

ENROLLED ACT NO. 65, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2019 GENERAL SESSION

AN ACT relating to watercraft; amending the alcohol concentration level that constitutes operation of a motorboat by an intoxicated person; specifying the alcohol concentration levels applicable to the operation of all other watercraft; and providing for an effective date.

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

Section 1. W.S. 41-13-206(c)(ii), (iii), (d)(ii) and (e) is amended to read:

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

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

(ii) Has an alcohol concentration of ~~ten one-hundredths of one percent (0.10%) or more~~ eight one-hundredths of one percent (0.08%) or more if the watercraft is a motorboat; or

(iii) Has an alcohol concentration of ~~ten one-hundredths of one percent (0.10%) or more as measured within three (3) hours of the time of operation or actual physical control~~ eight one-hundredths of one percent (0.08%) or more if the watercraft is a motorboat.

(d) In any criminal prosecution for a violation of this section relating to operating or being in actual physical control of a watercraft while under the influence of alcohol, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance shall give rise to the following presumptions:

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(ii) If there was at that time an alcohol concentration of more than five one-hundredths of one percent (0.05%) and less than ~~ten one-hundredths of one percent (0.10%)~~ eight one-hundredths of one percent (0.08%) if the watercraft is a motorboat, that fact shall not give rise to any presumption that the defendant was or was not under the influence of alcohol, but it may be considered with other competent evidence in determining the guilt or innocence of the defendant.

(e) Nothing in subsection (d) of this section shall be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol, ~~including tests obtained more than three (3) hours after the alleged violation.~~ The fact that any person charged with a violation of subsection (c) of this section is or has been entitled to use the controlled substance under the laws of this state shall not constitute a defense against any charge under this section. It is an affirmative defense to a violation of paragraph (c)(iii) of this section that the defendant consumed a sufficient quantity of alcohol after the time of actual operation or physical control of a watercraft and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed ~~ten one-hundredths of one percent (0.10%)~~ eight one-hundredths of one percent (0.08%) if the watercraft is a motorboat, but evidence of the consumption may not be admitted unless notice is given to the prosecution pursuant to Rule 12.1 of the Wyoming Rules of Criminal Procedure.

ORIGINAL SENATE
FILE NO. SF0040

ENGROSSED

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Section 2. This act is effective July 1, 2019.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk