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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

Introduced By: Senator Stephen R. Archambault

Date Introduced: June 18, 2022

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 influence
5 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of
6 title 21, or any combination of these, shall be guilty of a misdemeanor, except as provided in
7 subsection (d)(3), and shall be punished as provided in subsection (d) of this section.

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

17 (2) [Deleted by P.L. 2021, ch. 170, § 1 and P.L. 2021, ch. 171, § 1.]

18 (c) In any criminal prosecution for a violation of subsection (a), evidence as to the amount
19 of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or

1 any combination of these, in the defendant's blood at the time alleged as shown by a chemical
2 analysis of the defendant's breath, blood, or urine or other bodily substance, shall be admissible and
3 competent, provided that evidence is presented that the following conditions have been complied
4 with:

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

8 (2) A true copy of the report of the test result was hand delivered at the location of the test
9 or mailed within seventy-two (72) hours of the taking of the test to the person submitting to a breath
10 test.

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

14 (4) The test was performed according to methods and with equipment approved by the
15 director of the department of health of the state of Rhode Island and by an authorized individual.

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

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

28 (d)(1) (i) Every person found to have violated subsection (b)(1) shall be sentenced as
29 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one
30 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood presence
31 of any scheduled controlled substance as defined in chapter 28 of title 21, shall be subject to a fine
32 of not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300); shall be
33 required to perform ten (10) to sixty (60) hours of public community restitution, and/or shall be
34 imprisoned for up to one year. The sentence may be served in any unit of the adult correctional

1 institutions in the discretion of the sentencing judge [or magistrate](#) and/or shall be required to attend
2 a special course on driving while intoxicated or under the influence of a controlled substance;
3 provided, however, that the court may permit a servicemember or veteran to complete any court-
4 approved counseling program administered or approved by the Veterans' Administration, and his
5 or her driver's license shall be suspended for thirty (30) days up to one hundred eighty (180) days.
6 The sentencing judge or magistrate may prohibit that person from operating a motor vehicle,
7 pursuant to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition
8 interlock system and/or blood ~~and~~ [and/or](#) urine testing as provided in § 31-27-2.8.

9 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-
10 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent
11 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less than
12 one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required to
13 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for
14 up to one year. The sentence may be served in any unit of the adult correctional institutions in the
15 discretion of the sentencing judge [or magistrate](#). The person's driving license shall be suspended
16 for a period of three (3) months to twelve (12) months. The sentencing judge [or magistrate](#) shall
17 require attendance at a special course on driving while intoxicated or under the influence of a
18 controlled substance and/or alcoholic or drug treatment for the individual; provided, however, that
19 the court may permit a servicemember or veteran to complete any court-approved counseling
20 program administered or approved by the Veterans' Administration. The sentencing judge or
21 magistrate may prohibit that person from operating a motor vehicle that is not equipped with an
22 ignition interlock system as provided in § 31-27-2.8.

23 (iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen
24 hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any
25 controlled substance as defined in subsection (b)(1), shall be subject to a fine of five hundred dollars
26 (\$500) and shall be required to perform twenty (20) to sixty (60) hours of public community
27 restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit
28 of the adult correctional institutions in the discretion of the sentencing judge [or magistrate](#). The
29 person's driving license shall be suspended for a period of three (3) months to eighteen (18) months.
30 The sentencing judge [or magistrate](#) shall require attendance at a special course on driving while
31 intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for
32 the individual; provided, however, that the court may permit a servicemember or veteran to
33 complete any court-approved counseling program administered or approved by the Veterans'
34 Administration. The sentencing judge or magistrate shall prohibit that person from operating a

1 motor vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not equipped with an
2 ignition interlock system and/or blood ~~and~~ and/or urine testing as provided in § 31-27-2.8.

3 (2)(i) Every person convicted of a second violation within a five-year (5) period with a
4 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than
5 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or
6 who has a blood presence of any controlled substance as defined in chapter 28 of title 21, and every
7 person convicted of a second violation within a five-year (5) period, regardless of whether the prior
8 violation and subsequent conviction was a violation and subsequent conviction under this statute
9 or under the driving under the influence of liquor or drugs statute of any other state, shall be subject
10 to a mandatory fine of four hundred dollars (\$400). The person's driving license shall be suspended
11 for a period of one year to two (2) years, and the individual shall be sentenced to not less than ten
12 (10) days, nor more than one year, in jail. The sentence may be served in any unit of the adult
13 correctional institutions in the discretion of the sentencing judge or magistrate; however, not less
14 than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge or
15 magistrate shall require alcohol or drug treatment for the individual; provided, however, that the
16 court may permit a servicemember or veteran to complete any court-approved counseling program
17 administered or approved by the Veterans' Administration and shall prohibit that person from
18 operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not
19 equipped with an ignition interlock system and/or blood ~~and~~ and/or urine testing as provided in §
20 31-27-2.8.

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

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

1 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above,
2 but less than fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is
3 unknown or who has a blood presence of any scheduled controlled substance as defined in chapter
4 28 of title 21, regardless of whether any prior violation and subsequent conviction was a violation
5 and subsequent conviction under this statute or under the driving under the influence of liquor or
6 drugs statute of any other state, shall be guilty of a felony and be subject to a mandatory fine of
7 four hundred (\$400) dollars. The person's driving license shall be suspended for a period of two (2)
8 years to three (3) years, and the individual shall be sentenced to not less than one year and not more
9 than three (3) years in jail. The sentence may be served in any unit of the adult correctional
10 institutions in the discretion of the sentencing judge or magistrate; however, not less than forty-
11 eight (48) hours of imprisonment shall be served consecutively. The sentencing judge or magistrate
12 shall require alcohol or drug treatment for the individual; provided, however, that the court may
13 permit a servicemember or veteran to complete any court-approved counseling program
14 administered or approved by the Veterans' Administration, and shall prohibit that person from
15 operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not
16 equipped with an ignition interlock system and/or blood ~~and~~ and/or urine testing as provided in §
17 31-27-2.8.

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

30 (iii) In addition to the foregoing penalties, every person convicted of a third or subsequent
31 violation within a five-year (5) period, regardless of whether any prior violation and subsequent
32 conviction was a violation and subsequent conviction under this statute or under the driving under
33 the influence of liquor or drugs statute of any other state, shall be subject, in the discretion of the
34 sentencing judge or magistrate, to having the vehicle owned and operated by the violator seized

1 and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred to the
2 general fund.

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

15 (5)(i) For purposes of determining the period of license suspension, a prior violation shall
16 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.1.

17 (ii) Any person over the age of eighteen (18) who is convicted under this section for
18 operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of
19 these, while a child under the age of thirteen (13) years was present as a passenger in the motor
20 vehicle when the offense was committed shall be subject to immediate license suspension pending
21 prosecution. Any person convicted of violating this section shall be guilty of a misdemeanor for a
22 first offense and may be sentenced to a term of imprisonment of not more than one year and a fine
23 not to exceed one thousand dollars (\$1,000). Any person convicted of a second or subsequent
24 offense shall be guilty of a felony offense and may be sentenced to a term of imprisonment of not
25 more than five (5) years and a fine not to exceed five thousand dollars (\$5,000). The sentencing
26 judge [or magistrate](#) shall also order a license suspension of up to two (2) years, require attendance
27 at a special course on driving while intoxicated or under the influence of a controlled substance,
28 and alcohol or drug education and/or treatment. The individual may also be required to pay a
29 highway assessment fee of no more than five hundred dollars (\$500) and the assessment shall be
30 deposited in the general fund.

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

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

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

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

19 (8) Any person convicted of a violation under this section may undergo a clinical
20 assessment at the community college of Rhode Island's center for workforce and community
21 education. Should this clinical assessment determine problems of alcohol, drug abuse, or
22 psychological problems associated with alcoholic or drug abuse, this person shall be referred to an
23 appropriate facility, licensed or approved by the department of behavioral healthcare,
24 developmental disabilities and hospitals, for treatment placement, case management, and
25 monitoring. In the case of a servicemember or veteran, the court may order that the person be
26 evaluated through the Veterans' Administration. Should the clinical assessment determine problems
27 of alcohol, drug abuse, or psychological problems associated with alcohol or drug abuse, the person
28 may have their treatment, case management, and monitoring administered or approved by the
29 Veterans' Administration.

30 (9) Notwithstanding any other sentencing and disposition provisions contained in this
31 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was
32 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
33 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
34 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a

1 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration,
2 or both, the judge or magistrate may exercise his or her discretion and eliminate the requirement
3 of an ignition interlock system; provided, that blood and/or urine testing is mandated as a condition
4 to operating a motor vehicle as provided in § 31-27-2.8.

5 (10) Notwithstanding any other sentencing and disposition provisions contained in this
6 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was
7 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
8 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
9 or other reliable indicia or articulable conditions thereof and intoxicating liquor based on a
10 preliminary breath test, results from a breathalyzer that indicates blood alcohol concentration, or
11 both, the judge or magistrate may require an ignition interlock system in addition to blood and/or
12 urine testing as a condition to operating a motor vehicle as provided in § 31-27-2.8.

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

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

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

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

3 (g) The director of the department of health is empowered to make and file with the
4 secretary of state regulations that prescribe the techniques and methods of chemical analysis of the
5 person's body fluids or breath and the qualifications and certification of individuals authorized to
6 administer this testing and analysis.

7 (h) Jurisdiction for misdemeanor violations of this section shall be with the district court
8 for persons eighteen (18) years of age or older and to the family court for persons under the age of
9 eighteen (18) years. The courts shall have full authority to impose any sentence authorized and to
10 order the suspension of any license for violations of this section. Trials in superior court are not
11 required to be scheduled within thirty (30) days of the arraignment date.

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

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

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

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

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

32 **31-27-2.1. Refusal to submit to chemical test.**

33 (a) Any person who operates a motor vehicle within this state shall be deemed to have
34 given his or her consent to chemical tests of his or her breath, blood, and/or urine for the purpose

1 of determining the chemical content of his or her body fluids or breath. No more than two (2)
2 complete tests, one for the presence of intoxicating liquor and one for the presence of toluene or
3 any controlled substance, as defined in § 21-28-1.02, shall be administered at the direction of a law
4 enforcement officer having reasonable grounds to believe the person to have been driving a motor
5 vehicle within this state while under the influence of intoxicating liquor, toluene, or any controlled
6 substance, as defined in chapter 28 of title 21, or any combination of these. The director of the
7 department of health is empowered to make and file, with the secretary of state, regulations that
8 prescribe the techniques and methods of chemical analysis of the person's body fluids or breath and
9 the qualifications and certification of individuals authorized to administer the 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 person
14 shall only be required to submit to chemical tests of his or her breath or urine. When a person is
15 requested to submit to blood tests, only a physician or registered nurse, or a medical technician
16 certified under regulations promulgated by the director of the department of health, may withdraw
17 blood for the purpose of determining the alcoholic content in it. This limitation shall not apply to
18 the taking of breath or urine specimens. The person tested shall be permitted to have a physician of
19 his or her own choosing, and at his or her own expense, administer chemical tests of his or her
20 breath, blood, and/or urine in addition to the tests administered at the direction of a law enforcement
21 officer. If a person, having been placed under arrest, refuses upon the request of a law enforcement
22 officer to submit to the tests, as provided in § 31-27-2, none shall be given.

23 (1) At the initial traffic tribunal appearance, the judge or magistrate shall review the
24 incident, action, and/or arrest reports submitted by the law enforcement officer to determine if there
25 exists reasonable grounds to believe that the person had been driving a motor vehicle while under
26 the influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28
27 of title 21, or any combination thereof. The judge or magistrate shall also determine if the person
28 had been informed of the penalties incurred as a result of failing to submit to a chemical test as
29 provided in this section and that the person had been informed of the implied consent notice
30 contained in subsection (c)(10) of this section. For the purpose of this subsection only, "driving a
31 motor vehicle while under the influence of any controlled substance as defined in chapter 28 of title
32 21" shall be indicated by the presence or aroma of a controlled substance on or about the person or
33 vehicle of the individual refusing the chemical test or other reliable indicia or articulable conditions
34 that the person was impaired due to their intake of a controlled substance.

1 (2) If the [judge or](#) magistrate determines that subsection (b)(1) of this section has been
2 satisfied they shall promptly order that the person's operator's license or privilege to operate a motor
3 vehicle in this state be immediately suspended. Said suspension shall be subject to the hardship
4 provisions enumerated in § 31-27-2.8.

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

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

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

24 (3) Every person convicted for a third or subsequent violation within a five-year (5) period,
25 except with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor;
26 and shall be imprisoned for not more than one year; fined eight hundred dollars (\$800) to one
27 thousand dollars (\$1,000); shall perform not less than one hundred (100) hours of public community
28 restitution; and the person's operator's license in this state shall be suspended for a period of two
29 (2) years to five (5) years. The sentencing judge or magistrate shall prohibit that person from
30 operating a motor vehicle that is not equipped with an ignition interlock system and/or blood ~~and~~
31 [and/or](#) urine testing as provided in § 31-27-2.8. The judge or magistrate shall require alcohol or
32 drug treatment for the individual. Provided, that prior to the reinstatement of a license to a person
33 charged with a third or subsequent violation within a three-year (3) period, a hearing shall be held
34 before a judge or magistrate. At the hearing, the judge or magistrate shall review the person's

1 driving record, his or her employment history, family background, and any other pertinent factors
2 that would indicate that the person has demonstrated behavior that warrants the reinstatement of
3 his or her license.

4 (4) For a second violation within a five-year (5) period with respect to a case of a refusal
5 to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one thousand dollars
6 (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public community
7 restitution; and the person's driving license in this state shall be suspended for a period of two (2)
8 years. The judicial officer shall require alcohol and/or drug treatment for the individual. The
9 sentencing judicial officer shall prohibit that person from operating a motor vehicle that is not
10 equipped with an ignition interlock system [and/or blood and/or urine testing](#) as provided in § 31-
11 27-2.8. Such a violation with respect to refusal to submit to a chemical blood test shall be a civil
12 offense.

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

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

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

32 (8) In addition to any other fines and highway safety assessments, a two-hundred-dollar
33 (\$200) assessment shall be paid by any person found in violation of this section to support the
34 department of health's chemical testing programs outlined in §§ 31-27-2(f) and 31-27-2(g), that

1 shall be deposited as general revenues, not restricted receipts.

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

5 (10) Implied consent notice for persons eighteen (18) years of age or older: "Rhode Island
6 law requires you to submit to a chemical test of your blood, breath, or urine for the purpose of
7 determining the chemical content of your body fluids or breath. If you refuse this testing, certain
8 penalties can be imposed and include the following: for a first offense, your Rhode Island driver's
9 license or privilege to operate a motor vehicle in this state can be suspended for six (6) months to
10 one year or modified to permit operation in connection with an ignition interlock device [and/or](#)
11 [blood and/or urine testing](#) for a period specified by law; a fine from two hundred dollars (\$200) to
12 five hundred dollars (\$500) can be imposed; and you can be ordered to perform ten (10) to sixty
13 (60) hours of community service and attend a special course on driving while intoxicated or under
14 the influence of a controlled substance and/or alcohol or drug treatment. If you have had one or
15 more previous offenses within the past five (5) years, your refusal to submit to a chemical test of
16 breath or urine at this time can have criminal penalties, including incarceration up to six (6) months
17 for a second offense and up to one year for a third or subsequent offense, and can carry increased
18 license suspension or ignition interlock [and/or blood and/or urine testing](#) period, fines, and
19 community service. All violators shall pay a five hundred dollar (\$500) highway safety assessment
20 fee, a two hundred dollar (\$200) department of health chemical testing programs assessment fee,
21 and a license reinstatement fee. Refusal to submit to a chemical test of blood shall not subject you
22 to criminal penalties for the refusal itself, but if you have one or more previous offenses other civil
23 penalties may increase. You have the right to be examined at your own expense by a physician
24 selected by you. If you submit to a chemical test at this time, you have the right to have an additional
25 chemical test performed at your own expense. You will be afforded a reasonable opportunity to
26 exercise these rights. Access to a telephone will be made available for you to make those
27 arrangements. You may now use a telephone."

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

31 (d) Upon suspending or refusing to issue a license or permit as provided in subsection (a),
32 the traffic tribunal or district court shall immediately notify the person involved in writing, and
33 upon his or her request, within fifteen (15) days, afford the person an opportunity for a hearing as
34 early as practical upon receipt of a request in writing. Upon a hearing, the judge [or magistrate](#) may

1 administer oaths and may issue subpoenas for the attendance of witnesses and the production of
2 relevant books and papers. If the judge [or magistrate](#) finds after the hearing that:

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

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

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

10 (4) The person had been informed of the penalties incurred as a result of noncompliance
11 with this section, the judge [or magistrate](#) shall sustain the violation. The judge [or magistrate](#) shall
12 then impose the penalties set forth in subsection (c) of this section. Action by the judge [or magistrate](#)
13 must be taken within seven (7) days after the hearing or it shall be presumed that the judge [or](#)
14 [magistrate](#) has refused to issue his or her order of suspension.

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

18 (f) If any provision of this section, or the application of any provision, shall, for any reason,
19 be judged invalid, the judgment shall not affect, impair, or invalidate the remainder of the section,
20 but shall be confined in this effect to the provisions or application directly involved in the
21 controversy giving rise to the judgment.

22 **31-27-2.5. Chemical tests to persons under eighteen (18) years of age -- Refusal --**
23 **License suspension.**

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

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

29 (c) If a person as set forth in subsection (a) of this section refuses, upon the request of a
30 law enforcement officer, to submit to a test as provided in § 31-27-2.1, none shall be given, but a
31 judge of the family court, upon receipt of a report or testimony of a law enforcement officer: that
32 he or she had probable cause to stop the arrested person and reasonable grounds to believe the
33 arrested person had been driving a motor vehicle within this state while impaired by intoxicating
34 liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or any combination

1 of these; that the person had been informed of his or her rights in accordance with § 31-27-3; that
2 the person had been informed of the implied consent notice contained in subsection (h) of this
3 section; and that the person had refused to submit to the test upon the request of a law enforcement
4 officer; shall promptly order a hearing on whether the person's operator's license or privilege to
5 operate a motor vehicle in this state shall be suspended. Upon suspension, the judge shall order the
6 license of the person to be surrendered to the department of administration, division of motor
7 vehicles, within three (3) days.

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

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

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

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

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

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

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

33 (f) The police department which charges any person under eighteen (18) years of age with
34 refusal to submit to a chemical test, driving while impaired by intoxicating liquors or drugs, or

1 driving while under the influence of liquor or drugs, shall ascertain the name and address of the
2 custodial parent of the person and shall notify the parent in writing within ten (10) days of the
3 charge.

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

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

8 "Rhode Island law requires you to submit to a chemical test of your blood, breath, or urine
9 for the purpose of determining the chemical content of your body fluids or breath. If you refuse this
10 testing, certain penalties can be imposed. These penalties include the following: your Rhode Island
11 driver's license or privilege to operate a motor vehicle in this state can be suspended for six (6)
12 months or modified to permit operation in connection with an ignition interlock device [and/or blood](#)
13 [and/or urine testing](#) for a period specified by law; a fine from two hundred dollars (\$200) to five
14 hundred dollars (\$500) can be imposed; and you can be ordered to perform ten (10) to sixty (60)
15 hours of community service and attend a special course on driving while intoxicated or under the
16 influence of a controlled substance and/or alcohol or drug treatment. If you have had one or more
17 previous offenses within the past five (5) years, your loss or modification of license, fine, and
18 community service sanctions can increase over those provided for a first offense. All violators shall
19 pay a five hundred dollar (\$500) highway safety assessment fee, a two hundred dollar (\$200)
20 department of health chemical testing programs fee, and a license reinstatement fee. If you refuse
21 to submit to a chemical test, you will be required to maintain proof of financial responsibility for
22 three (3) years. Refusal to submit to a chemical test shall not be considered a criminal offense. You
23 have the right to be examined at your own expense by a physician selected by you. If you submit
24 to a chemical test at this time, you have the right to have an additional chemical test performed at
25 your own expense. You will be afforded a reasonable opportunity to exercise these rights. Access
26 to a telephone will be made available for you to make those arrangements. You may now use the
27 telephone."

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

31 ~~**31-27-2.8. Ignition interlock system and/or blood and urine testing imposed as a part**~~
32 ~~**of sentence --- Requirements Ignition interlock system and/or blood and/or urine testing**~~
33 ~~**imposed as a part of sentence -- Requirements.**~~

34 (a) Any person subject to suspension pursuant to §§ 31-27-2.1(b)(1) and 31-27-2.1(b)(2)

1 or convicted under the provisions of § 31-27-2(d)(1), § 31-27-2(d)(2), § 31-27-2(d)(3)(i), or § 31-
2 27-2(d)(3)(ii), or whose violation is sustained under the provisions of §§ 31-27-2.1(b)(1) and 31-
3 27-2.1(b)(2), may be prohibited by the sentencing judge or magistrate from operating a motor
4 vehicle that is not equipped with an ignition interlock system, and/or blood ~~and~~ and/or urine testing.
5 Any and all blood testing shall be conducted by a ~~licensed~~ physician or registered nurse, or a
6 medical technician certified under the regulation promulgated by the director of the department of
7 health. ~~with knowledge and clinical experience in the diagnosis and treatment of drug-related~~
8 ~~disorders,~~ Any and all urine testing shall be conducted by a physician, registered nurse, medical
9 technician, licensed or certified psychologist, social worker, or EAP professional with like
10 knowledge, or a substance abuse counselor certified by the National Association of Alcohol and
11 Drug Abuse Counselors (all of whom shall be licensed in Rhode Island), pursuant to this section.
12 This group of authorized individuals may collectively be referred to as “substance abuse
13 professionals”.

14 (1) Notwithstanding any other sentencing and disposition provisions contained in this
15 chapter, if a Rhode Island traffic tribunal magistrate or judge makes a finding that a motorist was
16 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
17 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
18 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a
19 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration or
20 both, the judge or magistrate may exercise his or her discretion and eliminate the requirement of an
21 ignition interlock system; provided, that blood and/or urine testing is mandated as a condition to
22 operating a motor vehicle as provided in this section.

23 (2) Notwithstanding any other sentencing and disposition provisions contained in this
24 chapter, if a Rhode Island traffic tribunal magistrate or judge makes a finding that a motorist was
25 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
26 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
27 or other reliable indicia or articulable conditions thereof and intoxicating liquor based on a
28 preliminary breath test, results from a breathalyzer that indicates blood alcohol concentration or
29 both, the judge or magistrate may require an ignition interlock system in addition to blood and/or
30 urine testing as a condition to operating a motor vehicle as provided in this section.

31 (b) Notwithstanding any other provisions contained in this chapter, any mandatory period
32 of license suspension shall, upon request, be reduced by the imposition of an ignition interlock
33 system and/or blood ~~and~~ and/or urine testing ordered by the court or traffic tribunal as follows:

34 (1) For a violation of § 31-27-2(d)(1), a person shall be subject to a minimum thirty-day

1 (30) license suspension and an imposition of an ignition interlock system and/or blood ~~and~~ and/or
2 urine testing for three (3) months to one year.

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

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

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

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

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

18 (7) No license suspension shall be subject to more than a thirty-day (30) license suspension
19 based solely upon the imposition of an ignition interlock system.

20 (i) If a conviction pursuant to § 31-27-2(d)(1) or § 31-27-2.1(c)(1) is a first offense, or upon
21 an initial suspension pursuant to § 31-27-2.1(b)(1), where there has been a finding or determination
22 that the motorist was under the influence of intoxicating liquor only, the judge or magistrate shall,
23 upon request, immediately grant a conditional hardship license after a finding of need pursuant to
24 this section and upon proof of the installation of an ignition interlock device.

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

31 (iii) If a conviction pursuant to § 31-27-2(d)(1) or § 31-27-2.1(c)(1) is a first offense, or
32 upon an initial suspension pursuant to § 31-27-2.1(b)(1), where there has been a finding or
33 determination that the motorist was under the influence of intoxicating liquor and/or drugs, toluene,
34 or a controlled substance, ~~or any combination thereof~~, the judge or magistrate shall, upon request

1 immediately grant a conditional hardship license after a finding of need pursuant to this section and
2 upon proof of the installation of an ignition interlock device, ~~subject also to the following testing:~~
3 and/or blood and/or urine testing.

4 (c) The division of motor vehicles' alcohol and drug safety unit shall be responsible for
5 overseeing, monitoring, and enforcing the blood and urine testing pursuant to this section. These
6 responsibilities include, but are not limited to:

7 (1) The receipt, documentation, and review of blood and/or urine tests; and

8 (2) Scheduling, administering, conducting, and documenting hearings for a motorist's
9 failure to comply with testing pursuant to subsection (c)(iv) of this section, and a motorist's positive
10 blood and/or urine tests pursuant to subsection (c)(v) of this section; providing notice to all
11 necessary parties prior to said hearings; and reporting the findings and/or results of said hearings
12 to the arresting law enforcement department or agency and the department of the attorney general.
13 The division of motor vehicles shall have the authority to summons witnesses to attend hearings
14 and compel the production of test results and any and all documents, records, or samples related to
15 test results that may be necessary to determine whether a motorist complied with blood and/or urine
16 testing requirements. The division of motor vehicles shall have the power to establish and adopt
17 processes, rules and regulations enforcing the provisions of this chapter, but said processes, rules
18 and regulations shall include the following:

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

25 ~~(B)(ii)~~ (ii) The motorist is required to pay for ~~the substance abuse professional,~~ any and all
26 testing, retesting, monitoring, and reporting costs ~~of~~ associated with the blood ~~and~~ and/or urine
27 testing.

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

31 ~~(D)(iv)~~ (iv) Samples are to be taken weekly for the first sixty (60) days, thereafter in accordance
32 with the recommendation of the substance abuse professional. The samples taken thereafter may
33 be ordered randomly, but must be provided by the motorist within twenty-four (24) hours of the
34 request. The substance abuse professional shall report to the division of motor vehicles, arresting

1 law enforcement department or agency, and the department of the attorney general within twenty-
2 four (24) hours any failure by the motorist to comply with a request for a sample.

3 ~~(E)~~(v) A positive test of urine ~~or~~ and/or blood that evidences any controlled substances
4 shall be reported by the substance abuse professional to the motorist and to the division of motor
5 vehicles, arresting law enforcement department or agency, and the department of the attorney
6 general within twenty-four (24) hours of receipt of the results. The motorist may, at his or her own
7 expense, have an opportunity to have the sample retested or reevaluated by an independent testing
8 facility which shall provide the result directly to the substance abuse professional. The division of
9 motor vehicles, arresting law enforcement department or agency, and the attorney general may
10 request, at any time, a copy of any or all test results from the substance abuse professional, which
11 shall forward the requested results within forty-eight (48) hours.

12 ~~(F)~~(vi) Upon completion of the license suspension, conditional hardship, ignition interlock
13 ~~and substance abuse~~ and/or blood and/or urine testing periods, a finalized report shall be presented
14 to the department of motor vehicles prior to any license reinstatement. For blood and/or urine
15 testing, this report shall be prepared by and signed by the substance abuse professional performing
16 and monitoring the testing.

17 ~~(G)~~(vii) If ~~a judge or magistrate~~ after hearing, the division of motor vehicles determines
18 that a motorist ~~either~~ failed, ~~without good cause,~~ to comply with a sample request or tested positive
19 for any controlled substance, ~~he or she may exercise his or her discretion and~~ the division of motor
20 vehicles shall revoke the conditional hardship license, ~~extend the time period for the ignition~~
21 ~~interlock system and/or substance abuse testing for an additional period of up to twelve (12) months~~
22 ~~and/or impose an additional loss of license for up to twenty four (24) months~~ and suspend the
23 motorist's license for the remainder of the time period in which the hardship license would have
24 been authorized. Within forty-eight (48) hours of any revocation and/or suspension, the division of
25 motor vehicles shall notify the arresting law enforcement department and/or agency and the
26 department of the attorney general of said revocation and/or suspension. If the motorist is under the
27 supervision of the probation department, the division of motor vehicles shall also notify the
28 probation department. A motorist who intends to request that his or her conditional hardship license
29 be reinstated shall petition for reinstatement with the same court that ordered the conditional
30 hardship license.

31 ~~(H)~~(viii) A motorist who has failed, without good cause, to comply with a sample request
32 or tested positive for any controlled substance for a second time within twelve (12) months of the
33 first failure and/or positive test determination shall be guilty of a misdemeanor punishable by ~~up to~~
34 ~~one year imprisonment, or~~ a minimum of ten (10) days and not more than one year imprisonment

1 and a fine of up to one thousand dollars (\$1,000), ~~or both~~.

2 ~~(d)~~ However, in any case where a motorist is convicted of an alcohol-related or drug,
3 toluene or controlled substance-related offense pursuant to the provisions of this chapter, except
4 for the offenses set forth in subsections (b)(7)(i) through (b)(7)(iii) of this section, the judge or
5 magistrate may exercise his or her discretion in the granting of the hardship license by imposing
6 up to a ninety (90) day loss of license prior to any imposition of the hardship license. The hardship
7 license shall be valid for twelve (12) continuous hours per day for any valid reason approved in
8 advance by the sentencing judge or magistrate, which shall include employment, medical
9 appointments, job training, schooling, or religious purposes. The hardship license shall not be for
10 less than twelve (12) continuous hours per day. A hardship license shall only be granted in
11 conjunction with the installation of an ignition interlock device and/or blood ~~and~~ and/or urine
12 testing. Any conditional driving privileges must be set by the sentencing judge or magistrate after
13 a hearing in which the motorist must provide proof of employment status and hours of employment,
14 or any other legitimate reasons justifying a hardship license. These shall include, but not be limited
15 to, any unemployment training, schooling, medical appointments, therapy treatments, or any other
16 valid requests set forth by sworn affidavit. Once said hardship period has concluded, the motorist
17 must still be subject to the conditions of the ignition interlock system and/or blood ~~and~~ and/or urine
18 testing as set forth under this section for the period of time as directed by the court. Any individual
19 who violates the requirements of this subsection shall be subject to the penalties enumerated in §
20 31-11-18.1.

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

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

32 ~~(g)~~ When the court orders the use of an ignition interlock system and/or blood and/or
33 urine testing, the judge or magistrate shall cause an appropriate notation to be made on the person's
34 record that clearly sets forth the requirement for, and the period of the use of, the ignition interlock

1 system [and/or blood and/or urine testing](#). [Copies of these records shall be sent to the division of](#)
2 [motor vehicles](#).

3 ~~(g)~~(h) In addition to the requirements of subsection ~~(f)~~(g) of this section, the court or traffic
4 tribunal shall:

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

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

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

13 (4) The requirements under subsection ~~(g)~~(h) of this section shall be the responsibility of
14 the probation department or justice assistance, if the individual is under their control, or the division
15 of motor vehicles if the individual is not monitored as a condition of the individual's plea or finding
16 of guilt.

17 ~~(h)~~(i) Any person granted a conditional hardship license upon proof of installation of an
18 ignition interlock device [and/or blood and/or urine testing](#), may operate that motor vehicle during
19 the entire twelve-hour (12) period of operation granted by the sentencing judge or magistrate
20 including during the scope of the person's employment and/or any other valid reason approved by
21 the sentencing judge or magistrate.

22 ~~(i)~~(j) If a person is required, in the course of the person's employment, to operate a motor
23 vehicle owned or provided by the person's employer, the person may operate that motor vehicle in
24 the course of the person's employment without installation of an ignition interlock system if the
25 court makes specific findings expressly permitting the person to operate, in the course of the
26 person's employment, a motor vehicle that is not equipped with an ignition interlock system.

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

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

33 (k) [Any person subject to an order concerning the use of an ignition interlock device who](#)
34 [violates this order shall be guilty of a misdemeanor punishable by a minimum of ten \(10\) days and](#)

1 not more than one year imprisonment and a fine of up to one thousand dollars (\$1,000). For a
2 second violation within six (6) months from entry of the order, the person violating the order shall
3 be imprisoned for a term not less than six (6) months and not more than one year. For the purposes
4 of this subsection, a violation of the interlock order, includes, but is not limited to:

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

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

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

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

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

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LC006147
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

1 This act would amend the statutory laws relating to driving under the influence and refusal
2 to submit to chemical tests by adding the requirement for blood and/or urine testing. The division
3 of motor vehicles' alcohol and drug safety unit would be responsible for overseeing, monitoring
4 and enforcing the blood and urine testing. This act would provide that a motorist who failed, without
5 good cause, to provide a test sample upon request within twelve (12) months of a positive test for
6 a controlled substance or who tested positive for a second time or who violated an order concerning
7 the use of an ignition interlock device shall be guilty of a misdemeanor and imprisoned for a
8 minimum of ten (10) days. A second violation of an order regarding an order to use an ignition
9 interlock device committed within six (6) months would be punishable by a term of imprisonment
10 of not less than six (6) months.

11 This act would take effect upon passage.

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