



# THE LEGISLATURE OF THE STATE OF WYOMING

## House of Representatives

Cheyenne, ..... January 31 ..... , 19 81 .....

Mr. Speaker:

Your Committee No. .... 1 ..... on ..... JUDICIARY .....

to whom was referred ..... H.R. .... No. .... 238 .....

respectfully reports same back to the House with the recommendation that it

DO NOT PASS

AYES

Chamberlain  
Hansen  
Lummis  
McCarthy  
Odde  
Tipton  
Trowbridge  
Wiederspahn  
Crowley

NOES

0

EXCUSED

C. Scott

*Ellen Crowley*  
.....  
Ellen Crowley

**Chairman**

House of Intro  
 \_\_\_\_\_ To Com No. \_\_\_\_\_  
 \_\_\_\_\_ Stand Report Do \_\_\_\_\_ Amd \_\_\_\_\_ Not \_\_\_\_\_  
 \_\_\_\_\_ Com Whole Do \_\_\_\_\_ Amd \_\_\_\_\_ Not \_\_\_\_\_  
 \_\_\_\_\_ 2nd Reading Amd \_\_\_\_\_  
 \_\_\_\_\_ 3rd Reading Amd \_\_\_\_\_ Pass \_\_\_\_\_ Fail \_\_\_\_\_

Second House  
 \_\_\_\_\_ To Com No. \_\_\_\_\_  
 \_\_\_\_\_ Stand Report Do \_\_\_\_\_ Amd \_\_\_\_\_ Not \_\_\_\_\_  
 \_\_\_\_\_ Com Whole Do \_\_\_\_\_ Amd \_\_\_\_\_ Not \_\_\_\_\_  
 \_\_\_\_\_ 2nd Reading Amd \_\_\_\_\_  
 \_\_\_\_\_ 3rd Reading Amd \_\_\_\_\_ Pass \_\_\_\_\_ Fail \_\_\_\_\_

**INTRODUCED**

1981

STATE OF WYOMING

81LSO-135.01

HOUSE BILL NO. 238

Driver's license suspension.

Sponsored by: Representative THORSON

A BILL

for

1 AN ACT to create W.S. 31-5-234; and to amend W.S.  
 2 31-5-1205 by creating a new subsection (k), 31-7-127(b)  
 3 introductory paragraph and (i) and by creating a new sub-  
 4 section (d), 31-7-130(a) and 31-7-133 relating to suspen-  
 5 sion of driver's licenses; prohibiting the consumption of  
 6 alcoholic beverages in motor vehicles upon or parked near  
 7 a highway; prohibiting the possession of open liquor con-  
 8 tainers within a motor vehicle upon or parked near a high-  
 9 way; providing exceptions; providing penalties; expanding  
 10 the grounds for the suspension of driver's licenses to  
 11 include a record of arrest or citation of driving while

1 under the influence of alcoholic beverages or controlled  
2 substances, possession of an open container of alcohol or  
3 possession of a controlled substance; requiring the person  
4 so arrested or cited to surrender possession of his li-  
5 cense at the time of arrest; authorizing the department of  
6 revenue to retain possession of the license for thirty  
7 days until rendering a decision relative to license sus-  
8 pension; authorizing the person arrested or cited to oper-  
9 ate a vehicle until a decision is rendered by the divi-  
10 sion; specifying periods of license suspension for subse-  
11 quent offenders; modifying periods of suspension for  
12 specified licensees; providing appeal of suspension to  
13 justice or county court in specified cases; and providing  
14 for an effective date.

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

16 Section 1. W.S. 31-5-234 is created to read:

17 31-5-234. Drinking of intoxicating liquor in vehicle  
18 on highway or parked near highway prohibited; possession  
19 of open liquor container in vehicle on highway or parked  
20 near highway prohibited; open liquor containers prohibited  
21 in passenger area; exception; penalty.

22 (a) No person shall drink any intoxicating liquor in

1 a motor vehicle if the vehicle is upon a highway or parked  
2 within one hundred (100) feet of a highway.

3 (b) No person shall have in his possession on his  
4 person while in a motor vehicle upon a highway or parked  
5 within one hundred (100) feet of a highway, any bottle,  
6 can or other receptacle containing any intoxicating liquor  
7 which is open, the seal of which has been broken or the  
8 contents have been partially removed.

9 (c) Subsection (b) of this section does not apply to  
10 the trunk of a vehicle, the living quarters of a camper or  
11 a motor home or any other area of the vehicle not normally  
12 occupied by the driver or passenger. For purposes of this  
13 section, a utility compartment or glove compartment is  
14 considered within the area occupied by the driver and  
15 passengers.

16 (d) Any person violating the provisions of this  
17 section is guilty of a misdemeanor and upon conviction  
18 shall be punished in accordance with the provisions of  
19 W.S. 31-5-1201.

20 Section 2. W.S. 31-5-1205 by creating a new subsec-  
21 tion (k), 31-7-127(b) introductory paragraph and (i) and  
22 by creating a new subsection (d), 31-7-130(a) and 31-7-133

1 are amended to read:

2 31-5-1205. Traffic citation; notice to appear in  
3 court; release upon written promise to appear; procedure  
4 before judge or court, etc.; suspension of license upon  
5 citation or arrest for specified violations.

6 (k) AT THE TIME A PERSON IS ARRESTED OR CITED FOR A  
7 VIOLATION OF W.S. 31-5-233, 31-5-234 AND 35-7-103(c) IF  
8 POSSESSION IS WITHIN A MOTOR VEHICLE, HE SHALL SURRENDER  
9 POSSESSION OF HIS DRIVER'S LICENSE TO THE ARRESTING OFFI-  
10 CER. IN ADDITION TO OTHER REQUIREMENTS OF THIS SECTION  
11 AND W.S. 31-5-1204 AND UPON RECEIPT OF THE LICENSE, THE  
12 OFFICER SHALL ISSUE A RECEIPT TO THE PERSON ARRESTED OR  
13 CITED AUTHORIZING THE DIVISION TO MAINTAIN POSSESSION OF  
14 THE LICENSE FOR THIRTY (30) DAYS AND SHALL FORWARD THE LI-  
15 CENSE AND A RECORD OF ARREST OR CITATION TO THE DIVISION.  
16 THE RECEIPT AUTHORIZES THE PERSON ARRESTED OR CITED TO  
17 OPERATE A MOTOR VEHICLE WITHIN THIS STATE FOR A PERIOD NOT  
18 TO EXCEED THIRTY (30) DAYS FROM THE DATE OF ARREST OR  
19 CITATION OR UNTIL THE DIVISION HAS RENDERED A DECISION.

20 31-7-127. Authority of division to suspend or revoke  
21 license.

22 (b) The division ~~is hereby authorized to~~ MAY suspend

1 the license of any driver for a period not to exceed  
 2 NINETY (90) DAYS FOR THE FIRST OFFENSE, SIX (6) MONTHS FOR  
 3 THE SECOND OFFENSE AND twelve (12) months, ~~upon a showing~~  
 4 ~~by~~ FOR THE THIRD OFFENSE IF its records or other suffi-  
 5 cient evidence ~~that~~ INDICATE the licensee:

6 (i) Is an habitually reckless or negligent  
 7 driver of a motor vehicle, ~~such fact being~~ AS established  
 8 by:

9 (A) A record of moving violations, OR  
 10 accidents; ~~or by other evidence,~~

11 (B) AN ARREST OR CITATION FOR DRIVING OR  
 12 BEING IN ACTUAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE  
 13 INFLUENCE OF INTOXICATING LIQUOR IF A CHEMICAL ANALYSIS OF  
 14 A PERSON'S BREATH INDICATES A BLOOD ALCOHOL CONTENT IN  
 15 EXCESS OF TEN ONE-HUNDREDTHS OF ONE PERCENT (0.10%) OR ANY  
 16 CONTROLLED SUBSTANCE AS PROHIBITED BY W.S. 31-5-233;

17 (C) EVIDENCE OF A BOTTLE, CAN OR OTHER  
 18 RECEPTACLE CONTAINING ANY INTOXICATING LIQUOR WHICH IS  
 19 OPEN, OR THE SEAL OF WHICH HAS BEEN BROKEN, WITHIN A MOTOR  
 20 VEHICLE OPERATING ON A HIGHWAY OR PARKED WITHIN ONE HUN-  
 21 DRED (100) FEET OF A HIGHWAY AS PROHIBITED BY W.S.  
 22 31-5-234; OR

1                    (D) EVIDENCED OF ANY CONTROLLED SUB-  
2 STANCE WITHIN THE MOTOR VEHICLE.

3            (d) THE DIVISION SHALL WITHIN THIRTY (30) DAYS AFTER  
4 RECEIPT OF A RECORD OF ARREST OR CITATION AND THE DRIVER'S  
5 LICENSE OF THE PERSON ARRESTED OR CITED IN ACCORDANCE WITH  
6 W.S. 31-5-1205(k), AND AFTER A HEARING AS REQUIRED BY SUB-  
7 SECTION (c) OF THIS SECTION, RESCIND OR CONTINUE LICENSE  
8 SUSPENSION. IF THE DIVISION RESCINDS LICENSE SUSPENSION,  
9 IT SHALL IMMEDIATELY RETURN POSSESSION OF THE LICENSE TO  
10 THE PERSON ARRESTED OR CITED. IF LICENSE SUSPENSION IS  
11 CONTINUED BY THE DIVISION, IT SHALL SUSPEND THE LICENSE IN  
12 ACCORDANCE WITH SUBSECTION (b) OF THIS SECTION. IN ADDI-  
13 TION TO THE PROVISIONS WITHIN SUBSECTION (b) OF THIS  
14 SECTION, THE DIVISION, IF LICENSE SUSPENSION IS CONTINUED,  
15 SHALL NOT RETURN POSSESSION OF THE LICENSE TO ANY PERSON:

16                    (i) UNDER NINETEEN (19) YEARS OF AGE UNTIL  
17 THIS PERSON ATTAINS THE AGE OF NINETEEN (19), PROVIDED  
18 THIS TIME PERIOD IS GREATER THAN OTHERWISE PRESCRIBED  
19 UNDER SUBSECTION (b) OF THIS SECTION; OR

20                    (ii) WHOSE SUSPENDED LICENSE IS CLASSIFIED AS  
21 "CLASS A" OR "CLASS B" AND IS OPERATING A VEHICLE  
22 REQUIRING A "CLASS A" OR "CLASS B" LICENSE AT THE TIME OF

1 ARREST OR CITATION. THE DIVISION MAY AT THE EXPIRATION OF  
2 THE SUSPENSION PERIOD PURSUANT TO SUBSECTION (b) OF THIS  
3 SECTION, ISSUE A "CLASS C" LICENSE TO THE PERSON WHOSE LI-  
4 CENSE HAS BEEN SUSPENDED UPON RECEIPT OF THE FEE PRE-  
5 SCRIBED BY W.S. 31-7-113(a). THE LICENSEE MAY APPLY TO  
6 THE DIVISION FOR A "CLASS A" OR "CLASS B" LICENSE AFTER A  
7 PERIOD OF NOT LESS THAN ONE (1) YEAR FROM THE DATE OF  
8 EXPIRATION OF THE SUSPENSION PERIOD PRESCRIBED BY SUBSEC-  
9 TION (b) OF THIS SECTION.

10 31-7-130. Period of suspension or revocation.

11 (a) The division shall not suspend or revoke a  
12 driver's license or privilege to drive a motor vehicle on  
13 the public highways for a period of more than one (1)  
14 year, except as specifically provided in ~~subsection~~  
15 ~~31-276-34---(b)---of---the---statutes~~ W.S. 31-7-127(d) AND  
16 31-7-135(b).

17 31-7-133. Right of appeal to court; appeal to jus-  
18 tice or county court in special cases.

19 (a) Any person denied a license or whose license has  
20 been cancelled, suspended or revoked by the department  
21 ~~shall-have-the-right-to~~ MAY file a petition within thirty  
22 (30) days ~~thereafter~~ for a hearing ~~in-the-matter~~ in the

1 district court in the county ~~wherein~~ WHERE the person  
2 resides or, in the case of cancellation, suspension or  
3 revocation of a nonresident's operating privilege, in the  
4 county in which the violation occurred. ~~and the court--is~~  
5 ~~hereby-vested-with-jurisdiction.~~ The court shall set the  
6 ~~matter-for~~ hearing upon thirty (30) days written notice to  
7 the commissioner and ~~thereupon~~ SHALL take testimony, and  
8 examine ~~into~~ the facts ~~of-the-case~~ and determine whether  
9 the petitioner is entitled to a license or is subject to  
10 suspension, cancellation or revocation of license under  
11 the provisions of this act.

12 (b) ANY PERSON WHOSE LICENSE IS SUSPENDED IN ACCORD-  
13 ANCE WITH W.S. 31-7-127(d)(ii) MAY FILE A PETITION WITHIN  
14 THIRTY (30) DAYS AFTER A DECISION BY THE DEPARTMENT TO  
15 SUSPEND HIS LICENSE WITH THE DISTRICT COURT AS PROVIDED BY  
16 SUBSECTION (a) OF THIS SECTION OR WITH A JUSTICE OR COUNTY  
17 COURT WITHIN THE COUNTY IN WHICH THE PERSON RESIDES. THE  
18 JUSTICE OR COUNTY COURT SHALL NOTIFY THE COMMISSION IN  
19 WRITING WITHIN THIRTY (30) DAYS PRIOR TO THE HEARING, AND  
20 SHALL TAKE TESTIMONY, EXAMINE THE FACTS AND RENDER A DECI-  
21 SION ON THE SUSPENSION OF THE LICENSE.



FISCAL NOTE

Anticipated REVENUE to:	Fiscal Year 19	Fiscal Year 19
TOTAL ESTIMATED REVENUE		
Anticipated COST to:	Fiscal Year 1983	Fiscal Year 1984
General Fund	\$125,950.00	\$97,050.00
TOTAL ESTIMATED COST	\$125,950.00	\$97,050.00

1. The costs associated with this bill are based on information received from the Department of Revenue and Taxation.
2. The Department estimated two new employees would be required to implement this bill.