

**2018 -- S 2760 SUBSTITUTE A**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2018**

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A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

Introduced By: Senators Archambault, McCaffrey, Lynch Prata, Lombardi, and Jabour

Date Introduced: March 27, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 31-27-2, 31-27-2.1, 31-27-2.5 and 31-27-2.8 of the General Laws  
2 in Chapter 31-27 entitled "Motor Vehicle Offenses" are hereby amended to read as follows:

3           **31-27-2. Driving under influence of liquor or drugs.**

4           (a) Whoever drives or otherwise operates any vehicle in the state while under the  
5 influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in  
6 chapter 28 of title 21, or any combination of these, shall be guilty of a misdemeanor, except as  
7 provided in subdivision (d)(3), and shall be punished as provided in subsection (d) of this section.

8           (1) Notwithstanding any other sentencing and disposition provisions contained in this  
9 chapter, if the judge or magistrate makes a finding that a motorist was operating a vehicle in the  
10 state while under the influence of drugs, toluene, or any controlled substance as evidenced by the  
11 presence of controlled substances on or about the person or vehicle, or other reliable indicia or  
12 articulable conditions thereof, but not intoxicating liquor based on a preliminary breath test,  
13 results from a breathalyzer which indicates no blood alcohol concentration, or both, the judge or  
14 magistrate may exercise their discretion and eliminate the requirement of an ignition interlock  
15 system; provided, that blood and/or urine testing is mandated as condition to operating a motor  
16 vehicle as provided in § 31-27-2.8.

17           (2) Notwithstanding any other sentencing and disposition provisions contained in this  
18 chapter, if the judge or magistrate makes a finding that a motorist was operating a vehicle in the  
19 state while under the influence of drugs, toluene, or any controlled substance as evidenced by the

1 [presence of controlled substances on or about the person or vehicle, or other reliable indicia or](#)  
2 [articulable conditions thereof and intoxicating liquor based on a preliminary breath test, results](#)  
3 [from a breathalyzer which indicates blood alcohol concentration, or both, the judge or magistrate](#)  
4 [may require an ignition interlock system in addition to blood and/or urine testing as a condition to](#)  
5 [operating a motor vehicle as provided in § 31-27-2.8.](#)

6 (b) (1) Any person charged under subsection (a), whose blood alcohol concentration is  
7 eight one-hundredths of one percent (.08%) or more by weight, as shown by a chemical analysis  
8 of a blood, breath, or urine sample, shall be guilty of violating subsection (a). This provision shall  
9 not preclude a conviction based on other admissible evidence. Proof of guilt under this section  
10 may also be based on evidence that the person charged was under the influence of intoxicating  
11 liquor, drugs, toluene, or any controlled substance defined in chapter 28 of title 21, or any  
12 combination of these, to a degree that rendered the person incapable of safely operating a vehicle.  
13 The fact that any person charged with violating this section is, or has been, legally entitled to use  
14 alcohol or a drug shall not constitute a defense against any charge of violating this section.

15 (2) Whoever drives, or otherwise operates, any vehicle in the state with a blood presence  
16 of any scheduled controlled substance as defined within chapter 28 of title 21, as shown by  
17 analysis of a blood or urine sample, shall be guilty of a misdemeanor and shall be punished as  
18 provided in subsection (d).

19 (c) In any criminal prosecution for a violation of subsection (a), evidence as to the  
20 amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of  
21 title 21, or any combination of these, in the defendant's blood at the time alleged as shown by a  
22 chemical analysis of the defendant's breath, blood, or urine or other bodily substance, shall be  
23 admissible and competent, provided that evidence is presented that the following conditions have  
24 been complied with:

25 (1) The defendant has consented to the taking of the test upon which the analysis is made.  
26 Evidence that the defendant had refused to submit to the test shall not be admissible unless the  
27 defendant elects to testify.

28 (2) A true copy of the report of the test result was [hand delivered at the location of the](#)  
29 [test or](#) mailed within seventy-two (72) hours of the taking of the test to the person submitting to a  
30 breath test.

31 (3) Any person submitting to a chemical test of blood, urine, or other body fluids shall  
32 have a true copy of the report of the test result mailed to him or her within thirty (30) days  
33 following the taking of the test.

34 (4) The test was performed according to methods and with equipment approved by the

1 director of the department of health of the state of Rhode Island and by an authorized individual.

2 (5) Equipment used for the conduct of the tests by means of breath analysis had been  
3 tested for accuracy within thirty (30) days preceding the test by personnel qualified as  
4 hereinbefore provided, and breathalyzer operators shall be qualified and certified by the  
5 department of health within three hundred sixty-five (365) days of the test.

6 (6) The person arrested and charged with operating a motor vehicle while under the  
7 influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of  
8 title 21, or, any combination of these in violation of subsection (a), was afforded the opportunity  
9 to have an additional chemical test. The officer arresting or so charging the person shall have  
10 informed the person of this right and afforded him or her a reasonable opportunity to exercise this  
11 right, and a notation to this effect is made in the official records of the case in the police  
12 department. Refusal to permit an additional chemical test shall render incompetent and  
13 inadmissible in evidence the original report.

14 (d) (1) (i) Every person found to have violated subdivision (b)(1) shall be sentenced as  
15 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one  
16 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood  
17 presence of any scheduled controlled substance as defined in subdivision (b)(2), shall be subject  
18 to a fine of not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300);  
19 shall be required to perform ten (10) to sixty (60) hours of public community restitution, and/or  
20 shall be imprisoned for up to one year. The sentence may be served in any unit of the adult  
21 correctional institutions in the discretion of the sentencing judge and/or shall be required to attend  
22 a special course on driving while intoxicated or under the influence of a controlled substance;  
23 provided, however, that the court may permit a servicemember or veteran to complete any court-  
24 approved counseling program administered or approved by the Veterans' Administration, and his  
25 or her driver's license shall be suspended for thirty (30) days up to one hundred eighty (180) days.  
26 The sentencing judge or magistrate may prohibit that person from operating a motor vehicle,  
27 [pursuant to §§ 31-27-2\(a\)\(1\) or 31-27-2 \(a\)\(2\)](#), that is not equipped with an ignition interlock  
28 system [and/or blood and urine testing](#) as provided in § 31-27-2.8.

29 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-  
30 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent  
31 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less  
32 than one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required  
33 to perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned  
34 for up to one year. The sentence may be served in any unit of the adult correctional institutions in

1 the discretion of the sentencing judge. The person's driving license shall be suspended for a  
2 period of three (3) months to twelve (12) months. The sentencing judge shall require attendance  
3 at a special course on driving while intoxicated or under the influence of a controlled substance  
4 and/or alcoholic or drug treatment for the individual; provided, however, that the court may  
5 permit a servicemember or veteran to complete any court-approved counseling program  
6 administered or approved by the Veterans' Administration. The sentencing judge or magistrate  
7 may prohibit that person from operating a motor vehicle that is not equipped with an ignition  
8 interlock system as provided in § 31-27-2.8.

9 (iii) Every person convicted of a first offense whose blood alcohol concentration is  
10 fifteen hundredths of one percent (.15%) or above, or who is under the influence of a drug,  
11 toluene, or any controlled substance as defined in subdivision (b)(1), shall be subject to a fine of  
12 five hundred dollars (\$500) and shall be required to perform twenty (20) to sixty (60) hours of  
13 public community restitution and/or shall be imprisoned for up to one year. The sentence may be  
14 served in any unit of the adult correctional institutions in the discretion of the sentencing judge.  
15 The person's driving license shall be suspended for a period of three (3) months to eighteen (18)  
16 months. The sentencing judge shall require attendance at a special course on driving while  
17 intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for  
18 the individual; provided, however, that the court may permit a servicemember or veteran to  
19 complete any court-approved counseling program administered or approved by the Veterans'  
20 Administration. The sentencing judge or magistrate shall prohibit that person from operating a  
21 motor vehicle, pursuant to §§ 31-27-2(a)(1) or 31-27-2 (a)(2), that is not equipped with an  
22 ignition interlock system and/or blood and urine testing as provided in § 31-27-2.8.

23 (2) (i) Every person convicted of a second violation within a five-year (5) period with a  
24 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than  
25 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or  
26 who has a blood presence of any controlled substance as defined in subdivision (b)(2), and every  
27 person convicted of a second violation within a five-year (5) period, regardless of whether the  
28 prior violation and subsequent conviction was a violation and subsequent conviction under this  
29 statute or under the driving under the influence of liquor or drugs statute of any other state, shall  
30 be subject to a mandatory fine of four hundred dollars (\$400). The person's driving license shall  
31 be suspended for a period of one year to two (2) years, and the individual shall be sentenced to  
32 not less than ten (10) days, nor more than one year, in jail. The sentence may be served in any  
33 unit of the adult correctional institutions in the discretion of the sentencing judge; however, not  
34 less than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing

1 judge shall require alcohol or drug treatment for the individual; provided, however, that the court  
2 may permit a servicemember or veteran to complete any court-approved counseling program  
3 administered or approved by the Veterans' Administration and shall prohibit that person from  
4 operating a motor vehicle, [pursuant to §§ 31-27-2\(a\)\(1\) or 31-27-2 \(a\)\(2\)](#), that is not equipped  
5 with an ignition interlock system [and/or blood and urine testing](#) as provided in § 31-27-2.8.

6 (ii) Every person convicted of a second violation within a five-year (5) period whose  
7 blood alcohol concentration is fifteen hundredths of one percent (.15%) or above, by weight as  
8 shown by a chemical analysis of a blood, breath, or urine sample, or who is under the influence of  
9 a drug, toluene, or any controlled substance as defined in subdivision (b)(1), shall be subject to  
10 mandatory imprisonment of not less than six (6) months, nor more than one year; a mandatory  
11 fine of not less than one thousand dollars (\$1,000); and a mandatory license suspension for a  
12 period of two (2) years from the date of completion of the sentence imposed under this  
13 subsection. The sentencing judge shall require alcohol or drug treatment for the individual;  
14 provided, however, that the court may permit a servicemember or veteran to complete any court  
15 approved counseling program administered or approved by the Veterans' Administration. The  
16 sentencing judge or magistrate shall prohibit that person from operating a motor vehicle, [pursuant](#)  
17 [to §§ 31-27-2\(a\)\(1\) and/or 31-27-2 \(a\)\(2\)](#), that is not equipped with an ignition interlock system  
18 [and/or blood and urine testing](#) as provided in § 31-27-2.8

19 (3) (i) Every person convicted of a third or subsequent violation within a five-year (5)  
20 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or  
21 above, but less than fifteen hundredths of one percent (.15%), or whose blood alcohol  
22 concentration is unknown or who has a blood presence of any scheduled controlled substance as  
23 defined in subdivision (b)(2), regardless of whether any prior violation and subsequent conviction  
24 was a violation and subsequent conviction under this statute or under the driving under the  
25 influence of liquor or drugs statute of any other state, shall be guilty of a felony and be subject to  
26 a mandatory fine of four hundred (\$400) dollars. The person's driving license shall be suspended  
27 for a period of two (2) years to three (3) years, and the individual shall be sentenced to not less  
28 than one year and not more than three (3) years in jail. The sentence may be served in any unit of  
29 the adult correctional institutions in the discretion of the sentencing judge; however, not less than  
30 forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge shall  
31 require alcohol or drug treatment for the individual; provided, however, that the court may permit  
32 a servicemember or veteran to complete any court-approved counseling program administered or  
33 approved by the Veterans' Administration, and shall prohibit that person from operating a motor  
34 vehicle, [pursuant to §§ 31-27-2\(a\)\(1\) or 31-27-2 \(a\)\(2\)](#), that is not equipped with an ignition

1 interlock system [and/or blood and urine testing](#) as provided in § 31-27-2.8.

2 (ii) Every person convicted of a third or subsequent violation within a ~~five-year (5)~~ [ten](#)  
3 [year \(10\)](#) period whose blood alcohol concentration is fifteen hundredths of one percent (.15%)  
4 above by weight as shown by a chemical analysis of a blood, breath, or urine sample, or who is  
5 under the influence of a drug, toluene, or any controlled substance as defined in subdivision  
6 (b)(1), shall be subject to mandatory imprisonment of not less than three (3) years, nor more than  
7 five (5) years; a mandatory fine of not less than one thousand dollars (\$1,000), nor more than five  
8 thousand dollars (\$5,000); and a mandatory license suspension for a period of three (3) years  
9 from the date of completion of the sentence imposed under this subsection. The sentencing judge  
10 shall require alcohol or drug treatment for the individual. The sentencing judge or magistrate shall  
11 prohibit that person from operating a motor vehicle, [pursuant to §§ 31-27-2\(a\)\(1\) and/or 31-27-2](#)  
12 [\(a\)\(2\)](#), that is not equipped with an ignition interlock system [and/or blood and urine testing](#) as  
13 provided in § 31-27-2.8.

14 (iii) In addition to the foregoing penalties, every person convicted of a third or  
15 subsequent violation within a five-year (5) period, regardless of whether any prior violation and  
16 subsequent conviction was a violation and subsequent conviction under this statute or under the  
17 driving under the influence of liquor or drugs statute of any other state, shall be subject, in the  
18 discretion of the sentencing judge, to having the vehicle owned and operated by the violator  
19 seized and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred  
20 to the general fund.

21 (4) Whoever drives or otherwise operates any vehicle in the state while under the  
22 influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in  
23 chapter 28 of title 21, or any combination of these, when his or her license to operate is  
24 suspended, revoked, or cancelled for operating under the influence of a narcotic drug or  
25 intoxicating liquor, shall be guilty of a felony punishable by imprisonment for not more than three  
26 (3) years and by a fine of not more than three thousand dollars (\$3,000). The court shall require  
27 alcohol and/or drug treatment for the individual; provided, the penalties provided for in § 31-27-  
28 2(d)(4) shall not apply to an individual who has surrendered his or her license and served the  
29 court-ordered period of suspension, but who, for any reason, has not had his or her license  
30 reinstated after the period of suspension, revocation, or suspension has expired; provided, further,  
31 the individual shall be subject to the provisions of subdivision (d)(2)(i), (d)(2)(ii), (d)(3)(i),  
32 (d)(3)(ii), or (d)(3)(iii) regarding subsequent offenses, and any other applicable provision of this  
33 section.

34 (5) (i) For purposes of determining the period of license suspension, a prior violation

1 shall constitute any charge brought and sustained under the provisions of this section or § 31-27-  
2 2.1.

3 (ii) Any person over the age of eighteen (18) who is convicted under this section for  
4 operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of  
5 these, while a child under the age of thirteen (13) years was present as a passenger in the motor  
6 vehicle when the offense was committed, may be sentenced to a term of imprisonment of not  
7 more than one year, and further, shall not be entitled to the benefit of suspension or deferment of  
8 this sentence. The sentence imposed under this section may be served in any unit of the adult  
9 correctional institutions in the discretion of the sentencing judge.

10 (6) (i) Any person convicted of a violation under this section shall pay a highway  
11 assessment fine of five hundred dollars (\$500) that shall be deposited into the general fund. The  
12 assessment provided for by this subsection shall be collected from a violator before any other  
13 fines authorized by this section.

14 (ii) Any person convicted of a violation under this section shall be assessed a fee of  
15 eighty-six dollars (\$86).

16 (7) (i) If the person convicted of violating this section is under the age of eighteen (18)  
17 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of  
18 public community restitution and the juvenile's driving license shall be suspended for a period of  
19 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing  
20 judge shall also require attendance at a special course on driving while intoxicated or under the  
21 influence of a controlled substance and alcohol or drug education and/or treatment for the  
22 juvenile. The juvenile may also be required to pay a highway assessment fine of no more than  
23 five hundred dollars (\$500) and the assessment imposed shall be deposited into the general fund.

24 (ii) If the person convicted of violating this section is under the age of eighteen (18)  
25 years, for a second or subsequent violation regardless of whether any prior violation and  
26 subsequent conviction was a violation and subsequent under this statute or under the driving  
27 under the influence of liquor or drugs statute of any other state, he or she shall be subject to a  
28 mandatory suspension of his or her driving license until such time as he or she is twenty-one (21)  
29 years of age and may, in the discretion of the sentencing judge, also be sentenced to the Rhode  
30 Island training school for a period of not more than one year and/or a fine of not more than five  
31 hundred dollars (\$500).

32 (8) Any person convicted of a violation under this section may undergo a clinical  
33 assessment at the community college of Rhode Island's center for workforce and community  
34 education. Should this clinical assessment determine problems of alcohol, drug abuse, or

1 psychological problems associated with alcoholic or drug abuse, this person shall be referred to  
2 an appropriate facility, licensed or approved by the department of behavioral healthcare,  
3 developmental disabilities and hospitals, for treatment placement, case management, and  
4 monitoring. In the case of a servicemember or veteran, the court may order that the person be  
5 evaluated through the Veterans' Administration. Should the clinical assessment determine  
6 problems of alcohol, drug abuse, or psychological problems associated with alcohol or drug  
7 abuse, the person may have their treatment, case management, and monitoring administered or  
8 approved by the Veterans' Administration.

9 (e) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol  
10 per one hundred (100) cubic centimeters of blood.

11 (f) (1) There is established an alcohol and drug safety unit within the division of motor  
12 vehicles to administer an alcohol safety action program. The program shall provide for placement  
13 and follow-up for persons who are required to pay the highway safety assessment. The alcohol  
14 and drug safety action program will be administered in conjunction with alcohol and drug  
15 programs licensed by the department of behavioral healthcare, developmental disabilities and  
16 hospitals.

17 (2) Persons convicted under the provisions of this chapter shall be required to attend a  
18 special course on driving while intoxicated or under the influence of a controlled substance,  
19 and/or participate in an alcohol or drug treatment program; provided, however, that the court may  
20 permit a servicemember or veteran to complete any court-approved counseling program  
21 administered or approved by the Veterans' Administration. The course shall take into  
22 consideration any language barrier that may exist as to any person ordered to attend, and shall  
23 provide for instruction reasonably calculated to communicate the purposes of the course in  
24 accordance with the requirements of the subsection. Any costs reasonably incurred in connection  
25 with the provision of this accommodation shall be borne by the person being retrained. A copy of  
26 any violation under this section shall be forwarded by the court to the alcohol and drug safety  
27 unit. In the event that persons convicted under the provisions of this chapter fail to attend and  
28 complete the above course or treatment program, as ordered by the judge, then the person may be  
29 brought before the court, and after a hearing as to why the order of the court was not followed,  
30 may be sentenced to jail for a period not exceeding one year.

31 (3) The alcohol and drug safety action program within the division of motor vehicles  
32 shall be funded by general revenue appropriations.

33 (g) The director of the health department of the state of Rhode Island is empowered to  
34 make and file with the secretary of state regulations that prescribe the techniques and methods of



1 chemical analysis of the person's body fluids or breath and the qualifications and certification of  
2 individuals authorized to administer this testing and analysis.

3 (h) Jurisdiction for misdemeanor violations of this section shall be with the district court  
4 for persons eighteen (18) years of age or older and to the family court for persons under the age  
5 of eighteen (18) years. The courts shall have full authority to impose any sentence authorized, and  
6 to order the suspension of any license, for violations of this section. ~~All trials in the district court  
7 and family court of violations of the section shall be scheduled within thirty (30) days of the  
8 arraignment date. No continuance or postponement shall be granted except for good cause shown.  
9 Any continuances that are necessary shall be granted for the shortest practicable time.~~ Trials in  
10 superior court are not required to be scheduled within thirty (30) days of the arraignment date.

11 (i) No fines, suspensions, assessments, alcohol or drug treatment programs, course on  
12 driving while intoxicated or under the influence of a controlled substance, public community  
13 restitution, or jail provided for under this section can be suspended.

14 (j) An order to attend a special course on driving while intoxicated that shall be  
15 administered in cooperation with a college or university accredited by the state, shall include a  
16 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars  
17 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into  
18 the general fund.

19 (k) For the purposes of this section, any test of a sample of blood, breath, or urine for the  
20 presence of alcohol that relies in whole or in part upon the principle of infrared light absorption is  
21 considered a chemical test.

22 (l) If any provision of this section, or the application of any provision, shall for any  
23 reason be judged invalid, such a judgment shall not affect, impair, or invalidate the remainder of  
24 the section, but shall be confined in this effect to the provision or application directly involved in  
25 the controversy giving rise to the judgment.

26 (m) For the purposes of this section, "servicemember" means a person who is presently  
27 serving in the armed forces of the United States, including the Coast Guard, a reserve component  
28 thereof, or the National Guard. "Veteran" means a person who has served in the armed forces,  
29 including the Coast Guard of the United States, a reserve component thereof, or the National  
30 Guard, and has been discharged under other than dishonorable conditions.

31 **31-27-2.1. Refusal to submit to chemical test.**

32 (a) Any person who operates a motor vehicle within this state shall be deemed to have  
33 given his or her consent to chemical tests of his or her breath, blood, and/or urine for the purpose  
34 of determining the chemical content of his or her body fluids or breath. No more than two (2)

1 complete tests, one for the presence of intoxicating liquor and one for the presence of toluene or  
2 any controlled substance, as defined in § 21-28-1.02(8), shall be administered at the direction of a  
3 law enforcement officer having reasonable grounds to believe the person to have been driving a  
4 motor vehicle within this state while under the influence of intoxicating liquor, toluene, or any  
5 controlled substance, as defined in chapter 28 of title 21, or any combination of these. The  
6 director of the department of health is empowered to make and file, with the secretary of state,  
7 regulations that prescribe the techniques and methods of chemical analysis of the person's body  
8 fluids or breath and the qualifications and certification of individuals authorized to administer the  
9 testing and analysis.

10 (b) If a person, for religious or medical reasons, cannot be subjected to blood tests, the  
11 person may file an affidavit with the division of motor vehicles stating the reasons why he or she  
12 cannot be required to take blood tests and a notation to this effect shall be made on his or her  
13 license. If that person is asked to submit to chemical tests as provided under this chapter, the  
14 person shall only be required to submit to chemical tests of his or her breath or urine. When a  
15 person is requested to submit to blood tests, only a physician or registered nurse, or a medical  
16 technician certified under regulations promulgated by the director of the department of health,  
17 may withdraw blood for the purpose of determining the alcoholic content in it. This limitation  
18 shall not apply to the taking of breath or urine specimens. The person tested shall be permitted to  
19 have a physician of his or her own choosing, and at his or her own expense, administer chemical  
20 tests of his or her breath, blood, and/or urine in addition to the tests administered at the direction  
21 of a law enforcement officer. If a person, having been placed under arrest, refuses upon the  
22 request of a law enforcement officer to submit to the tests, as provided in § 31-27-2, none shall be  
23 given, ~~but a judge or magistrate of the traffic tribunal or district court judge or magistrate, upon~~  
24 ~~receipt of a report of a law enforcement officer, that he or she had reasonable grounds to believe~~  
25 ~~the arrested person had been driving a motor vehicle within this state under the influence of~~  
26 ~~intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or~~  
27 ~~any combination of these; that the person had been informed of his or her rights in accordance~~  
28 ~~with § 31-27-3; that the person had been informed of the penalties incurred as a result of~~  
29 ~~noncompliance with this section; and that the person had refused to submit to the tests upon the~~  
30 ~~request of a law enforcement officer; shall promptly order that the person's operator's license or~~  
31 ~~privilege to operate a motor vehicle in this state be immediately suspended, however, said~~  
32 ~~suspension shall be subject to the hardship provisions enumerated in § 31-27-2.8.~~

33 (1) At the initial traffic tribunal appearance, the magistrate shall review the incident,  
34 action, and/or arrest reports submitted by the law enforcement officer to determine if there exists

1 reasonable grounds to believe that the person had been driving a motor vehicle while under the  
2 influence of intoxicating liquor, any controlled substance as defined in chapter 28 of title 21, or  
3 any combination thereof. The magistrate shall also determine if the person had been informed of  
4 the penalties incurred as a result of failing to submit to a chemical test as provided in this section  
5 and that the person had been informed of the implied consent notice contained in subsection (10)  
6 of this section. For the purpose of this subsection only "driving a motor vehicle while under the  
7 influence of any controlled substance as defined in chapter 28 of title 21" shall be indicated by the  
8 presence or aroma of a controlled substance on or about the person or vehicle of the individual  
9 refusing the chemical test or other reliable indicia or articulable conditions that the person was  
10 impaired due to their intake of a controlled substance.

11 (2) If the magistrate determines that § 31-27-2.1(b)(1) has been satisfied they shall  
12 promptly order that the person's operator's license or privilege to operate a motor vehicle in this  
13 state be immediately suspended. Said suspension shall be subject to the hardship provisions  
14 enumerated in § 31-27-2.8.

15 (c) A traffic tribunal judge or magistrate, or a district court judge or magistrate, pursuant  
16 to the terms of subsection ~~(e)~~ (d) of this section, shall order as follows:

17 (1) Impose, for the first violation, a fine in the amount of two hundred dollars (\$200) to  
18 five hundred dollars (\$500) and shall order the person to perform ten (10) to sixty (60) hours of  
19 public community restitution. The person's driving license in this state shall be suspended for a  
20 period of six (6) months to one year. The traffic tribunal judge or magistrate shall require  
21 attendance at a special course on driving while intoxicated or under the influence of a controlled  
22 substance and/or alcohol or drug treatment for the individual. The traffic tribunal judge or  
23 magistrate may prohibit that person from operating a motor vehicle that is not equipped with an  
24 ignition interlock system and/or blood and urine testing as provided in § 31-27-2.8.

25 (2) Every person convicted for a second violation within a five-year (5) period, except  
26 with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall  
27 be imprisoned for not more than six (6) months; and shall pay a fine in the amount of six hundred  
28 dollars (\$600) to one thousand dollars (\$1,000), order the person to perform sixty (60) to one  
29 hundred (100) hours of public community restitution; and the person's driving license in this state  
30 shall be suspended for a period of one year to two (2) years. The judge or magistrate shall require  
31 alcohol and/or drug treatment for the individual. The sentencing judge or magistrate shall prohibit  
32 that person from operating a motor vehicle that is not equipped with an ignition interlock system  
33 and/or blood and urine testing as provided in § 31-27-2.8.

34 (3) Every person convicted for a third or subsequent violation within a five-year (5)

1 period, except with respect to cases of refusal to submit to a blood test, shall be guilty of a  
2 misdemeanor; and shall be imprisoned for not more than one year; fined eight hundred dollars  
3 (\$800) to one thousand dollars (\$1,000); shall perform not less than one hundred (100) hours of  
4 public community restitution; and the person's operator's license in this state shall be suspended  
5 for a period of two (2) years to five (5) years. The sentencing judge or magistrate shall prohibit  
6 that person from operating a motor vehicle that is not equipped with an ignition interlock system  
7 [and/or blood and urine testing](#) as provided in § 31-27-2.8. The judge or magistrate shall require  
8 alcohol or drug treatment for the individual. Provided, that prior to the reinstatement of a license  
9 to a person charged with a third or subsequent violation within a three-year (3) period, a hearing  
10 shall be held before a judge or magistrate. At the hearing, the judge or magistrate shall review the  
11 person's driving record, his or her employment history, family background, and any other  
12 pertinent factors that would indicate that the person has demonstrated behavior that warrants the  
13 reinstatement of his or her license.

14 (4) For a second violation within a five-year (5) period with respect to a case of a refusal  
15 to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one thousand  
16 dollars (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public  
17 community restitution; and the person's driving license in this state shall be suspended for a  
18 period of two (2) years. The judicial officer shall require alcohol and/or drug treatment for the  
19 individual. The sentencing judicial officer shall prohibit that person from operating a motor  
20 vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8. Such a  
21 violation with respect to refusal to submit to a chemical blood test shall be a civil offense.

22 (5) For a third or subsequent violation within a five-year (5) period with respect to a case  
23 of a refusal to submit to a blood test, a fine in the amount of eight hundred dollars (\$800) to one  
24 thousand dollars (\$1,000); the person shall perform not less than one hundred (100) hours of  
25 public community restitution; and the person's driving license in this state shall be suspended for  
26 a period of two (2) to five (5) years. The sentencing judicial officer shall prohibit that person from  
27 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §  
28 31-27-2.8. The judicial officer shall require alcohol and/or drug treatment for the individual. Such  
29 a violation with respect to refusal to submit to a chemical test of blood shall be a civil offense.  
30 Provided, that prior to the reinstatement of a license to a person charged with a third or  
31 subsequent violation within a three-year (3) period, a hearing shall be held before a judicial  
32 officer. At the hearing, the judicial officer shall review the person's driving record, his or her  
33 employment history, family background, and any other pertinent factors that would indicate that  
34 the person has demonstrated behavior that warrants the reinstatement of their license.

1 (6) For purposes of determining the period of license suspension, a prior violation shall  
2 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.

3 (7) In addition to any other fines, a highway safety assessment of five hundred dollars  
4 (\$500) shall be paid by any person found in violation of this section, the assessment to be  
5 deposited into the general fund. The assessment provided for by this subsection shall be collected  
6 from a violator before any other fines authorized by this section.

7 (8) In addition to any other fines and highway safety assessments, a two hundred dollar  
8 (\$200) assessment shall be paid by any person found in violation of this section to support the  
9 department of health's chemical testing programs outlined in ~~§ 31-27-2(4)~~ [§§ 31-27-2\(f\) and 31-](#)  
10 [27-2\(g\)](#), that shall be deposited as general revenues, not restricted receipts.

11 (9) No fines, suspensions, assessments, alcohol or drug treatment programs, course on  
12 driving while intoxicated or under the influence of a controlled substance, or public community  
13 restitution provided for under this section can be suspended.

14 [\(10\) Implied consent notice for persons eighteen \(18\) years of age or older: "Rhode](#)  
15 [Island law requires you to submit to a chemical test of your blood, breath, or urine for the purpose](#)  
16 [of determining the chemical content of your body fluids or breath. If you refuse this testing,](#)  
17 [certain penalties can be imposed and include the following: for a first offense your Rhode Island](#)  
18 [driver's license or privilege to operate a motor vehicle in this state can be suspended for six \(6\)](#)  
19 [months to one year or modified to permit operation in connection with an ignition interlock](#)  
20 [device for a period specified by law, a fine from two hundred dollars \(\\$200\) to five hundred](#)  
21 [dollars \(\\$500\) can be imposed, and you can be ordered to perform ten \(10\) to sixty \(60\) hours of](#)  
22 [community service and attend a special course on driving while intoxicated or under the influence](#)  
23 [of a controlled substance and/or alcohol or drug treatment. If you have had one or more previous](#)  
24 [offenses within the past five \(5\) years, your refusal to submit to a chemical test of breath or urine](#)  
25 [at this time can have criminal penalties, including incarceration up to six \(6\) months for a second](#)  
26 [offense and up to one year for a third or subsequent offense, and can carry increased license](#)  
27 [suspension or ignition interlock period, fines and community service. All violators shall pay a](#)  
28 [five hundred dollar \(\\$500\) highway safety assessment fee, a two hundred dollar \(\\$200\)](#)  
29 [department of health chemical testing programs assessment fee, and a license reinstatement fee. If](#)  
30 [you refuse to submit to a chemical test, you will be required to maintain proof of financial](#)  
31 [responsibility for three \(3\) years and all Rhode Island registrations in your name may be](#)  
32 [suspended unless proof of financial responsibility is provided for such vehicles. Refusal to submit](#)  
33 [to a chemical test of blood shall not subject you to criminal penalties for the refusal itself, but if](#)  
34 [you have one or more previous offenses other civil penalties may increase. You have the right to](#)

1 be examined at your own expense by a physician selected by you. If you submit to a chemical test  
2 at this time, you have the right to have an additional chemical test performed at your own  
3 expense. You will be afforded a reasonable opportunity to exercise these rights. Access to a  
4 telephone will be made available for you to make those arrangements. You may now use a  
5 telephone."

6 Use of this implied consent notice shall serve as evidence that a person's consent to a  
7 chemical test is valid in a prosecution involving driving under the influence of liquor, controlled  
8 substances, and/or drugs.

9 ~~(e)~~(d) Upon suspending or refusing to issue a license or permit as provided in subsection  
10 (a), the traffic tribunal or district court shall immediately notify the person involved in writing,  
11 and upon his or her request, within fifteen (15) days, ~~shall~~ afford the person an opportunity for a  
12 hearing as early as practical upon receipt of a request in writing. Upon a hearing, the judge may  
13 administer oaths and may issue subpoenas for the attendance of witnesses and the production of  
14 relevant books and papers. If the judge finds after the hearing that:

15 (1) The law enforcement officer making the sworn report had reasonable grounds to  
16 believe that the arrested person had been driving a motor vehicle within this state while under the  
17 influence of intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of  
18 title 21, or any combination of these;

19 (2) The person, while under arrest, refused to submit to the tests upon the request of a law  
20 enforcement officer;

21 (3) The person had been informed of his or her rights in accordance with § 31-27-3; and

22 (4) The person had been informed of the penalties incurred as a result of noncompliance  
23 with this section, the judge shall sustain the violation. The judge shall then impose the penalties  
24 set forth in subsection ~~(b)~~(c) of this section. Action by the judge must be taken within seven (7)  
25 days after the hearing or it shall be presumed that the judge has refused to issue his or her order of  
26 suspension.

27 ~~(d)~~(e) For the purposes of this section, any test of a sample of blood, breath, or urine for  
28 the presence of alcohol that relies, in whole or in part, upon the principle of infrared light  
29 absorption is considered a chemical test.

30 ~~(e)~~(f) If any provision of this section, or the application of any provision, shall, for any  
31 reason, be judged invalid, the judgment shall not affect, impair, or invalidate the remainder of the  
32 section, but shall be confined in this effect to the provisions or application directly involved in the  
33 controversy giving rise to the judgment.

34 **31-27-2.5. Chemical tests to persons under eighteen (18) years of age -- Refusal --**

1 **License suspension.**

2 (a) Any person under eighteen (18) years of age who shall refuse to submit to a chemical  
3 test as provided in § 31-27-2 shall have imposed all the penalties provided by § 31-27-2.1, but  
4 shall have his or her license suspended on a first violation for six (6) months, subject to the terms  
5 of subsection (e) of this section.

6 (b) Jurisdiction for violations of this section is given to the family court.

7 (c) If a person as set forth in subsection (a) of this section refuses, upon the request of a  
8 law enforcement officer, to submit to a test as provided in § 31-27-2.1, none shall be given, but a  
9 judge of the family court, upon receipt of a report or testimony of a law enforcement officer: that  
10 he or she had probable cause to stop the arrested person and reasonable grounds to believe the  
11 arrested person had been driving a motor vehicle within this state while impaired by intoxicating  
12 liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or any  
13 combination of these; that the person had been informed of his or her rights in accordance with §  
14 31-27-3; that the person had been informed of the ~~penalties to be incurred as a result of~~  
15 ~~noncompliance with this~~ implied consent notice contained in subsection (h) of this section; and  
16 that the person had refused to submit to the test upon the request of a law enforcement officer;  
17 shall promptly order a hearing on whether the person's operator's license or privilege to operate a  
18 motor vehicle in this state shall be suspended. Upon suspension, the judge shall order the license  
19 of the person to be surrendered to the department of administration, division of motor vehicles,  
20 within three (3) days.

21 (d) If the person takes a test, as provided in § 31-27-2 and the test determines the person's  
22 blood alcohol concentration to be at least two-hundredths of one percent (.02%) but less than one-  
23 tenth of one percent (.1%) by weight, the person shall be determined to have been driving while  
24 impaired. A judge of the family court shall, pursuant to the terms of subsection (e) of this section,  
25 order as follows:

26 (1) A highway safety assessment of one hundred fifty dollars (\$150), or community  
27 restitution in lieu of highway safety assessment shall be paid by any person found in violation of  
28 this section. The assessment shall be deposited into the general fund.

29 (2) The person's driving license shall be suspended for six (6) months on a first violation,  
30 and may be suspended for a period of up to twelve (12) months, provided the person also shall  
31 attend a special course on driving while intoxicated and provided that the person shall also attend  
32 an alcohol and/or drug treatment program if ordered by the family court judge. Failure or refusal  
33 of the person to attend the course and/or alcohol or drug treatment program shall result in the  
34 person's driving license being suspended until the course or treatment program has been

1 completed.

2 (3) On a second violation of this section, the person's driving license shall be suspended  
3 until he or she is twenty-one (21) years of age. The sentencing judge shall require alcohol and/or  
4 drug treatment for the individual.

5 (4) On a third or subsequent violation, the person's driving license shall be suspended for  
6 an additional period of two (2) years and the sentencing judge shall require alcohol and/or drug  
7 treatment for the individual.

8 (5) No suspensions, assessments, driving while intoxicated school, or alcohol and/or drug  
9 treatment programs under this section can be suspended, shortened, altered, or changed.

10 (e) Upon suspending a license or permit as provided in subsection (a), (c), or (d) of this  
11 section, the family court shall immediately notify the person involved, in writing, as well as the  
12 custodial parent if the person is under the age of eighteen (18) years.

13 (f) The police department which charges any person under eighteen (18) years of age  
14 with refusal to submit to a chemical test, driving while impaired by intoxicating liquors or drugs,  
15 or driving while under the influence of liquor or drugs, shall ascertain the name and address of the  
16 custodial parent of the person and shall notify the parent in writing within ten (10) days of the  
17 charge.

18 (g) The department of administration, upon issuing a first license to a person sixteen (16)  
19 or seventeen (17) years of age, shall provide a written notice of the penalties provided by this  
20 section. Any violation of this section shall not be considered a criminal offense.

21 (h) Implied consent notice for persons under eighteen (18) years of age:

22 "Rhode Island law requires you to submit to a chemical test of your blood, breath, or  
23 urine for the purpose of determining the chemical content of your body fluids or breath. If you  
24 refuse this testing, certain penalties can be imposed. These penalties include the following: your  
25 Rhode Island driver's license or privilege to operate a motor vehicle in this state can be suspended  
26 for six (6) months or modified to permit operation in connection with an ignition interlock device  
27 for a period specified by law, a fine from two hundred dollars (\$200) to five hundred dollars  
28 (\$500) can be imposed, and you can be ordered to perform ten (10) to sixty (60) hours of  
29 community service and attend a special course on driving while intoxicated or under the influence  
30 of a controlled substance and/or alcohol or drug treatment. If you have had one or more previous  
31 offenses within the past five (5) years, your loss or modification of license, fine and community  
32 service sanctions can increase over those provided for a first offense. All violators shall pay a five  
33 hundred dollar (\$500) highway safety assessment fee, a two hundred dollar (\$200) department of  
34 health chemical testing programs fee, and a license reinstatement fee. If you refuse to submit to a



1 chemical test, you will be required to maintain proof of financial responsibility for three (3) years.  
2 Refusal to submit to a chemical test shall not be considered a criminal offense. You have the right  
3 to be examined at your own expense by a physician selected by you. If you submit to a chemical  
4 test at this time, you have the right to have an additional chemical test performed at your own  
5 expense. You will be afforded a reasonable opportunity to exercise these rights. Access to a  
6 telephone will be made available for you to make those arrangements. You may now use the  
7 telephone."

8 Use of this implied consent notice shall serve as evidence that a person's consent to a  
9 chemical test is valid in a trial for driving under the influence of liquor, controlled substances,  
10 and/or drugs.

11 **~~31-27-2.8. Ignition interlock system imposed as part of sentence -- Requirements.~~**

12 **Ignition interlock system and/or blood and urine testing imposed as part of sentence --**  
13 **Requirements.**

14 (a) Any person subject to suspension pursuant to §§ 31-27-2.1(b)(1) and §§ 31-27-2.1  
15 (b)(2) or convicted under the provisions of §§ 31-27-2(d)(1), 31-27-2(d)(2), 31-27-2(d)(3)(i) or  
16 31-27-2(d)(3)(ii), or whose violation is sustained under the provisions of ~~§ 31-27-2.1(b)(1)~~ §§ 31-  
17 27-2.1(b)(1) and §§ 31-27-2.1 (b)(2), may be prohibited by the sentencing judge or magistrate  
18 from operating a motor vehicle that is not equipped with an ignition interlock system, and/or  
19 blood and urine testing by a licensed physician with knowledge and clinical experience in the  
20 diagnosis and treatment of drug related disorders, a licensed or certified psychologist, social  
21 worker, or EAP professional with like knowledge, or a substance abuse counselor certified by the  
22 National Association of Alcohol and Drug Abuse Counselors (all of whom shall be licensed in  
23 Rhode Island), pursuant to this section.

24 (1) Notwithstanding any other sentencing and disposition provisions contained in this  
25 chapter, if a Rhode Island traffic tribunal magistrate makes a finding that a motorist was operating  
26 a vehicle in the state while under the influence of drugs, toluene, or any controlled substance as  
27 evidenced by the presence of controlled substances on or about the person or vehicle, or other  
28 reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a  
29 preliminary breath test, results from a breathalyzer which indicates no blood alcohol  
30 concentration or both, the magistrate may exercise their discretion and eliminate the requirement  
31 of an ignition interlock system; provided, that blood and/or urine testing is mandated as a  
32 condition to operating a motor vehicle as provided in this section.

33 (2) Notwithstanding any other sentencing and disposition provisions contained in this  
34 chapter, if a Rhode Island traffic tribunal magistrate makes a finding that a motorist was operating

1 a vehicle in the state while under the influence of drugs, toluene, or any controlled substance as  
2 evidenced by the presence of controlled substances on or about the person or vehicle, or other  
3 reliable indicia or articulable conditions thereof and intoxicating liquor based on a preliminary  
4 breath test, results from a breathalyzer which indicates blood alcohol concentration or both, the  
5 magistrate may require an ignition interlock system in addition to blood and/or urine testing as a  
6 condition to operating a motor vehicle as provided in this section.

7 (b) Notwithstanding any other provisions contained in this chapter, ~~after a finding of~~  
8 ~~eligibility~~, any mandatory period of license suspension shall, upon request, be reduced by the  
9 imposition of an ignition interlock system and/or blood and urine testing ordered by the court or  
10 traffic tribunal as follows:

11 (1) For a violation of § 31-27-2(d)(1), a person shall be subject to a minimum thirty-day  
12 (30) license suspension and an imposition of an ignition interlock system and/or blood and urine  
13 testing for three (3) months to one year.

14 (2) For a violation of ~~§ 31-27-2.1(b)(1)~~ § 31-27-2.1(c)(1), a person shall be subject to a  
15 minimum thirty-day (30) license suspension and an imposition of an ignition interlock system  
16 and/or blood and urine testing for a period of six (6) months to two (2) years.

17 (3) For a violation of § 31-27-2(d)(2), a person shall be subject to a minimum forty-five-  
18 day (45) license suspension and an imposition of an ignition interlock system and/or blood and  
19 urine testing for a period of six (6) months to two (2) years.

20 (4) For a violation of ~~§ 31-27-2.1(b)(2)~~ § 31-27-2.1(c)(2), a person shall be subject to a  
21 minimum sixty-day (60) license suspension and an imposition of an ignition interlock system  
22 and/or blood and urine testing for a period of one to four (4) years.

23 (5) For a violation of § 31-27-2(d)(3), a person shall be subject to a minimum sixty-day  
24 (60) license suspension and imposition of an ignition interlock system and/or blood and urine  
25 testing for a period of one to four (4) years.

26 (6) For a violation of ~~§ 31-27-2.1(b)(3)~~ § 31-27-2.1(c)(3), a person shall be subject to a  
27 minimum ninety-day (90) license suspension and imposition of an ignition interlock system  
28 and/or blood and urine testing for a period of two (2) to ten (10) years.

29 (7)(i) ~~In any case where a person is convicted of a first offense under the provisions of §~~  
30 ~~31-27-2(d)(1) or under § 31-27-2.1(b)(1), the sentencing judge or magistrate shall, upon request,~~  
31 ~~grant the person a conditional hardship license immediately upon a plea or admission of guilt, or~~  
32 ~~an initial suspension under § 31-27-2.1(b), and after a finding of need under this section;~~  
33 ~~provided, however, that in a case where a conditional hardship license shall be granted by the~~  
34 ~~sentencing judge or magistrate upon an initial suspension under § 31-27-2.1(b) and prior to the~~

1 ~~installation of an ignition interlock device, said hardship license shall be issued to the motorist~~  
2 ~~upon proof of installation of an ignition interlock device.~~ If a conviction pursuant to §§ 31-27-  
3 2(d)(1) or 31-27-2.1(c)(1) is a first offense, or upon an initial suspension pursuant to § 31-27-  
4 2.1(b)(ii), where there has been a finding or determination that the motorist was under the  
5 influence of intoxicating liquor only, the magistrate shall, upon request, immediately grant a  
6 conditional hardship license after a finding of need pursuant to this section and upon proof of the  
7 installation of an ignition interlock device.

8 (ii) If a conviction pursuant to §§ 31-27-2(d)(1) or 31-27-2.1(c)(1) is a first offense, or  
9 upon an initial suspension pursuant to § 31-27-2.1(b)(ii), where there has been a finding or  
10 determination that the motorist was under the influence of drugs, toluene, or a controlled  
11 substance, but not intoxicating liquor, the judge or magistrate shall, upon request immediately  
12 grant a conditional hardship license after a finding of need pursuant to this section and upon proof  
13 of blood and urine testing pursuant to this section.

14 (iii) If a conviction pursuant to § 31-27-2(d)(1) or § 31-27-2.1(c)(1) is a first offense, or  
15 upon an initial suspension pursuant to § 31-27-2.1(b)(ii), where there has been a finding or  
16 determination that the motorist was under the influence of intoxicating liquor, toluene, a  
17 controlled substance or any combination thereof, the magistrate shall, upon request immediately  
18 grant a conditional hardship license after a finding of need pursuant to this section and upon proof  
19 of the installation of an ignition interlock device, subject also to the following testing:

20 (A) The testing of either blood or urine is being performed by or monitored by a licensed  
21 physician with knowledge and clinical experience in the diagnosis and treatment of drug related  
22 disorders, a licensed or certified psychologist, social worker, or EAP professional with like  
23 knowledge, or a substance abuse counselor certified by the National Association of Alcohol and  
24 Drug Abuse Counselors (all of whom shall be licensed in Rhode Island).

25 (B) The motorist is required to pay for the substance abuse professional, any testing,  
26 retesting, monitoring and reporting costs of the blood and urine testing.

27 (C) Samples are to be collected, tested and confirmed by a federally certified laboratory  
28 by means of gas chromatography/mass spectrometry or technology recognized as being at least as  
29 scientifically accurate.

30 (D) Samples are to be taken weekly for the first sixty (60) days, thereafter in accordance  
31 with the recommendation of the substance abuse professional. The samples taken thereafter may  
32 be ordered randomly, but must be provided by the motorist within twenty-four (24) hours of the  
33 request. The substance abuse professional shall report to the department of the attorney general  
34 within twenty-four (24) hours any failure by the motorist to comply with a request for a sample.

1 (E) A positive test of urine or blood which evidences any controlled substances shall be  
2 reported by the substance abuse professional to the motorist and to the department of the attorney  
3 general within twenty-four (24) hours of receipt of the results. The motorist may, at their own  
4 expense, have an opportunity to have the sample retested or reevaluated by an independent testing  
5 facility who shall provide the result directly to the substance abuse professional. The attorney  
6 general may request, at any time, a copy of any or all test results from the substance abuse  
7 professional, which shall forward the requested results within forty-eight (48) hours.

8 (F) Upon completion of the license suspension, conditional hardship, ignition interlock  
9 and substance abuse testing periods, a finalized report shall be presented to the department of  
10 motor vehicles prior to any license reinstatement.

11 (G) If a judge or magistrate determines that a motorist either failed, without good cause,  
12 to comply with a sample request or tested positive for any controlled substance, they may  
13 exercise their discretion and revoke the conditional hardship license, extend the time period for  
14 the ignition interlock system and/or substance abuse testing for an additional period of up to  
15 twelve (12) months and/or impose an additional loss of license for up to twenty-four (24) months.

16 (H) A motorist who has failed, without good cause, to comply with a sample request or  
17 tested positive for any controlled substance for a second time within twelve (12) months of the  
18 first failure and/or positive test determination shall be guilty of a misdemeanor punishable by up  
19 to one year imprisonment, or a fine of up to one thousand dollars (\$1,000), or both.

20 (c) However, in any case where a motorist has a prior alcohol-related offense and the  
21 instant matter involves a blood alcohol level of fifteen hundredths (.15) BAC or above, or a prior  
22 reckless driving conviction under § 31-27-4 or reckless eluding conviction under § 31-27-4.1,  
23 within the prior ten (10) years of the offense, or when the instant offense involves a motor vehicle  
24 accident, the judge or magistrate may exercise their discretion in the granting of the hardship  
25 license by imposing up to a ninety (90) day loss of license prior to any imposition of the hardship  
26 license. ~~If the instant matter involves a blood alcohol level of fifteen hundredths (.15) BAC or~~  
27 ~~above, the judge or magistrate may exercise his or her discretion in the granting of the hardship~~  
28 ~~license by imposing up to a six (6) month loss of license prior to any imposition of the hardship~~  
29 ~~license.~~ Said hardship license shall be valid only for twelve (12) hours per day to get to and from  
30 employment, necessary medical appointments, job training, schooling, or any other valid reason  
31 approved in advance by the sentencing judge or magistrate. A hardship license shall only be  
32 granted in conjunction with the installation of an ignition interlock device and/or blood and urine  
33 testing. Any conditional driving privileges must be set by the sentencing judge or magistrate after  
34 a hearing in which the motorist must provide proof of employment status and hours of

1 employment, or any other legitimate reasons justifying a hardship license. These shall include,  
2 but not be limited to, any unemployment training, schooling, medical appointments, therapy  
3 treatments, or any other valid requests set forth by sworn affidavit. Once said hardship period has  
4 concluded, the motorist must still be subject to the conditions of the ignition interlock system  
5 [and/or blood and urine testing](#) as set forth under this section for the period of time as directed by  
6 the court. Any individual who violates the requirements of this subsection shall be subject to the  
7 penalties enumerated in § 31-11-18.1.

8 ~~(d)~~ Any person convicted of an offense of driving under the influence of liquor or  
9 drugs resulting in death, § 31-27-2.2; driving under the influence of liquor or drugs resulting in  
10 serious bodily injury, § 31-27-2.6; driving to endanger resulting in death, § 31-27-1; or driving to  
11 endanger resulting in serious bodily injury, § 31-27-1.1; may, in addition to any other penalties  
12 provided by law, be prohibited from operating a motor vehicle that is not equipped with an  
13 approved ignition interlock system [and/or blood and urine testing](#) for one to five (5) years.

14 ~~(e)~~ Any person who operates a motor vehicle with a suspended license during the  
15 period of suspension, and the reason for the suspension was due to a conviction of driving under  
16 the influence of drugs or alcohol or a sustained violation or conviction of refusal to submit to a  
17 chemical test, shall be subject to the further use of the ignition interlock system [and/or blood and](#)  
18 [urine testing](#) for a period of six (6) months subsequent to the penalties enumerated in § 31-11-  
19 18.1.

20 ~~(f)~~ When the court orders the use of an ignition interlock system, the judge or  
21 magistrate shall cause an appropriate notation to be made on the person's record that clearly sets  
22 forth the requirement for, and the period of the use of, the ignition interlock system.

23 ~~(g)~~ In addition to the requirements of subsection ~~(e)~~ [\(f\) of this section](#), the court or  
24 traffic tribunal shall:

25 (1) Require proof of the installation of the ignition interlock system and periodic  
26 reporting by the person for the purpose of verification of the proper operation of the ignition  
27 interlock system;

28 (2) Require the person to have the ignition interlock system monitored for the proper use  
29 and accuracy by a person, firm, corporation, or other association to be approved by the division of  
30 motor vehicles at least once every six (6) months, or more frequently as the circumstances may  
31 require; and

32 (3) Require the person to pay the reasonable cost of leasing or buying, monitoring, and  
33 maintenance of the ignition interlock system.

34 (4) The requirements under subsection ~~(f)~~ [\(g\) of this section](#) shall be the responsibility of

1 the probation department or justice assistance, if the individual is under their control, or the  
2 division of motor vehicles if the individual is not monitored as a condition of the individual's plea  
3 or finding of guilt.

4 (h) Any person granted a conditional hardship license upon proof of installation of an  
5 ignition interlock device, may operate that motor vehicle during the entire time period of the  
6 hours of operation granted by the sentencing judge or magistrate including during the scope of  
7 their employment and/or any other valid reason approved by the sentencing judge or magistrate.

8 ~~(e)~~(i) If a person is required, in the course of the person's employment, to operate a motor  
9 vehicle owned or provided by the person's employer, the person may operate that motor vehicle  
10 in the course of the person's employment without installation of an ignition interlock system if the  
11 court makes specific findings expressly permitting the person to operate, in the course of the  
12 person's employment, a motor vehicle that is not equipped with an ignition interlock system.

13 ~~(h)~~(j)(1) Any person subject to an ignition interlock order and/or blood and urine testing  
14 who violates such order shall be guilty of a misdemeanor punishable by up to one year  
15 imprisonment, or a fine of up to one thousand dollars (\$1,000), or both.

16 (2) For a second violation within six (6) months from entry of the order, the person  
17 violating the order shall be imprisoned for a term of not less than ten (10) days and not more than  
18 one year.

19 (k) For the purposes of this subsection, a violation of the interlock order, includes, but is  
20 not limited to:

21 (1) Altering, tampering, or in any way attempting to circumvent the operation of an  
22 ignition interlock system that has been installed in the motor vehicle of a person under this  
23 section;

24 (2) Operating a motor vehicle that is not equipped with an ignition interlock system; or

25 (3) Soliciting or attempting to have another person start a motor vehicle equipped with an  
26 ignition interlock system for the purpose of providing an operable motor vehicle to a person who  
27 is prohibited from operating a motor vehicle that is not equipped with an ignition interlock  
28 system.

29 ~~(h)~~(l) Any person who attempts to start, or starts, a motor vehicle equipped with an  
30 ignition interlock system, tampers with, or in any way attempts to circumvent, the operation of an  
31 ignition interlock system that has been installed in the motor vehicle for the purpose of providing  
32 an operable motor vehicle to a person who is prohibited from operating a motor vehicle that is not  
33 equipped with an ignition interlock system, shall be guilty of a misdemeanor punishable by up to  
34 one year imprisonment or a fine of up to one thousand dollars (\$1,000), or both.

1 SECTION 2. This act shall take effect upon passage.

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LC005193/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

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1           This act would grant a judge or magistrate the discretion to impose the requirement of  
2 blood and/or urine testing or the use of the ignition interlock system or both upon those persons  
3 seeking the issuance of a conditional hardship license after conviction of driving under the  
4 influence of alcohol or illegal substances or the refusal to submit to a chemical test. It would also  
5 require any person accused of driving under the influence, refusal to take a chemical test, be  
6 given notice of the implied consent law and would permit the hand delivery of test results at the  
7 location of the test.

8           This act would take effect upon passage.

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LC005193/SUB A  
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