

HOUSE BILL NO. HB0073

DUI-penalties.

Sponsored by: Representative(s) Mercer, Brechtel and
Petersen

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; and 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:

8

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
17 health pursuant to W.S. 9-2-2701(c) at or before

1 sentencing. The cost of the substance abuse assessment
2 shall be assessed to and paid by the offender. Except as
3 otherwise provided in this subsection or subsection (h) or
4 (m) of this section, a person convicted of violating this
5 section is guilty of a misdemeanor punishable by
6 imprisonment for not more than ~~six (6) months~~ one (1) year,
7 a fine of not more than ~~seven hundred fifty dollars~~
8 ~~(\$750.00)~~ one thousand dollars (\$1,000.00), or both. ~~On~~ For
9 a second offense resulting in a conviction within five (5)
10 years after an offense resulting in a conviction for a
11 violation of this section or other law prohibiting driving
12 while under the influence, he shall be punished by
13 imprisonment for not less than ~~seven (7)~~ sixty (60) days
14 nor more than ~~six (6) months~~, ~~he shall be ordered to or~~
15 ~~shall receive a substance abuse assessment conducted by a~~
16 ~~substance abuse provider certified by the department of~~
17 ~~health pursuant to W.S. 9-2-2701(c) before sentencing and~~
18 one (1) year. The person convicted the first or second
19 time shall not be eligible for probation or suspension of
20 sentence or release on any other basis until he has served
21 at least ~~seven (7)~~ sixty (60) days in jail except that the
22 court shall consider the substance abuse assessment and may
23 order the person to undergo in-patient alcohol or substance
24 abuse treatment during any mandatory period of

1 incarceration. The minimum period of imprisonment for a
2 second violation shall be mandatory, but the court, having
3 considered the substance abuse assessment and the
4 availability of public and private resources, may suspend
5 up to forty-six (46) days of the mandatory period of
6 imprisonment if, subsequent to the date of the current
7 violation, the offender completes an inpatient treatment
8 program approved by the court, or is accepted to and
9 participates in a drug court program in accordance with
10 W.S. 5-10-101 through 5-10-107. In addition, the person
11 may be fined not less than ~~two hundred dollars (\$200.00)~~
12 seven hundred fifty dollars (\$750.00) nor more than ~~seven~~
13 ~~hundred fifty dollars (\$750.00)~~ three thousand dollars
14 (\$3,000.00). ~~On a third conviction within five (5) years~~
15 ~~after a conviction for a violation of this section or other~~
16 ~~law prohibiting driving while under the influence, he shall~~
17 ~~be punished by imprisonment for not less than thirty (30)~~
18 ~~days nor more than six (6) months, shall receive a~~
19 ~~substance abuse assessment pursuant to W.S. 7-13-1302 and~~
20 ~~shall not be eligible for probation or suspension of~~
21 ~~sentence or release on any other basis until he has served~~
22 ~~at least thirty (30) days in jail except that the court~~
23 ~~shall consider the substance abuse assessment and may order~~
24 ~~the person to undergo outpatient alcohol or substance abuse~~

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

1 years, or for a fifth or subsequent offense resulting in a
2 conviction in a lifetime, for a violation of this section
3 or other law prohibiting driving while under the influence,
4 he shall be guilty of a felony and fined not more than ten
5 thousand dollars (\$10,000.00), punished by imprisonment for
6 not more than ~~two (2)~~ ten (10) years, or both. For
7 purposes of calculating penalties under this subsection,
8 the time periods shall be based on the dates that the
9 charged offenses occurred, not on the dates of the
10 convictions for those offenses.

11

12 **Section 2.** This act is effective July 1, 2008.

13

14 (END)