

HOUSE BILL NO. HB0146

Driving under the influence-penalties.

Sponsored by: Representative(s) Hinckley, Berger, Gingery,
Lubnau, Meuli, Pedersen, White and Zwonitzer
and Senator(s) Ross

A BILL

for

1 AN ACT relating to motor vehicles; enhancing the penalties
2 that may be imposed for convictions for driving under the
3 influence as specified; amending a limitation on use of
4 discharge or dismissal of prior convictions as specified;
5 and providing for an effective date.

6

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

8

9 **Section 1.** W.S. 7-13-301(d) and 31-5-233(e) are
10 amended to read:

11

12 **7-13-301. Placing person found guilty, but not**
13 **convicted, on probation.**

14

15 (d) Except as otherwise provided by law, discharge
16 and dismissal under this section shall be without

1 adjudication of guilt and is not a conviction for any
2 purpose.

3

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

7

8 (e) Except as otherwise provided, a person convicted
9 of violating this section shall be ordered to or shall
10 receive a substance abuse assessment conducted by a
11 substance abuse provider certified by the department of
12 health pursuant to W.S. 9-2-2701(c) at or before
13 sentencing. The cost of the substance abuse assessment
14 shall be assessed to and paid by the offender. Except as
15 otherwise provided in this subsection or subsection (h) of
16 this section, a person convicted of violating this section
17 is guilty of a misdemeanor punishable by imprisonment for
18 not more than six (6) months, a fine of not more than seven
19 hundred fifty dollars (\$750.00), or both. On a second
20 conviction within five (5) years after a conviction for a
21 violation of this section or other law prohibiting driving
22 while under the influence, he may be fined not less than
23 two hundred dollars (\$200.00) nor more than seven hundred
24 fifty dollars (\$750.00) and shall be punished by

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

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

1 than two (2) years, or both. For purposes of calculating
2 if an individual has a third or subsequent conviction
3 within a seven (7) year period for a violation of this
4 section or other law prohibiting driving while under the
5 influence, any dismissal of a charge pursuant to W.S.
6 7-13-301 for a violation of this section or other law
7 prohibiting driving while under the influence shall be
8 counted as a conviction for purposes of this section.

9

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

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(END)