years for a violation of this section or other law
8 prohibiting driving while under the influence, he shall be
9 guilty of a felony and fined not more than ten thousand
10 dollars (\$10,000.00), punished by imprisonment for not more
11 than two (2) years, or both.

12

13 **Section 2.** This act is effective July 1, 2006.

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(END)