

HOUSE BILL NO. HB0117

Operation of motorboat while intoxicated.

Sponsored by: Representative(s) Steinmetz, Blackburn, Haley, Lone, McKim, Pownall and Winters and Senator(s) Meier

A BILL

for

1 AN ACT relating to watercraft; amending the alcohol
2 concentration level that constitutes operation of a
3 motorboat by an intoxicated person; specifying the alcohol
4 concentration levels applicable to the operation of all
5 other 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
7 percent (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
12 percent (0.10%) or more for all other watercraft as
13 measured within three (3) hours of the time of operation or
14 actual physical control.

15
16 (d) In any criminal prosecution for a violation of
17 this section relating to operating or being in actual
18 physical control of a watercraft while under the influence
19 of alcohol, the amount of alcohol in the defendant's blood
20 at the time alleged as shown by chemical analysis of the
21 defendant's blood, urine, breath or other bodily substance
22 shall give 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
3 percent (0.05%) and less than eight one-hundredths of one
4 percent (0.08%) if the watercraft is a motorboat or ten
5 one-hundredths of one percent (0.10%) for all other
6 watercraft, that fact shall not give rise to any
7 presumption that the defendant was or was not under the
8 influence of alcohol, but it may be considered with other
9 competent evidence in determining the guilt or innocence of
10 the defendant.

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

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

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

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(END)