

SENATE FILE NO. SF0088

Required use of ignition interlock devices.

Sponsored by: Senator(s) Perkins, Bebout, Landen, Ross,
Vasey and Von Flatern and Representative(s)
Buchanan, Childers, Gingery, Hammons,
Lubnau, Miller, Millin and Stubson

A BILL

for

1 AN ACT relating to restricted drivers' licenses; modifying
2 requirements and penalties relating to driving under the
3 influence and the use of ignition interlock devices;
4 specifying when ignition interlock devices are allowed and
5 required; imposing penalties on those who assist others in
6 defeating an ignition interlock device; requiring notice to
7 drivers; providing an appropriation; and providing for an
8 effective date.

9

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

11

12 **Section 1.** W.S. 6-2-106 by creating a new subsection
13 (d), 31-5-233(f), 31-5-234(f), 31-6-102(a)(ii)(A) and (B),
14 31-6-103(b), 31-6-107 by creating a new subsection (b),
15 31-6-108(b)(i), (ii) and by creating a new subsection (p),

1 31-7-401(a) and (b), 31-7-402(a), (b), (c)(intro), (ii) and
2 by creating a new subsection (d), 31-7-403 by creating a
3 new subsection (c) and 31-7-404 are amended to read:

4
5 **6-2-106. Homicide by vehicle; aggravated homicide by**
6 **vehicle; penalties.**

7
8 (d) Any person convicted of aggravated homicide by
9 vehicle for causing the death of another person while
10 operating or driving a vehicle in violation of W.S.
11 31-5-233 shall not be issued an ignition interlock
12 restricted license under W.S. 31-5-233 or 31-7-401 through
13 31-7-404.

14
15 **31-5-233. Driving or having control of vehicle while**
16 **under influence of intoxicating liquor or controlled**
17 **substances; penalties.**

18
19 (f) Any person convicted under this section, or
20 convicted under a municipal ordinance or law of a foreign
21 jurisdiction, which substantially conforms to the
22 provisions of this section, shall, in addition to the
23 penalty imposed:7

1 (i) Have his driver's license suspended or
2 revoked pursuant to W.S. 31-7-127 or 31-7-128. The court
3 shall forward to the department a copy of the record
4 pertaining to disposition of the arrest or citation;;-

5
6 (ii) For a first conviction where the conviction
7 is based on the person having an alcohol concentration of
8 fifteen one-hundredths of one percent (0.15%) or more,
9 operate only vehicles equipped with an ignition interlock
10 device, pursuant to W.S. 31-7-401 through 31-7-404, for a
11 period of one (1) year from the date of conviction or other
12 disposition;

13
14 (iii) For a second conviction, operate only
15 vehicles equipped with an ignition interlock device,
16 pursuant to W.S. 31-7-401 through 31-7-404, for a period of
17 two (2) years from the date of conviction or other
18 disposition;

19
20 (iv) For a third conviction, operate only
21 vehicles equipped with an ignition interlock device,
22 pursuant to W.S. 31-7-401 through 31-7-404, for a period of
23 three (3) years from the date of conviction or other
24 disposition;

1
2 (v) For a fourth or subsequent conviction,
3 operate only vehicles equipped with an ignition interlock
4 device, pursuant to W.S. 31-7-401 through 31-7-404, for the
5 remainder of the offender's life, except five (5) years
6 from the date of conviction or other disposition and every
7 five (5) years thereafter, the offender may apply to the
8 court for removal of the ignition interlock device required
9 by this paragraph. The court may, for good cause shown,
10 remove the ignition interlock device requirement if the
11 offender has not been subsequently convicted of driving a
12 motor vehicle in violation of this section or a municipal
13 ordinance which substantially conforms to the provisions of
14 this section.

15
16 **31-5-234. Unlawful operation of vehicle by youthful**
17 **driver with detectable alcohol concentration; penalty.**

18
19 (f) A person convicted under this section, or a
20 municipal ordinance or foreign jurisdiction's law which
21 substantially conforms to the provisions of this section,
22 shall, in addition to the penalty imposed in subsection (e)
23 of this section:
24

1 (i) Have his driver's license denied or
2 suspended pursuant to W.S. 31-7-128(h). The court shall
3 forward a copy of the conviction to the department;
4

5 (ii) For a first conviction where the conviction
6 is based on the person having an alcohol concentration of
7 fifteen one-hundredths of one percent (0.15%) or more,
8 operate only vehicles equipped with an ignition interlock
9 device, pursuant to W.S. 31-7-401 through 31-7-404, for a
10 period of one (1) year from the date of conviction or other
11 disposition;
12

13 (iii) For a second conviction, operate only
14 vehicles equipped with an ignition interlock device,
15 pursuant to W.S. 31-7-401 through 31-7-404, for a period of
16 two (2) years from the date of conviction or other
17 disposition;
18

19 (iv) For a third conviction, operate only
20 vehicles equipped with an ignition interlock device,
21 pursuant to W.S. 31-7-401 through 31-7-404, for a period of
22 three (3) years from the date of conviction or other
23 disposition;
24

1 (v) For a fourth or subsequent conviction,
2 operate only vehicles equipped with an ignition interlock
3 device, pursuant to W.S. 31-7-401 through 31-7-404, for the
4 remainder of the offender's life, except five (5) years
5 from the date of conviction or other disposition and every
6 five (5) years thereafter, the offender may apply to the
7 court for removal of the ignition interlock device required
8 by this paragraph. The court may, for good cause shown,
9 remove the ignition interlock device requirement if the
10 offender has not been subsequently convicted of driving a
11 motor vehicle in violation of this section, W.S. 31-5-233
12 or a municipal ordinance which substantially conforms to
13 either of these sections.

14
15 **31-6-102. Test to determine alcoholic or controlled**
16 **substance content of blood; suspension of license.**

17
18 (a) If arrested for an offense as defined by W.S.
19 31-5-233:

20
21 (ii) For tests required under this act, the
22 arrested person shall be advised that:

1 (A) His failure to submit to all required
2 chemical tests requested by the peace officer shall result
3 in the suspension of his Wyoming driver's license or his
4 privilege to operate a motor vehicle for a period of six
5 (6) months for a first offense or eighteen (18) months for
6 a second or subsequent offense and a requirement that he
7 drive only vehicles equipped with an ignition interlock
8 device as provided by W.S. 31-6-107;

9
10 (B) If a test is taken and the results
11 indicate the person is under the influence of alcohol or a
12 controlled substance, he may be subject to criminal
13 penalties, and his Wyoming driver's license or his
14 privilege to operate a motor vehicle shall be suspended for
15 ninety (90) days and he will be required to drive only
16 vehicles equipped with an ignition interlock device;

17
18 **31-6-103. Application for hearing; stay of suspension**
19 **of license; scope of hearing.**

20
21 (b) The scope of a hearing for the purposes of this
22 act shall cover the issues of whether a peace officer had
23 probable cause to believe the arrested person had been
24 driving or was in actual physical control of a motor

1 vehicle upon a public street or highway in this state in
2 violation of W.S. 31-5-233(b) or any other law prohibiting
3 driving under the influence as defined by W.S.
4 31-5-233(a)(v), whether the person was placed under arrest,
5 whether he refused to submit to a test upon request of the
6 peace officer or if he submitted to a test whether the test
7 results indicated that the person had an alcohol
8 concentration of eight one-hundredths of one percent
9 (0.08%) or more, and whether, except for the persons
10 described in this act who are incapable of refusing, he had
11 been ~~advised that his Wyoming driver's license or privilege~~
12 ~~to operate a motor vehicle shall be suspended for the~~
13 ~~period provided by W.S. 31-6-107 if he refused to submit to~~
14 ~~a test and suspended for ninety (90) days and subject him~~
15 ~~to criminal penalties if he submitted to the test and the~~
16 ~~results indicate the person is under the influence of~~
17 ~~alcohol~~ given the advisements required by W.S.
18 31-6-102(a)(ii). At the conclusion of the hearing, the
19 hearing examiner shall order that the suspension either be
20 rescinded or sustained. If the person submitted to a
21 chemical test, the hearing examiner has the same authority
22 to modify a license suspension under this act as he does
23 under W.S. 31-7-105.

24

1 **31-6-107. Penalty for refusal to submit to chemical**
2 **testing.**

3
4 (b) Suspension pursuant to subsection (a) of this
5 section shall be considered a conviction under W.S.
6 31-5-233 for the purposes of W.S. 31-5-233(f)(ii) through
7 (v) and the ignition interlock device requirements of W.S.
8 31-5-233(f)(ii) through (v) shall apply to such suspension.
9

10 **31-6-108. Implied consent requirements for youthful**
11 **drivers.**

12
13 (b) For tests required under this section, the person
14 shall be advised that:

15
16 (i) His failure to submit to all required
17 chemical tests shall result in the suspension or denial of
18 his Wyoming driver's license or his privilege to operate a
19 motor vehicle for a period of ninety (90) days without the
20 right to apply for limited driving privileges and he will
21 be required to drive only vehicles equipped with an
22 ignition interlock device;
23

(ii) If a test is taken and the results indicate an alcohol concentration of two one-hundredths of one percent (0.02%) or more, he may be subject to denial or suspension of his driver's license for the period specified by W.S. 31-7-128(h) and he will be required to drive only vehicles equipped with an ignition interlock device;

(p) Suspension pursuant to subsection (n) of this section shall be considered a conviction under W.S. 31-5-233 for the purposes of W.S. 31-5-233(f)(ii) through (v) and the ignition interlock device requirements of W.S. 31-5-233(f)(ii) through (v) shall apply to such suspension.

31-7-401. Ignition interlock licenses; definitions; administration and enforcement.

(a) For purposes of this article:

(i) "Ignition interlock device" means an alcohol breath screening device, located inside the vehicle near the driver's seat and connected to the engine's ignition system, that prevents the vehicle from starting when it detects an alcohol concentration over an established limit.
The device shall contain a data logger which retains

1 records of every instance in which the device prevented the
2 engine from starting during the period between
3 recalibrations;

4
5 (ii) "Ignition interlock service provider" means
6 any person who installs, services, monitors, calibrates or
7 repairs ignition interlock devices and who must be
8 certified by the department to perform such work.

9
10 (b) The department shall prescribe reasonable rules
11 and regulations for the certification of ignition interlock
12 devices and ignition interlock service providers and for
13 the calibration and maintenance of ignition interlock
14 devices, which calibration and maintenance shall be the
15 responsibility of an ignition interlock service provider.
16 In addition to other matters necessary for the
17 administration of this article, the rules and regulations
18 shall:

19
20 (i) Prohibit any ignition interlocking device
21 from being sold or installed in this state without the
22 device and the ignition interlock service provider being
23 certified by the department;

24

1 (ii) Require that each ignition interlock
2 service provider provide a reasonable service where such
3 devices may be obtained, repaired, replaced, serviced and
4 calibrated;

5
6 (iii) Require that every ignition interlock
7 service provider provide monthly reports for each ignition
8 interlocking device data logger;

9
10 (iv) Require that ignition interlock service
11 providers check, calibrate and service each ignition
12 interlock device installed by that provider at least every
13 sixty (60) days and adopt a reporting requirement should
14 the provider find evidence of tampering;

15
16 (v) Require that each ignition interlock service
17 provider retain all data logger records for three (3)
18 years;

19
20 (vi) Require that each ignition interlock
21 service provider complete certificates of installation and
22 certificates of continuing calibration and servicing, which
23 certificates shall be delivered to the department on a form

1 determined by the department and within a time period set
2 by the department;

3
4 (vii) Establish procedures under which indigent
5 persons who are required to operate only vehicles equipped
6 with an ignition interlock device may have the reasonable
7 costs of obtaining and using such device paid from funds
8 appropriated by the state. A person shall be considered
9 indigent if they are able to produce evidence that they are
10 eligible and qualified to participate in the federal food
11 stamp program.

12
13 **31-7-402. Issuance of ignition interlock restricted**
14 **license; eligibility.**

15
16 (a) A person whose driver's license has been
17 suspended pursuant to W.S. 31-6-107(a)(i) or
18 31-7-128(b)(ii) as a result of a violation related to
19 operating a vehicle under the influence of alcohol, or a
20 refusal to comply with a request to submit to a test to
21 determine the person's blood alcohol concentration, or
22 whose license is otherwise suspended and is required to
23 operate only vehicles equipped with an ignition interlock
24 device, and who has served at least forty-five (45) days of

1 the suspension period ~~may~~shall apply to the department for
2 an ignition interlock restricted license for the balance of
3 the suspension period or ~~one (1) year, whichever is greater~~
4 other period required by law.

5
6 (b) A person whose driver's license has been
7 suspended pursuant to W.S. 31-6-107(a)(ii) or revoked
8 pursuant to W.S. 31-7-127(a)(ii) as a result of a violation
9 related to operating a vehicle under the influence of
10 alcohol, or a refusal to comply with a request to submit to
11 a test to determine the person's blood alcohol
12 concentration, or whose license is otherwise suspended and
13 is required to operate only vehicles equipped with an
14 ignition interlock device, and who has served at least
15 forty-five (45) days of the suspension or revocation period
16 ~~may~~shall apply to the department for an ignition interlock
17 restricted license for the balance of the suspension or
18 revocation period or other period required by law.

19
20 (c) An ignition interlock restricted license issued
21 pursuant to subsection (a) or (b) of this section shall
22 entitle the licensee to drive upon the highways of this
23 state during the period his previously issued license is

1 otherwise suspended or revoked or for another period
2 required by law, subject to the following conditions:

3
4 (ii) Ignition interlock devices shall be
5 installed, at the ~~applicant's~~ licensee's expense, by a
6 certified ignition interlock ~~installer~~ service provider on
7 all motor vehicles ~~driven by the applicant~~ licensee will
8 drive, whether such vehicles are owned by the licensee or
9 not, except that a licensee may operate an employer's
10 vehicle without an ignition interlock device installed
11 during normal business activities, provided that the
12 licensee does not partly or entirely own or control the
13 employer's vehicle or business;

14
15 (d) No restricted license may be issued under this
16 article until the department has received a certificate of
17 installation from a certified ignition interlock service
18 provider for every vehicle on which the device must be
19 installed for that licensee under this article.

20
21 **31-7-403. Suspension or revocation of ignition**
22 **interlock license.**

1 (c) Subject to the administrative hearing provisions
2 of W.S. 31-7-105, the department shall revoke a person's
3 ignition interlock restricted license when the department
4 is notified that:

5
6 (i) The licensee has committed any violation of
7 W.S. 31-7-404 or 31-5-233; or

8
9 (ii) The monthly reports from a licensee's
10 ignition interlocking device data logger indicate that the
11 licensee is habitually attempting to operate a vehicle
12 while impaired.

13
14 **31-7-404. Driving without interlock device.**

15
16 (a) No person licensed under this article shall drive
17 any motor vehicle, without a functioning ~~approved~~ and
18 certified ignition interlock device.

19
20 (b) No person ~~licensed under this article~~ shall
21 remove or otherwise circumvent an installed ignition
22 interlock device ~~during the period of the ignition~~
23 ~~interlock restricted license~~ nor blow or solicit another to
24 blow into an ignition interlock device for the purpose of

1 rendering an operable vehicle to a person whose driving
2 privileges have been restricted under this article.

3
4 (c) A person ~~violating~~ holding a restricted license
5 under this article who violates subsection (a) or (b) of
6 this section is guilty of a misdemeanor and shall be
7 imprisoned for not less than seven (7) days nor more than
8 six (6) months, and shall not be eligible for probation or
9 suspension of sentence or release on any other basis until
10 serving at least seven (7) days in jail. In addition, the
11 person shall be fined not less than two hundred dollars
12 (\$200.00) nor more than seven hundred fifty dollars
13 (\$750.00). A person convicted of a subsequent violation of
14 subsection (a) or (b) of this section during the same
15 license period is guilty of a misdemeanor and shall be
16 imprisoned for not less than thirty (30) days nor more than
17 six (6) months and shall not be eligible for probation,
18 suspension of sentence or release on any other basis until
19 serving at least thirty (30) days in jail. In addition,
20 the person shall be fined not less than two hundred dollars
21 (\$200.00) nor more than seven hundred fifty dollars
22 (\$750.00) and shall no longer be eligible for an ignition
23 interlock restricted license.

24

1 (d) A person violating subsection (b) of this section
2 who is not the restricted licensee is guilty of a
3 misdemeanor and shall be punished by a fine of not more
4 than seven hundred fifty dollars (\$750.00), or by
5 imprisonment for not more than six (6) months, or both.
6 Upon a subsequent violation of subsection (b) of this
7 section, the violator shall no longer be eligible for an
8 ignition interlock restricted license should that person
9 ever apply and otherwise be eligible.

10
11 (e) The courts of this state shall forward to the
12 department a copy of the record pertaining to the
13 disposition of any arrest or citation for a violation of
14 subsection (a) or (b) of this section within ten (10) days
15 after such record becomes available.

16
17 (f) The provisions of subsection (b) of this section
18 shall not apply to any person starting a vehicle when
19 necessary in the interest of safety or for the repair of
20 the device or vehicle nor shall they apply to any ignition
21 interlock service provider while performing his duties as
22 an ignition interlock service provider.

23

1 **Section 2.** W.S. 31-7-402(c)(iii) and (iv) and
2 31-7-405 are repealed.

3
4 **Section 3.** There is appropriated from the general
5 fund to the Wyoming department of transportation one
6 hundred fifty thousand dollars (\$150,000.00). This
7 appropriation shall be expended only to pay the costs for
8 indigent persons to obtain and use ignition interlock
9 devices pursuant to the rules and regulations required to
10 be adopted under this act. Notwithstanding any other
11 provision of law, this appropriation shall not be
12 transferred or expended for any other purpose and any
13 unexpended, unobligated funds remaining from this
14 appropriation shall revert as provided by law on June 30,
15 2011. This appropriation shall not be included in the
16 Wyoming department of transportation's 2011-2012 standard
17 biennial budget request.

18
19 **Section 4.** This act shall apply only to persons who
20 become eligible to file an application for a restricted
21 drivers' license under W.S. 31-7-402, or are required to
22 operate only vehicles equipped with an ignition interlock
23 device, on or after July 1, 2009.

24

