

HOUSE BILL NO. HB0040

Operation of watercraft under influence of alcohol.

Sponsored by: Representative(s) Steinmetz, Baldwin and
Zwonitzer, Dv. and Senator(s) Geis

A BILL

for

1 AN ACT relating to watercraft; amending the alcohol
2 concentration that constitutes operation of watercraft by
3 an intoxicated person; specifying the punishment for
4 operation of watercraft while intoxicated with a child
5 passenger; specifying the punishment for second or
6 subsequent offenses of operating a watercraft while
7 intoxicated with a child passenger; and providing for an
8 effective date.

9

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

11

12 **Section 1.** W.S. 41-13-206(c)(ii), (iii), (d)(ii) and
13 (e) and 41-13-216(a) and by creating a new subsection (d)
14 are amended to read:

15

1 **41-13-206. Operation of watercraft by intoxicated or**
2 **drugged person prohibited.**

3
4 (c) No person shall operate or be in actual physical
5 control of a watercraft if the person:

6
7 (ii) Has an alcohol concentration of ~~ten~~
8 ~~one-hundredths of one percent (0.10%)~~ eight one-hundredths
9 of one percent (0.08%) or more; or

10
11 (iii) Has an alcohol concentration of ~~ten~~
12 ~~one-hundredths of one percent (0.10%)~~ eight one-hundredths
13 of one percent (0.08%) or more as measured within three (3)
14 hours of the time of operation or 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 ~~ten one-hundredths of one~~
4 ~~percent (0.10%)~~ eight one-hundredths of one percent
5 (0.08%), that fact shall not give rise to any presumption
6 that the defendant was or was not under the influence of
7 alcohol, but it may be considered with other competent
8 evidence in determining the guilt or innocence of the
9 defendant.

10
11 (e) Nothing in subsection (d) of this section shall
12 be construed as limiting the introduction of any other
13 competent evidence bearing upon the question of whether or
14 not the defendant was under the influence of alcohol,
15 including tests obtained more than three (3) hours after
16 the alleged violation. The fact that any person charged
17 with a violation of subsection (c) of this section is or
18 has been entitled to use the controlled substance under the
19 laws of this state shall not constitute a defense against
20 any charge under this section. It is an affirmative defense
21 to a violation of paragraph (c)(iii) of this section that
22 the defendant consumed a sufficient quantity of alcohol
23 after the time of actual operation or physical control of a

1 watercraft and before the administration of the evidentiary
2 test to cause the defendant's alcohol concentration to
3 exceed ~~ten one-hundredths of one percent (0.10%)~~ eight
4 one-hundredths of one percent (0.08%) but evidence of the
5 consumption may not be admitted unless notice is given to
6 the prosecution pursuant to Rule 12.1 of the Wyoming Rules
7 of Criminal Procedure.

8
9 **41-13-216. Penalties for violations; suspension of**
10 **privilege to operate; operating while privilege suspended.**

11
12 (a) Any person who violates or fails to comply with
13 W.S. 41-13-207 through 41-13-212, 41-13-219 or 41-13-220(b)
14 is guilty of a misdemeanor punishable by a fine of not more
15 than two hundred dollars (\$200.00), imprisonment for not
16 more than thirty (30) days, or both, and may be refused the
17 privilege of operating any watercraft on any of the
18 waterways of this state for not more than two (2) years.

19 Except as otherwise provided in subsection (d) of this
20 section, any person who violates W.S. 41-13-105,
21 41-13-111(a) or (b), 41-13-203, 41-13-204, 41-13-206 or
22 41-13-220(a) is guilty of a misdemeanor punishable by a
23 fine of not more than seven hundred fifty dollars

1 (\$750.00), imprisonment for not more than six (6) months,
2 or both, and may be refused the privilege of operating any
3 watercraft on any of the waterways of this state for not
4 more than two (2) years.

5
6 (d) Any person eighteen (18) years of age or older
7 who has a passenger who is under sixteen (16) years of age
8 in or being towed or propelled by a watercraft when in
9 violation of W.S. 41-13-206 shall be punished upon
10 conviction as follows:

11
12 (i) For a first conviction under W.S. 41-13-206
13 which is punishable under this subsection, by a fine of not
14 more than seven hundred fifty dollars (\$750.00),
15 imprisonment for not more than six (6) months, or both;

16
17 (ii) If previously convicted and sentenced under
18 this subsection, by a fine of not more than one thousand
19 five hundred dollars (\$1,500.00), imprisonment for not more
20 than one (1) year.

21

1 **Section 2.** This act is effective July 1, 2016.

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3

(END)