

HOUSE BILL NO. HB0073

DUI-penalties.

Sponsored by: Representative(s) Mercer, Brechtel, Gingery,
Petersen and Shepperson and Senator(s)
Aullman

A BILL

for

1 AN ACT relating to driving while under the influence;
2 amending penalties for driving while under the influence as
3 specified; repealing a provision relating to reduction or
4 dismissal of charges; and providing for an effective date.

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

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8 **Section 1.** W.S. 31-5-233(e) is amended to read:

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

13

14 (e) Except as otherwise provided, a person convicted
15 of a second or subsequent violation of ~~violating~~ this
16 section within five (5) years shall be ordered to or shall

1 receive a substance abuse assessment conducted by a
2 substance abuse provider certified by the department of
3 health pursuant to W.S. 9-2-2701(c) at or before
4 sentencing. The cost of the substance abuse assessment
5 shall be assessed to and paid by the offender. In the event
6 a substance abuse assessment ordered under this section is
7 provided by an entity with whom the department of health
8 contracts for treatment services, the costs of the
9 assessment shall be paid by the offender subject to the
10 sliding fee scale adopted pursuant to W.S. 35-1-620 and
11 35-1-624; provided however, if the assessment is ordered as
12 a result of a felony conviction under this section, the
13 assessment shall be paid by the offender. Except as
14 otherwise provided in this subsection or subsection (h) or
15 (m) of this section, a person convicted of violating this
16 section is guilty of a high misdemeanor punishable by
17 imprisonment for not more than ~~six (6) months~~ one (1) year,
18 a fine of not more than ~~seven hundred fifty dollars~~
19 ~~(\$750.00)~~ one thousand dollars (\$1,000.00), or both. ~~On~~ For
20 a second offense resulting in a conviction within five (5)
21 years after an offense resulting in a conviction for a
22 violation of this section or other law prohibiting driving
23 while under the influence, he shall be punished by
24 imprisonment for not less than ~~seven (7)~~ sixty (60) days

1 nor more than ~~six (6) months, he shall be ordered to or~~
2 ~~shall receive a substance abuse assessment conducted by a~~
3 ~~substance abuse provider certified by the department of~~
4 ~~health pursuant to W.S. 9-2-2701(c) before sentencing and~~
5 one (1) year. The person convicted of a second offense
6 shall not be eligible for probation or suspension of
7 sentence ~~or release on any other basis~~ until he has served
8 at least ~~seven (7)~~ sixty (60) days in jail except that the
9 court shall consider the substance abuse assessment and may
10 order the person to undergo alcohol or substance abuse
11 treatment during any mandatory period of incarceration.
12 The minimum period of imprisonment for a second violation
13 shall be mandatory, but the court, having considered the
14 substance abuse assessment and the availability of public
15 and private resources, may suspend up to forty-six (46)
16 days of the mandatory period of imprisonment if, subsequent
17 to the date of the current violation, the offender
18 completes a treatment program approved by the court, or is
19 accepted to and participates in a drug court program in
20 accordance with W.S. 5-10-101 through 5-10-107. In
21 addition, the person may be fined not less than ~~two hundred~~
22 ~~dollars (\$200.00)~~ seven hundred fifty dollars (\$750.00) nor
23 more than ~~seven hundred fifty dollars (\$750.00)~~ three
24 thousand dollars (\$3,000.00). ~~On a third conviction within~~

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

1 defendant pursues and completes an alcohol education or
2 treatment program as prescribed by the judge.
3 Notwithstanding any other provision of law, the term of
4 probation imposed by a judge under this ~~section~~ subsection
5 may exceed the maximum term of imprisonment established for
6 the offense under this subsection provided the term of
7 probation together with any extension thereof, shall not
8 exceed three (3) years for ~~up to and including a third~~ an
9 offense resulting in a first or second conviction. ~~On~~ For a
10 third or fourth ~~or subsequent~~ offense resulting in a
11 conviction within ~~five (5)~~ seven (7) years, or for a fifth
12 or subsequent offense resulting in a conviction within his
13 lifetime, for a violation of this section or other law
14 prohibiting driving while under the influence, he shall be
15 guilty of a felony and fined not more than ten thousand
16 dollars (\$10,000.00), punished by imprisonment for not more
17 than ~~two (2)~~ ten (10) years, or both. For purposes of
18 calculating penalties under this subsection, the time
19 periods shall be based on the dates that the charged
20 offenses occurred, not on the dates of the convictions for
21 those offenses.

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