

ENROLLED ACT NO. 22, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2019 GENERAL SESSION

AN ACT relating to criminal procedure and motor vehicles; amending 24/7 sobriety program provisions to increase access to the program and technology; creating a restricted driver's license for participants in 24/7 programs; removing restriction on state funding for the 24/7 administrator; providing additional driving privilege sanctions for driving while under the influence; providing penalties for violations; clarifying credit for time spent using ignition interlock devices; amending provisions relating to persons prohibited from driving without an interlock device; creating an account; repealing the sunset date for the 24/7 program; making conforming amendments; and providing for effective dates.

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

**Section 1.** W.S. 31-7-501 and 31-7-502 are created to read:

ARTICLE 5  
24/7 LICENSES

**31-7-501. 24/7 licenses; definitions; account; administration and enforcement.**

(a) For purposes of this article:

(i) "24/7 administrator" means the 24/7 sobriety program director authorized by W.S. 7-13-1710. In the absence of a 24/7 sobriety program director, the 24/7 administrator shall mean the attorney general or his designee;

(ii) "24/7 restricted driver's license" means a driver's license issued under W.S. 31-7-109(m);

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(iii) "24/7 sobriety program" means the program created under W.S. 7-13-1701 through 7-13-1710;

(iv) "Department" means the Wyoming department of transportation;

(v) "Indigent person" means a person able to produce evidence that he is eligible and qualified to participate in the federal supplemental nutrition assistance program.

(b) The department shall prescribe reasonable rules and regulations and prescribe forms related to the issuance and revocation of 24/7 restricted driver's licenses as provided in this article.

(c) The department shall establish a fee chargeable to every person applying for a 24/7 restricted driver's license. The fee shall compensate the department for all the costs directly associated with administering 24/7 restricted driver's licenses required by this article, but in no event shall the fee exceed one hundred twenty-five dollars (\$125.00). The fee shall not be collected from any indigent person.

(d) There is created the 24/7 restricted driver's license account. All monies received by the department under subsection (c) of this section shall be deposited into the 24/7 account. Interest earned on monies in the account shall be credited to the account. All monies in the account including earned interest are continuously appropriated to the department and shall be expended only for the purpose of administering 24/7 restricted driver's licenses required by this article.

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**31-7-502. 24/7 restricted license requirements;  
revocation; penalties.**

(a) A person ordered to participate pursuant to W.S. 31-5-233(n) in a 24/7 sobriety program as an alternative to the requirements of W.S. 31-5-233(f)(ii) through (iv) shall not be eligible to receive an unrestricted driver's license until he has held the 24/7 restricted license for the period required by W.S. 31-5-233(n). The time during which a person can demonstrate enrollment in and compliance with a 24/7 sobriety program prior to conviction for the same incident shall be credited to the person's post-conviction restricted license requirements under W.S. 31-5-233(n).

(b) If a person ordered to participate in a 24/7 sobriety program, as described in subsection (a) of this section, fails to comply with the requirements of the program or otherwise ceases to participate in the program prior to completing the program, the 24/7 administrator shall immediately notify the department. Upon receiving notice, the department shall immediately revoke the person's 24/7 restricted driver's license.

(c) A person whose 24/7 restricted driver's license is revoked shall apply to the department for an ignition interlock restricted license for the balance of the period required by W.S. 31-5-233(n).

(d) A person whose 24/7 restricted driver's license is revoked under subsection (b) of this section shall not drive any motor vehicle on the highways of this state unless the person has been issued an ignition interlock restricted license for the balance of the period required by W.S. 31-5-233(f).

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(e) A person who violates subsection (d) of this section is guilty of a misdemeanor and shall:

(i) For a first offense, be imprisoned for not less than seven (7) days nor more than six (6) months, and shall not be eligible for probation, suspension of sentence or release on any other basis until serving at least seven (7) days in jail. In addition, the person may be fined not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00);

(ii) For a second or subsequent violation of subsection (d) of this section during the same license revocation period, be imprisoned for not less than thirty (30) days nor more than six (6) months, and shall not be eligible for probation, suspension of sentence or release on any other basis until serving at least thirty (30) days in jail. In addition, the person may be fined not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00).

**Section 2.** W.S. 7-13-304(d), 7-13-1702(a) by creating new paragraphs (vi) and (vii), 7-13-1703(b), 7-13-1704(b), 7-13-1707(a), 7-13-1708(a), 7-13-1709(a), 7-13-1710, 31-5-233(f)(intro), (ii) through (iv) and by creating a new subsection (n), 31-7-109 by creating a new subsection (m), 31-7-402(a), (b) and by creating new subsections (e) and (f) and 31-7-404(a) and (c)(intro) are amended to read:

**7-13-304. Imposition or modification of conditions; performance of work by defendant.**

(d) As a condition of probation or suspension of sentence, the court may require a defendant to complete successfully a court supervised treatment program qualified under W.S. 7-13-1601 through 7-13-1615, a 24/7 sobriety

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program under W.S. 7-13-1701 through ~~7-13-1711~~ 7-13-1710, or both.

**7-13-1702. Definitions.**

(a) As used in this article:

(vi) "Remote electronic alcohol monitoring device" means any electronic instrument that is attached to a person and is capable of determining and monitoring the presence of alcohol in the person's body, including any equipment necessary for the device to perform properly;

(vii) "Remote breath testing device" means an unsupervised mobile breath testing device with the ability to confirm the identify, location and presence of alcohol in a person and is capable of scheduled, random and on demand tests that provide immediate results to a participating agency.

**7-13-1703. 24/7 sobriety program created.**

(b) The program shall provide for frequent and certain testing for drug or alcohol use. The testing methods may include breath testing, drug patch testing, urinalysis, ~~continuous or transdermal alcohol monitoring use of a remote breath testing device or a remote electronic alcohol monitoring device~~ or other testing methods as provided by rule.

**7-13-1704. Inclusion in program.**

(b) The sheriff shall establish the testing locations and times for his county but shall have at least one (1) testing location and two (2) daily testing times approximately twelve (12) hours apart unless the sheriff utilizes a remote electronic alcohol monitoring device that

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complies with rules promulgated by the attorney general pursuant to W.S. 7-13-1705.

**7-13-1707. 24/7 sobriety program account.**

(a) There is created a 24/7 sobriety program account. The account shall be used by the attorney general to defray all the costs of the program to the state, including the costs of the attorney general in administering this article. Disbursements from the account shall not exceed the monies credited to it. All monies in the account are continuously appropriated to the attorney general to be used solely for the administration of the program and for no other purpose. After paying participating vendors, the attorney general shall return no less than seventy-five percent (75%) of the remaining fees collected under W.S. 7-13-1706 to the sheriff who collected the fee. The sheriff shall utilize the funds only to administer or enhance the county's 24/7 sobriety program. Notwithstanding W.S. 9-2-1008 and 9-4-207 funds in the account shall not lapse at the end of the fiscal period. Interest earned on funds in the account shall be deposited to the account.

**7-13-1708. Authority of court to order participation in program.**

(a) Upon a ~~second or subsequent~~ charge or offense for conduct committed while intoxicated or under the influence of a controlled substance, a court may order participation in the program as a condition of pretrial release, bond, suspension of sentence, probation or other conditional release.

**7-13-1709. Apprehension of violators.**

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(a) Upon the failure of a person to submit to ~~or pass~~ a test under the program or upon a positive test for alcohol or controlled substance in violation of the program, a peace officer or a probation and parole agent shall complete a written statement establishing the person, in the judgment of the officer or agent, violated a condition of release by failing to submit to or pass a test. A peace officer shall immediately arrest the person without warrant after completing or receiving the written statement.

**7-13-1710. 24/7 sobriety program director; appointment.**

The attorney general may appoint a director to administer the program. The appointment shall be subject to senate confirmation in the manner provided for in W.S. 28-12-101 and 28-12-102 for gubernatorial appointments. The director shall receive an annual salary determined by the department of administration and information human resources division. ~~No state funds shall be used to fund the salary or benefits of the director.~~

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

(f) Any person convicted under this section or other law prohibiting driving while under the influence as defined in W.S. 31-5-233(a)(v), or whose prosecution under this section is deferred under W.S. 7-13-301, shall, in addition to the penalty imposed:

(ii) Except as provided in subsection (n) of this section, for a first conviction, or for a prosecution deferred under W.S. 7-13-301, where the department's administrative action indicates the person had an alcohol concentration of

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fifteen one-hundredths of one percent (0.15%) or more, operate only vehicles equipped with an ignition interlock device, pursuant to W.S. 31-7-401 through 31-7-404, for a period of six (6) months. For purposes of this paragraph, the department's administrative action shall be deemed to indicate a person had an alcohol concentration of fifteen one-hundredths of one percent (0.15%) or more only after the person is notified of and given the opportunity to pursue the administrative procedures provided by W.S. 31-7-105;

(iii) Except as provided in subsection (n) of this section, for a second conviction, operate only vehicles equipped with an ignition interlock device, pursuant to W.S. 31-7-401 through 31-7-404, for a period of one (1) year;

(iv) Except as provided in subsection (n) of this section, for a third conviction, operate only vehicles equipped with an ignition interlock device, pursuant to W.S. 31-7-401 through 31-7-404, for a period of two (2) years;

(n) The court may, as an alternative or in addition to the requirements of W.S. 31-5-233(f)(ii) through (iv), require a person otherwise restricted to operating only motor vehicles equipped with an ignition interlock device under W.S. 31-5-233(f)(ii) through (iv) to participate in a program established under the 24/7 Sobriety Program Act, W.S. 7-13-1701 et seq., for the period specified in W.S. 31-5-233(f)(ii) through (iv). A person required to participate in a 24/7 sobriety program as an alternative to the requirements of W.S. 31-5-233(f)(ii) through (iv) shall be granted a restricted driver's license under W.S. 31-7-109(m) upon proper application under rules established by the department and provided that the person enrolls in and complies with the requirements of the 24/7 sobriety program.

**31-7-109. Classes of licenses.**



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(m) The restricted driver's license "24/7" authorizes the driver to operate a vehicle as provided in W.S. 31-5-233(n). This restricted license shall not permit a driver to operate a motor vehicle that requires a commercial driver's license.

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

(a) A person whose driver's license has been suspended pursuant to W.S. 31-7-128(b)(ii) as a result of a violation related to operating a vehicle under the influence of alcohol, or whose license is otherwise suspended and is required to operate only vehicles equipped with an ignition interlock device, ~~and who has served at least forty five (45) days of the suspension period~~ shall apply to the department for an ignition interlock restricted license for ~~the balance of~~ the suspension period or other period required by law.

(b) A person whose driver's license has been revoked pursuant to W.S. 31-7-127(a)(ii) as a result of a violation related to operating a vehicle under the influence of alcohol, or whose license is otherwise suspended and is required to operate only vehicles equipped with an ignition interlock device, ~~and who has served at least forty five (45) days of the suspension or revocation period~~ or who is required to operate only vehicles equipped with an ignition interlock device under W.S. 31-5-233(f)(ii) shall apply to the department for an ignition interlock restricted license for ~~the balance of~~ the suspension or revocation period or other period required by law.

(e) A person required to apply for an ignition interlock restricted license under subsection (a) or (b) of this section shall not be eligible to receive a driver's

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license without an ignition interlock restriction until he has held the ignition interlock license for the period required by law. If a person required to apply for an ignition interlock license resides in another state, the person may meet the ignition interlock license requirement by completing the ignition interlock program in another state for the period required by Wyoming law.

(f) The time during which a person can demonstrate installation and compliance with a department approved ignition interlock device prior to conviction for the same incident shall be credited to the person's post-conviction ignition interlock restricted license requirements.

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

(a) No person ~~licensed under this article~~ shall drive any motor vehicle, without a functioning and certified ignition interlock device. if:

(i) He is licensed under this article;

(ii) He is required to apply for an interlock restricted license under W.S. 31-7-402(a) or (b); or

(iii) His driving privileges have been restricted to operating vehicles with an interlock device by a court or by operation of law.

(c) A person ~~holding a restricted license under this article~~ who violates subsection (a) or (b) of this section is guilty of a misdemeanor and shall:

**Section 3.** W.S. 7-13-1711 is repealed.

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**Section 4.** On or before July 1, 2019, the department of transportation shall promulgate rules and prescribe forms as required by W.S. 31-7-501(b) as created by section 1 of this act.

**Section 5.**

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2019.

(b) Section 4 of this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk