

SENATE FILE NO. SF0019

DUI impairment period and period for enhanced penalties.

Sponsored by: Senator(s) Ross and Perkins and
Representative(s) Hammons

A BILL

for

1 AN ACT relating to driving under the influence; amending
2 the time in which a driver may not exceed the maximum blood
3 alcohol level; making corresponding amendments for youthful
4 driver's with detectable alcohol concentrations; amending
5 the time in which chemical tests may be relevant; expanding
6 the period for enhanced penalties for prior violations;
7 expanding the period for license suspension and revocation
8 as specified; adding definitions; and providing for an
9 effective date.

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

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13 **Section 1.** W.S. 31-5-233(a)(ii) by creating a new
14 subparagraph (C), by creating new paragraphs (vii) and
15 (viii), (b)(i), by creating a new paragraph (ii), by
16 renumbering (ii) as (iii), (d) and (e), 31-5-234(b),

1 31-6-101(a)(ii) by creating a new subparagraph (C),
2 31-7-127(a)(ii)(intro) and 31-7-128(b)(ii)(intro) are
3 amended to read:

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

8

9 (a) As used in this section:

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11 (ii) "Controlled substance" includes:

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13 (C) Any drug or psychoactive substance, or
14 any combination of these substances, capable of impairing a
15 person's physical or mental faculties.

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17 (vii) "Alcohol" means any substance or
18 substances containing any form of alcohol;

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20 (viii) "Chemical test" means a test which
21 analyzes an individual's breath, blood, urine, saliva or
22 other bodily fluids or tissues for evidence of drug or
23 alcohol use.

24

1 (b) No person shall drive or have actual physical
2 control of any vehicle within this state if the person:

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4 (i) Has an alcohol concentration of eight one-
5 hundredths of one percent (0.08%) or more; ~~or~~

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7 (ii) Has an alcohol concentration of eight one-
8 hundredths of one percent (0.08%) or more, as measured
9 within two (2) hours after the time of driving or being in
10 actual physical control of the vehicle following a lawful
11 arrest resulting from a valid traffic stop; or

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13 ~~(ii)~~ (iii) To a degree which renders him
14 incapable of safely driving:

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16 (A) Is under the influence of alcohol;

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18 (B) Is under the influence of a controlled
19 substance; or

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21 (C) Is under the influence of a combination
22 of any of the elements named in subparagraphs (A) and (B)
23 of this paragraph.

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1 (d) Subsection (c) of this section shall not be
2 construed as limiting the introduction of any other
3 competent evidence bearing upon the question of whether the
4 person was under the influence of alcohol, including tests
5 obtained more than ~~three (3)~~ two (2) hours after the
6 alleged violation. The fact that any person charged with a
7 violation of subsection (b) of this section is or has been
8 entitled to use the controlled substance under the laws of
9 this state shall not constitute a defense against any
10 charge under subsection (b) of this section.

11

12 (e) Except as otherwise provided, a person convicted
13 of violating this section shall be ordered to or shall
14 receive a substance abuse assessment conducted by a
15 substance abuse provider certified by the department of
16 health pursuant to W.S. 9-2-2701(c) at or before
17 sentencing. The cost of the substance abuse assessment
18 shall be assessed to and paid by the offender. Except as
19 otherwise provided in this subsection or subsection (h) or
20 (m) of this section, a person convicted of violating this
21 section is guilty of a misdemeanor punishable by
22 imprisonment for not more than six (6) months, a fine of
23 not more than seven hundred fifty dollars (\$750.00), or
24 both. On a second offense resulting in a conviction within

1 ~~five (5)~~ ten (10) years after a conviction for a violation
2 of this section or other law prohibiting driving while
3 under the influence, he shall be punished by imprisonment
4 for not less than seven (7) days nor more than six (6)
5 months, he shall be ordered to or shall receive a substance
6 abuse assessment conducted by a substance abuse provider
7 certified by the department of health pursuant to W.S.
8 9-2-2701(c) before sentencing and shall not be eligible for
9 probation or suspension of sentence or release on any other
10 basis until he has served at least seven (7) days in jail.
11 In addition, the person may be fined not less than two
12 hundred dollars (\$200.00) nor more than seven hundred fifty
13 dollars (\$750.00). On a third offense resulting in a
14 conviction within ~~five (5)~~ ten (10) years after a
15 conviction for a violation of this section or other law
16 prohibiting driving while under the influence, he shall be
17 punished by imprisonment for not less than thirty (30) days
18 nor more than six (6) months, shall receive a substance
19 abuse assessment pursuant to W.S. 7-13-1302 and shall not
20 be eligible for probation or suspension of sentence or
21 release on any other basis until he has served at least
22 thirty (30) days in jail except that the court shall
23 consider the substance abuse assessment and may order the
24 person to undergo outpatient alcohol or substance abuse

1 treatment during any mandatory period of incarceration. The
2 minimum period of imprisonment for a third violation shall
3 be mandatory, but the court, having considered the
4 substance abuse assessment and the availability of public
5 and private resources, may suspend up to fifteen (15) days
6 of the mandatory period of imprisonment if, subsequent to
7 the date of the current violation, the offender completes
8 an inpatient treatment program approved by the court. In
9 addition, the person may be fined not less than seven
10 hundred fifty dollars (\$750.00) nor more than three
11 thousand dollars (\$3,000.00). The judge may suspend part or
12 all of the discretionary portion of an imprisonment
13 sentence under this subsection and place the defendant on
14 probation on condition that the defendant pursues and
15 completes an alcohol education or treatment program as
16 prescribed by the judge. Notwithstanding any other
17 provision of law, the term of probation imposed by a judge
18 under this section may exceed the maximum term of
19 imprisonment established for the offense under this
20 subsection provided the term of probation together with any
21 extension thereof, shall not exceed three (3) years for up
22 to and including a third conviction. On a fourth offense
23 resulting in a conviction or subsequent conviction within
24 five (5) ten (10) years for a violation of this section or

1 other law prohibiting driving while under the influence, he
2 shall be guilty of a felony and fined not more than ten
3 thousand dollars (\$10,000.00), punished by imprisonment for
4 not more than two (2) years, or both.

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6 **31-5-234. Unlawful operation of vehicle by youthful**
7 **driver with detectable alcohol concentration; penalty.**

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9 (b) A person younger than twenty-one (21) years of
10 age shall not operate or be in actual physical control of a
11 vehicle in this state with an alcohol concentration of two
12 one-hundredths of one percent (0.02%) or more nor operate
13 or be in actual physical control of a vehicle in this state
14 with an alcohol concentration of two one-hundredths of one
15 percent (0.02%) or more as measured within two (2) hours
16 after the time of driving or being in actual physical
17 control following a lawful arrest resulting from a valid
18 traffic stop.

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20 **31-6-101. Definitions.**

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22 (a) As used in this act:

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24 (ii) "Controlled substance" includes:

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(C) Any drug or psychoactive substance, or combination of these substances, capable of impairing a person's physical or mental faculties.

31-7-127. Mandatory revocation of license for certain violations.

(a) The division shall revoke the license or nonresident operating privilege of any person, upon receipt of a record of conviction of the person of any of the following violations:

(ii) A conviction under W.S. 31-5-233 or other law prohibiting driving while under the influence, if the person has been previously convicted two (2) or more times under W.S. 31-5-233 or other law prohibiting driving while under the influence within the ~~five (5)~~ ten (10) year period preceding:

31-7-128. Mandatory suspension of license or nonresident operating privilege for certain violations; suspension of registration.

1 (b) Upon receiving a record of a driver's conviction
2 under W.S. 31-5-233 or other law prohibiting driving while
3 under the influence, the division shall suspend the license
4 or nonresident operating privilege for:

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6 (ii) One (1) year, if the person has been
7 previously convicted once under W.S. 31-5-233 or other law
8 prohibiting driving while under the influence within the
9 ~~five (5)~~ ten (10) year period preceding:

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11 **Section 2.** This act is effective July 1, 2010.

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13

(END)