

SENATE FILE NO. SF0040

Operation of motorboat while intoxicated.

Sponsored by: Senator(s) Steinmetz, Baldwin and Hutchings and  
Representative(s) Duncan, Haley, Jennings and  
Simpson

A BILL

for

1 AN ACT relating to watercraft; amending the alcohol  
2 concentration level that constitutes operation of a motorboat  
3 by an intoxicated person; specifying the alcohol  
4 concentration levels applicable to the operation of all other  
5 watercraft; and providing for an effective date.

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

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9 **Section 1.** W.S. 41-13-206(c)(ii), (iii), (d)(ii) and  
10 (e) is amended to read:

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12 **41-13-206. Operation of watercraft by intoxicated or**  
13 **drugged person prohibited.**

14

1           (c) No person shall operate or be in actual physical  
2 control of a watercraft if the person:

3  
4           (ii) Has an alcohol concentration of eight  
5 one-hundredths of one percent (0.08%) or more if the  
6 watercraft is a motorboat or ten one-hundredths of one percent  
7 (0.10%) or more for all other watercraft; or

8  
9           (iii) Has an alcohol concentration of eight  
10 one-hundredths of one percent (0.08%) or more if the  
11 watercraft is a motorboat or ten one-hundredths of one percent  
12 (0.10%) or more for all other watercraft as measured within  
13 three (3) hours of the time of operation or actual physical  
14 control.

15  
16           (d) In any criminal prosecution for a violation of this  
17 section relating to operating or being in actual physical  
18 control of a watercraft while under the influence of alcohol,  
19 the amount of alcohol in the defendant's blood at the time  
20 alleged as shown by chemical analysis of the defendant's  
21 blood, urine, breath or other bodily substance shall give  
22 rise to the following presumptions:

23

1           (ii) If there was at that time an alcohol  
2 concentration of more than five one-hundredths of one percent  
3 (0.05%) and less than eight one-hundredths of one percent  
4 (0.08%) if the watercraft is a motorboat or ten one-hundredths  
5 of one percent (0.10%) for all other watercraft, that fact  
6 shall not give rise to any presumption that the defendant was  
7 or was not under the influence of alcohol, but it may be  
8 considered with other competent evidence in determining the  
9 guilt or innocence of the defendant.

10  
11           (e) Nothing in subsection (d) of this section shall be  
12 construed as limiting the introduction of any other competent  
13 evidence bearing upon the question of whether or not the  
14 defendant was under the influence of alcohol, including tests  
15 obtained more than three (3) hours after the alleged  
16 violation. The fact that any person charged with a violation  
17 of subsection (c) of this section is or has been entitled to  
18 use the controlled substance under the laws of this state  
19 shall not constitute a defense against any charge under this  
20 section. It is an affirmative defense to a violation of  
21 paragraph (c)(iii) of this section that the defendant  
22 consumed a sufficient quantity of alcohol after the time of  
23 actual operation or physical control of a watercraft and

1 before the administration of the evidentiary test to cause  
2 the defendant's alcohol concentration to exceed eight  
3 one-hundredths of one percent (0.08%) if the watercraft is a  
4 motorboat or ten one-hundredths of one percent (0.10%) for  
5 all other watercraft, but evidence of the consumption may not  
6 be admitted unless notice is given to the prosecution pursuant  
7 to Rule 12.1 of the Wyoming Rules of Criminal Procedure.

8

9 **Section 2.** This act is effective July 1, 2019.

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(END)