

SENATE FILE NO. SF0019

DUI impairment period and period for enhanced penalties.

Sponsored by: Senator(s) Ross and Perkins and
Representative(s) Hammons

A BILL

for

1 AN ACT relating to driving under the influence; amending
2 the time in which a driver may not exceed the maximum blood
3 alcohol level; making corresponding amendments for youthful
4 driver's with detectable alcohol concentrations; amending
5 the time in which chemical tests may be relevant; expanding
6 the period for enhanced penalties for prior violations;
7 adding definitions; and providing for an effective date.

8

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

10

11 **Section 1.** W.S. 31-5-233(a)(ii) by creating a new
12 subparagraph (C), by creating new paragraphs (vii) and
13 (viii), (b)(i), by creating a new paragraph (ii), by
14 renumbering (ii) as (iii), (d) and (e), 31-5-234(b) and
15 31-6-101(a)(ii) by creating a new subparagraph (C) are
16 amended to read:

1

2 31-5-233. Driving or having control of vehicle while
3 under influence of intoxicating liquor or controlled
4 substances; penalties.

5

6 (a) As used in this section:

7

8 (ii) "Controlled substance" includes:

9

10 (C) Any drug or psychoactive substance, or
11 any combination of these substances, capable of impairing a
12 person's physical or mental faculties.

13

14 (vii) "Alcohol" means any substance or
15 substances containing any form of alcohol;

16

17 (viii) "Chemical test" means a test which
18 analyzes an individual's breath, blood, urine, saliva or
19 other bodily fluids or tissues for evidence of drug or
20 alcohol use.

21

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

24

1 (i) Has an alcohol concentration of eight one-
2 hundredths of one percent (0.08%) or more; ~~or~~

3

4 (ii) Has an alcohol concentration of eight one-
5 hundredths of one percent (0.08%) or more, as measured
6 within two (2) hours after the time of driving or being in
7 actual physical control of the vehicle following a lawful
8 arrest resulting from a valid traffic stop; or

9

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

12

13 (A) Is under the influence of alcohol;

14

15 (B) Is under the influence of a controlled
16 substance; or

17

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

21

22 (d) Subsection (c) of this section shall not be
23 construed as limiting the introduction of any other
24 competent evidence bearing upon the question of whether the

1 person was under the influence of alcohol, including tests
2 obtained more than ~~three (3)~~ two (2) hours after the
3 alleged violation. The fact that any person charged with a
4 violation of subsection (b) of this section is or has been
5 entitled to use the controlled substance under the laws of
6 this state shall not constitute a defense against any
7 charge under subsection (b) of this section.

8

9 (e) Except as otherwise provided, a person convicted
10 of violating this section shall be ordered to or shall
11 receive a substance abuse assessment conducted by a
12 substance abuse provider certified by the department of
13 health pursuant to W.S. 9-2-2701(c) at or before
14 sentencing. The cost of the substance abuse assessment
15 shall be assessed to and paid by the offender. Except as
16 otherwise provided in this subsection or subsection (h) or
17 (m) of this section, a person convicted of violating this
18 section is guilty of a misdemeanor punishable by
19 imprisonment for not more than six (6) months, a fine of
20 not more than seven hundred fifty dollars (\$750.00), or
21 both. On a second conviction within ~~five (5)~~ ten (10) years
22 after a conviction for a violation of this section or other
23 law prohibiting driving while under the influence, he shall
24 be punished by imprisonment for not less than seven (7)

1 days nor more than six (6) months, he shall be ordered to
2 or shall receive a substance abuse assessment conducted by
3 a substance abuse provider certified by the department of
4 health pursuant to W.S. 9-2-2701(c) before sentencing and
5 shall not be eligible for probation or suspension of
6 sentence or release on any other basis until he has served
7 at least seven (7) days in jail. In addition, the person
8 may be fined not less than two hundred dollars (\$200.00)
9 nor more than seven hundred fifty dollars (\$750.00). On a
10 third conviction within ~~five (5)~~ ten (10) years after a
11 conviction for a violation of this section or other law
12 prohibiting driving while under the influence, he shall be
13 punished by imprisonment for not less than thirty (30) days
14 nor more than six (6) months, shall receive a substance
15 abuse assessment pursuant to W.S. 7-13-1302 and shall not
16 be eligible for probation or suspension of sentence or
17 release on any other basis until he has served at least
18 thirty (30) days in jail except that the court shall
19 consider the substance abuse assessment and may order the
20 person to undergo outpatient alcohol or substance abuse
21 treatment during any mandatory period of incarceration. The
22 minimum period of imprisonment for a third violation shall
23 be mandatory, but the court, having considered the
24 substance abuse assessment and the availability of public

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

1

2 **31-5-234. Unlawful operation of vehicle by youthful**
3 **driver with detectable alcohol concentration; penalty.**

4

5 (b) A person younger than twenty-one (21) years of
6 age shall not operate or be in actual physical control of a
7 vehicle in this state with an alcohol concentration of two
8 one-hundredths of one percent (0.02%) or more nor operate
9 or be in actual physical control of a vehicle in this state
10 with an alcohol concentration of two one-hundredths of one
11 percent (0.02%) or more as measured within two (2) hours
12 after the time of driving or being in actual physical
13 control following a lawful arrest resulting from a valid
14 traffic stop.

15

16 **31-6-101. Definitions.**

17

18 (a) As used in this act:

19

20 (ii) "Controlled substance" includes:

21

22 (C) Any drug or psychoactive substance, or
23 combination of these substances, capable of impairing a
24 person's physical or mental faculties.

1

2 **Section 2.** This act is effective July 1, 2010.

3

4 (END)