

## HOUSE BILL NO. HB0005

Operation of motorboat by intoxicated person.

Sponsored by: Representative(s) Steinmetz

A BILL

for

1 AN ACT relating to watercraft; amending the prohibition of  
2 operation of watercraft by an intoxicated person or by a  
3 person under the influence of a controlled substance to  
4 only operation of motorboats; amending the alcohol  
5 concentration that constitutes operation of a motorboat by  
6 an intoxicated person; and providing for an effective date.

7

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

9

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

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13 **41-13-206. Operation of motorboat by intoxicated or**  
14 **drugged person prohibited.**

15

1 (b) No owner of any ~~watercraft~~motorboat or person  
2 having charge or control of a ~~watercraft~~motorboat shall  
3 authorize or knowingly permit it to be operated by any  
4 person who is under the influence of alcohol, a controlled  
5 substance or combination thereof in violation of subsection  
6 (c) of this section.

7

8 (c) No person shall operate or be in actual physical  
9 control of a ~~watercraft~~motorboat if the person:

10

11 (i) To a degree which renders him incapable of  
12 safely operating a ~~watercraft~~motorboat:

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14 (ii) Has an alcohol concentration of ~~ten~~  
15 ~~one-hundredths of one percent (0.10%)~~ eight one-hundredths  
16 of one percent (0.08%) or more; or

17

18 (iii) Has an alcohol concentration of ~~ten~~  
19 ~~one-hundredths of one percent (0.10%)~~ eight one-hundredths  
20 of one percent (0.08%) or more as measured within three (3)  
21 hours of the time of operation or actual physical control.

22

1           (d) In any criminal prosecution for a violation of  
2 this section relating to operating or being in actual  
3 physical control of a ~~watercraft~~ motorboat while under the  
4 influence of alcohol, the amount of alcohol in the  
5 defendant's blood at the time alleged as shown by chemical  
6 analysis of the defendant's blood, urine, breath or other  
7 bodily substance shall give rise to the following  
8 presumptions:

9  
10           (ii) If there was at that time an alcohol  
11 concentration of more than five one-hundredths of one  
12 percent (0.05%) and less than ~~ten one-hundredths of one~~  
13 ~~percent (0.10%)~~ eight one-hundredths of one percent  
14 (0.08%), that fact shall not give rise to any presumption  
15 that the defendant was or was not under the influence of  
16 alcohol, but it may be considered with other competent  
17 evidence in determining the guilt or innocence of the  
18 defendant.

19  
20           (e) Nothing in subsection (d) of this section shall  
21 be construed as limiting the introduction of any other  
22 competent evidence bearing upon the question of whether or  
23 not the defendant was under the influence of alcohol,

1 including tests obtained more than three (3) hours after  
2 the alleged violation. The fact that any person charged  
3 with a violation of subsection (c) of this section is or  
4 has been entitled to use the controlled substance under the  
5 laws of this state shall not constitute a defense against  
6 any charge under this section. It is an affirmative defense  
7 to a violation of paragraph (c)(iii) of this section that  
8 the defendant consumed a sufficient quantity of alcohol  
9 after the time of actual operation or physical control of a  
10 ~~watercraft~~ motorboat and before the administration of the  
11 evidentiary test to cause the defendant's alcohol  
12 concentration to exceed ~~ten one-hundredths of one percent~~  
13 ~~(0.10%)~~ eight one-hundredths of one percent (0.08%) but  
14 evidence of the consumption may not be admitted unless  
15 notice is given to the prosecution pursuant to Rule 12.1 of  
16 the Wyoming Rules of Criminal Procedure.

17

18 **Section 2.** This act is effective July 1, 2017.

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(END)