

CHAPTER 50

Original House Bill No. 69

DRIVING WHILE UNDER THE INFLUENCE

AN ACT to amend W.S. 31-5-233(d), (f) and by creating a new subsection (g) and 31-5-1117 relating to driving while under the influence of liquor or controlled substances; providing definitions; providing that any conviction after a first conviction constitutes a felony if serious bodily injury to another person results; creating the crime of aggravated homicide by vehicle and specifying penalties therefor; providing penalties; and providing for an effective date.

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

Section 1. W.S. 31-5-233(d), (f) and by creating a new subsection (g) and 31-5-1117 are amended to read:

31-5-233. Driving or in control of vehicle while under the influence of liquor prohibited; driving under influence of controlled substances prohibited; chemical analysis of blood, etc., as evidence; suspension of license, etc.; conviction for bodily injury; penalty.

(d) Except as provided in subsection (g) of this section, a person convicted of violating this section is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months or a fine of not more than seven hundred fifty dollars (\$750.00). On a subsequent conviction within five (5) years after a conviction for a violation of this section, he shall be punished by imprisonment for not less than seven (7) days nor more than six (6) months, and shall not be eligible for probation, pardon, parole, commutation or suspension of sentence or release on any other basis until he has served 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). The judge may suspend part or all of the discretionary portion of an imprisonment sentence under this subsection if the defendant agrees to pursue and completes an alcohol education or treatment program as prescribed by the judge.

(f) The court may, upon pronouncement of any jail sentence under subsection (d) of this section provide in the sentence that the defendant may be permitted, if he is employed or enrolled in school and can continue his employment or education, to continue such employment or education for not more than the time necessary as certified by his employer or school administrator, and the remaining day, days or parts of days shall be spent in jail until the sentence is served. He shall be allowed out of jail only long enough to complete his actual hours of employment or education and a reasonable time to travel to and from his place of employment or school.

(g) Whoever causes serious bodily injury to another person resulting from the violation of this section shall be punished as provided in paragraphs (i), (ii) and (iii) of this subsection. As used in this subsection "serious bodily injury" means bodily injury which creates a reasonable likelihood of death or which causes miscarriage, or serious permanent disfigurement or protracted loss or impairment of any bodily member or organ:

(i) For a first conviction, by a fine of not more than five thousand dollars (\$5,000.00), or by imprisonment in the county jail for not more than one (1) year, or both;

(ii) For a subsequent conviction, by imprisonment in the penitentiary for not more than twenty (20) years; and

(iii) Any person convicted under this subsection shall also have his driver's license revoked by the motor vehicle division and that person may not apply for a new license for a period of two (2) years after revocation. At the time of conviction, the court shall require the person to surrender his license, and the court shall forward the license to the division.

31-5-1117. Homicide by vehicle; penalties.

(a) Whoever, while driving any vehicle under the influence of either intoxicating liquor or a controlled substance, or a combination of both, to a degree which renders him incapable of safely driving a vehicle causes the death of another person shall be guilty of aggravated homicide by vehicle, and upon conviction thereof, shall be punished by imprisonment in the penitentiary for not more than twenty (20) years.

(b) Whoever, except when the violation of law involves culpable neglect or criminal carelessness, unlawfully and unintentionally, but with a conscious disregard of the safety of others, causes the death of another person while engaged in the violation of any state law or ordinance applying to the operation or use of a vehicle or to the regulation of traffic, except those laws or ordinances relating to conduct set forth in subsection (a) of this section, is guilty of homicide by vehicle when the violation is the proximate cause of death, and upon conviction thereof, shall be fined not more than two thousand dollars (\$2,000.00) or imprisoned in the county jail for not more than one (1) year, or both.

(c) The division of motor vehicles shall revoke the license or permit to drive and any nonresident operating privilege of any person convicted of aggravated homicide by vehicle or of homicide by vehicle.

Section 2. This act is effective June 1, 1982.

Approved March 9, 1982.