

## HOUSE BILL NO. HB0115

DUI-penalties.

Sponsored by: Representative(s) Mercer, Brechtel, Davison,  
Petersen, Shepperson and Zwonitzer, Dn. and  
Senator(s) Von Flatern

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.

5

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

7

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

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

14

15 (a) As used in this section:

16

1 (iii) "Conviction" means as defined in W.S.  
2 31-7-102(a)(xi) and includes convictions of any other law  
3 prohibiting driving while under the influence;  
4

5 (e) Except as otherwise provided, a person convicted  
6 of a second or subsequent violation of ~~violating~~ this  
7 section within five (5) years of a prior violation of this  
8 section shall be ordered to or shall receive a substance  
9 abuse assessment conducted by a substance abuse provider  
10 certified by the department of health pursuant to W.S.  
11 9-2-2701(c) at or before sentencing. The cost of the  
12 substance abuse assessment shall be assessed to and paid by  
13 the offender. In the event a substance abuse assessment  
14 ordered under this section is provided by an entity with  
15 whom the department of health contracts for treatment  
16 services, the costs of the assessment shall be paid by the  
17 offender subject to the sliding fee scale adopted pursuant  
18 to W.S. 35-1-620 and 35-1-624; provided however, if the  
19 assessment is ordered as a result of a felony conviction  
20 under this section, the assessment shall be paid entirely  
21 by the offender. Except as otherwise provided in this  
22 subsection or subsection (h) or (m) of this section, a  
23 person convicted of violating this section is guilty of a  
24 high misdemeanor punishable by imprisonment for not more

1 than ~~six (6) months~~ one (1) year, a fine of not more than  
2 ~~seven hundred fifty dollars (\$750.00)~~ one thousand dollars  
3 (\$1,000.00), or both. ~~On~~ For a second offense resulting in  
4 a conviction within five (5) years after an offense  
5 resulting in a conviction for a violation of this section,  
6 ~~or other law prohibiting driving while under the influence,~~  
7 he shall be punished by imprisonment for not less than  
8 ~~seven (7)~~ sixty (60) days nor more than ~~six (6) months~~, he  
9 ~~shall be ordered to or shall receive a substance abuse~~  
10 ~~assessment conducted by a substance abuse provider~~  
11 ~~certified by the department of health pursuant to W.S.~~  
12 ~~9-2-2701(c) before sentencing and~~ one (1) year. The person  
13 convicted of a second offense shall not be eligible for  
14 probation or suspension of sentence ~~or release on any other~~  
15 ~~basis~~ until he has served at least ~~seven (7)~~ sixty (60)  
16 days in jail except that the court shall consider the  
17 substance abuse assessment and may order the person to  
18 undergo alcohol or substance abuse treatment during any  
19 mandatory period of incarceration. The minimum period of  
20 imprisonment for a second violation shall be mandatory, but  
21 the court, having considered the substance abuse assessment  
22 and the availability of public and private resources, may  
23 suspend up to forty-six (46) days of the mandatory period  
24 of imprisonment if, subsequent to the date of the current

1 violation, the offender completes a treatment program  
2 approved by the court, or is accepted to and participates  
3 in a drug court program in accordance with W.S. 5-10-101  
4 through 5-10-107. In addition, the person may be fined not  
5 less than ~~two hundred dollars (\$200.00)~~ seven hundred fifty  
6 dollars (\$750.00) nor more than ~~seven hundred fifty dollars~~  
7 ~~(\$750.00)~~ three thousand dollars (\$3,000.00). ~~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 violation shall be~~  
21 ~~mandatory, but the court, having considered the substance~~  
22 ~~abuse assessment and the availability of public and private~~  
23 ~~resources, may suspend up to fifteen (15) days of the~~  
24 ~~mandatory period of imprisonment if, subsequent to the date~~

1 ~~of the current violation, the offender completes an~~  
2 ~~inpatient treatment program approved by the court. In~~  
3 ~~addition, the person may be fined not less than seven~~  
4 ~~hundred fifty dollars (\$750.00) nor more than three~~  
5 ~~thousand dollars (\$3,000.00).~~ The ~~judge~~ court 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~~ court. Notwithstanding any other  
11 provision of law, the term of probation imposed by a ~~judge~~  
12 court under this ~~section~~ subsection may exceed the maximum  
13 term of 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~~ an offense resulting in a first or  
17 second conviction. ~~On~~ For a third or fourth ~~or subsequent~~  
18 offense resulting in a conviction within ~~five (5)~~ seven (7)  
19 years, or for a fifth or subsequent offense resulting in a  
20 conviction within his lifetime, for a violation of this  
21 section, ~~or other law prohibiting driving while under the~~  
22 ~~influence,~~ he shall be guilty of a felony and fined not  
23 more than ten thousand dollars (\$10,000.00), punished by  
24 imprisonment for not more than ~~two (2)~~ ten (10) years, or

1 both. For purposes of calculating penalties under this  
2 subsection, the time periods shall be based on the dates  
3 that the charged offenses occurred, not on the dates of the  
4 convictions for those offenses.

5

6 **Section 2.** W.S. 31-5-233(j) is repealed.

7

8 **Section 3.** This act is effective July 1, 2009.

9

10 (END)