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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO MOTOR AND OTHER VEHICLES - MOTOR VEHICLE OFFENSES

Introduced By: Representative Gregg Amore

Date Introduced: June 17, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **31-27-2. Driving under influence of liquor or drugs.** -- (a) Whoever drives or
4 otherwise operates any vehicle in the state while under the influence of any intoxicating liquor,
5 drugs, toluene, or any controlled substance as defined in chapter 28 of title 21, or any
6 combination of these, shall be guilty of a misdemeanor except as provided in subdivision (d)(3)
7 and shall be punished as provided in subsection (d) of this section.

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

18 (2) Whoever drives, or otherwise operates, any vehicle in the state with a blood presence
19 of any scheduled controlled substance as defined within chapter 28 of title 21, as shown by

1 analysis of a blood or urine sample, shall be guilty of a misdemeanor and shall be punished as
2 provided in subsection (d) of this section.

3 (c) In any criminal prosecution for a violation of subsection (a) of this section, evidence
4 as to the amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter
5 28 of title 21, or any combination of these, in the defendant's blood at the time alleged as shown
6 by a chemical analysis of the defendant's breath, blood, or urine or other bodily substance, shall
7 be admissible and competent, provided that evidence is presented that the following conditions
8 have been complied with:

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

12 (2) A true copy of the report of the test result was mailed within seventy-two (72) hours
13 of the taking of the test to the person submitting to a breath test.

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

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

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

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

31 (d) (1) (i) Every person found to have violated subdivision (b)(1) of this section shall be
32 sentenced as follows: for a first violation whose blood alcohol concentration is eight one-
33 hundredths of one percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who
34 has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2), shall

1 be subject to a fine of not less than one hundred dollars (\$100) nor more than three hundred
2 dollars (\$300); shall be required to perform ten (10) to sixty (60) hours of public community
3 restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit
4 of the adult correctional institutions in the discretion of the sentencing judge and/or shall be
5 required to attend a special course on driving while intoxicated or under the influence of a
6 controlled substance; provided, however, that the court may permit a servicemember or veteran to
7 complete any court-approved counseling program administered or approved by the Veterans'
8 Administration, and his or her driver's license shall be suspended for thirty (30) days up to one
9 hundred eighty (180) days. The sentencing judge or magistrate may prohibit that person from
10 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §
11 31-27-2.8.

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

26 (iii) Every person convicted of a first offense whose blood alcohol concentration is
27 fifteen hundredths of one percent (.15%) or above, or who is under the influence of a drug,
28 toluene, or any controlled substance as defined in subdivision (b)(1), shall be subject to a fine of
29 five hundred dollars (\$500) and shall be required to perform twenty (20) to sixty (60) hours of
30 public community restitution and/or shall be imprisoned for up to one year. The sentence may be
31 served in any unit of the adult correctional institutions in the discretion of the sentencing judge.
32 The person's driving license shall be suspended for a period of three (3) months to eighteen (18)
33 months. The sentencing judge shall require attendance at a special course on driving while
34 intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for

1 the individual; provided, however, that the court may permit a servicemember or veteran to
2 complete any court-approved counseling program administered or approved by the Veterans'
3 Administration. The sentencing judge or magistrate shall prohibit that person from operating a
4 motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.

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

22 (ii) Every person convicted of a second violation within a five-year (5) period whose
23 blood alcohol concentration is fifteen hundredths of one percent (.15%) or above, by weight as
24 shown by a chemical analysis of a blood, breath, or urine sample, or who is under the influence of
25 a drug, toluene, or any controlled substance as defined in subdivision (b)(1), shall be subject to
26 mandatory imprisonment of not less than six (6) months, nor more than one year; a mandatory
27 fine of not less than one thousand dollars (\$1,000); and a mandatory license suspension for a
28 period of two (2) years from the date of completion of the sentence imposed under this
29 subsection. The sentencing judge shall require alcohol or drug treatment for the individual;
30 provided, however, that the court may permit a servicemember or veteran to complete any court
31 approved counseling program administered or approved by the Veterans' Administration. The
32 sentencing judge or magistrate shall prohibit that person from operating a motor vehicle that is
33 not equipped with an ignition interlock system 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
2 above, but less than fifteen hundredths of one percent (.15%), or whose blood alcohol
3 concentration is unknown or who has a blood presence of any scheduled controlled substance as
4 defined in subdivision (b)(2), regardless of whether any prior violation and subsequent conviction
5 was a violation and subsequent conviction under this statute or under the driving under the
6 influence of liquor or drugs statute of any other state, shall be guilty of a felony and be subject to
7 a mandatory fine of four hundred (\$400) dollars. The person's driving license shall be suspended
8 for a period of two (2) years to three (3) years, and the individual shall be sentenced to not less
9 than one year and not more than three (3) years in jail. The sentence may be served in any unit of
10 the adult correctional institutions in the discretion of the sentencing judge; however, not less than
11 forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge shall
12 require alcohol or drug treatment for the individual; provided, however, that the court may permit
13 a servicemember or veteran to complete any court-approved counseling program administered or
14 approved by the Veterans' Administration, and shall prohibit that person from operating a motor
15 vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.

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

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

34 (4) Whoever drives or otherwise operates any vehicle in the state while under the

1 influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in
2 chapter 28 of title 21, or any combination of these, when his or her license to operate is
3 suspended, revoked, or cancelled for operating under the influence of a narcotic drug or
4 intoxicating liquor, shall be guilty of a felony punishable by imprisonment for not more than three
5 (3) years and by a fine or not more than three thousand dollars (\$3,000). The court shall require
6 alcohol and/or drug treatment for the individual; provided, the penalties provided for in § 31-27-
7 2(d)(4) shall not apply to an individual who has surrendered his or her license and served the
8 court-ordered period of suspension, but who, for any reason, has not had his or her license
9 reinstated after the period of suspension, revocation, or suspension has expired; provided, further,
10 the individual shall be subject to the provisions of §§ 31-27-2(d)(2)(i) or (ii) or 31-27-22(d)(3)(i),
11 (ii), or (iii) regarding subsequent offenses, and any other applicable provision of § 31-27-2.

12 (5) (i) For purposes of determining the period of license suspension, a prior violation
13 shall constitute any charge brought and sustained under the provisions of this section or § 31-27-
14 2.1.

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

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

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

28 (7) (i) If the person convicted of violating this section is under the age of eighteen (18)
29 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of
30 public community restitution and the juvenile's driving license shall be suspended for a period of
31 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing
32 judge shall also require attendance at a special course on driving while intoxicated or under the
33 influence of a controlled substance and alcohol or drug education and/or treatment for the
34 juvenile. The juvenile may also be required to pay a highway assessment fine of no more than

1 five hundred dollars (\$500) and the assessment imposed shall be deposited into the general fund.

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

10 (8) Any person convicted of a violation under this section may undergo a clinical
11 assessment at the community college of Rhode Island's center for workforce and community
12 education. Should this clinical assessment determine problems of alcohol, drug abuse, or
13 psychological problems associated with alcoholic or drug abuse, this person shall be referred to
14 an appropriate facility, licensed or approved by the department of mental health, retardation and
15 hospitals for treatment placement, case management, and monitoring. In the case of a
16 servicemember or veteran, the court may order that the person be evaluated through the Veterans'
17 Administration. Should the clinical assessment determine problems of alcohol, drug abuse, or
18 psychological problems associated with alcohol or drug abuse, the person may have their
19 treatment, case management, and monitoring administered or approved by the Veterans'
20 Administration.

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

23 (f) (1) There is established an alcohol and drug safety unit within the division of motor
24 vehicles to administer an alcohol safety action program. The program shall provide for placement
25 and follow-up for persons who are required to pay the highway safety assessment. The alcohol
26 and drug safety action program will be administered in conjunction with alcohol and drug
27 programs licensed by the department of mental health retardation and hospitals.

28 (2) Persons convicted under the provisions of this chapter shall be required to attend a
29 special course on driving while intoxicated or under the influence of a controlled substance,
30 and/or participate in an alcohol or drug treatment program; provided, however, that the court may
31 permit a servicemember or veteran to complete any court-approved counseling program
32 administered or approved by the Veterans' Administration. The course shall take into
33 consideration any language barrier that may exist as to any person ordered to attend, and shall
34 provide for instruction reasonably calculated to communicate the purposes of the course in

1 accordance with the requirements of the subsection. Any costs reasonably incurred in connection
2 with the provision of this accommodation shall be borne by the person being retrained. A copy of
3 any violation under this section shall be forwarded by the court to the alcohol and drug safety
4 unit. In the event that persons convicted under the provisions of this chapter fail to attend and
5 complete the above course or treatment program, as ordered by the judge, then the person may be
6 brought before the court, and after a hearing as to why the order of the court was not followed,
7 may be sentenced to jail for a period not exceeding one year.

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

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

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

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

25 (j) An order to attend a special course on driving while intoxicated that shall be
26 administered in cooperation with a college or university accredited by the state, shall include a
27 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars
28 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into
29 the general fund.

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

33 (l) If any provision of this section, or the application of any provision, shall for any
34 reason be judged invalid, such a judgment shall not affect, impair, or invalidate the remainder of

1 the section, but shall be confined in this effect to the provision or application directly involved in
2 the controversy giving rise to the judgment.

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

8 **31-27-2.1. Refusal to submit to chemical test.** -- (a) Any person who operates a motor
9 vehicle within this state shall be deemed to have given his or her consent to chemical tests of his
10 or her breath, blood, and/or urine for the purpose of determining the chemical content of his or
11 her body fluids or breath. No more than two (2) complete tests, one for the presence of
12 intoxicating liquor and one for the presence of toluene or any controlled substance, as defined in
13 § 21-28-1.02(7), shall be administered at the direction of a law enforcement officer having
14 reasonable grounds to believe the person to have been driving a motor vehicle within this state
15 while under the influence of intoxicating liquor, toluene, or any controlled substance, as defined
16 in chapter 28 of title 21, or any combination of these. The director of the department of health is
17 empowered to make and file, with the secretary of state, regulations that prescribe the techniques
18 and methods of chemical analysis of the person's body fluids or breath and the qualifications and
19 certification of individuals authorized to administer the testing and analysis.

20 (b) If a person, for religious or medical reasons, cannot be subjected to blood tests, the
21 person may file an affidavit with the division of motor vehicles stating the reasons why he or she
22 cannot be required to take blood tests and a notation to this effect shall be made on his or her
23 license. If that person is asked to submit to chemical tests as provided under this chapter, the
24 person shall only be required to submit to chemical tests of his or her breath or urine. When a
25 person is requested to submit to blood tests, only a physician or registered nurse, or a medical
26 technician certified under regulations promulgated by the director of the department of health,
27 may withdraw blood for the purpose of determining the alcoholic content in it. This limitation
28 shall not apply to the taking of breath or urine specimens. The person tested shall be permitted to
29 have a physician of his or her own choosing, and at his or her own expense, administer chemical
30 tests of his or her breath, blood, and/or urine in addition to the tests administered at the direction
31 of a law enforcement officer. If a person, having been placed under arrest, refuses upon the
32 request of a law enforcement officer to submit to the tests, as provided in § 31-27-2, none shall be
33 given, but a judge or magistrate of the traffic tribunal or district court judge or magistrate, upon
34 receipt of a report of a law enforcement officer: that he or she had reasonable grounds to believe

1 the arrested person had been driving a motor vehicle within this state under the influence of
2 intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or
3 any combination of these; that the person had been informed of his or her rights in accordance
4 with § 31-27-3; that the person had been informed of the penalties incurred as a result of
5 noncompliance with this section; and that the person had refused to submit to the tests upon the
6 request of a law enforcement officer; shall promptly order that the person's operator's license or
7 privilege to operate a motor vehicle in this state be immediately suspended, however, said
8 suspension shall be subject to the hardship provisions enumerated in §31-27-2.8 ~~and that the~~
9 ~~person's license be surrendered within five (5) days of notice of suspension.~~ A traffic tribunal
10 judge or magistrate, or a district court judge or magistrate, pursuant to the terms of subsection (c)
11 of this section, shall order as follows:

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

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

28 (3) Every person convicted for a third or subsequent violation within a five-year (5)
29 period shall be guilty of a misdemeanor; and shall be imprisoned for not more than one year;
30 fined eight hundred dollars (\$800) to one thousand dollars (\$1,000); shall perform not less than
31 one hundred (100) hours of public community restitution; and the person's operator's license in
32 this state shall be suspended for a period of two (2) years to five (5) years. The sentencing judge
33 or magistrate shall prohibit that person from operating a motor vehicle that is not equipped with
34 an ignition interlock system as provided in § 31-27-2.8. The judge or magistrate shall require

1 alcohol or drug treatment for the individual. Provided, that prior to the reinstatement of a license
2 to a person charged with a third or subsequent violation within a three-year (3) period, a hearing
3 shall be held before a judge or magistrate. At the hearing, the judge or magistrate shall review the
4 person's driving record, his or her employment history, family background, and any other
5 pertinent factors that would indicate that the person has demonstrated behavior that warrants the
6 reinstatement of his or her license.

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

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

13 (6) In addition to any other fines and highway safety assessments, a two hundred dollar
14 (\$200) assessment shall be paid by any person found in violation of this section to support the
15 department of health's chemical testing programs outlined in § 31-27-2(4), that shall be deposited
16 as general revenues, not restricted receipts.

17 (7) No fines, suspensions, assessments, alcohol or drug treatment programs; course on
18 driving while intoxicated or under the influence of a controlled substance; or public community
19 restitution provided for under this section; can be suspended.

20 (c) Upon suspending or refusing to issue a license or permit as provided in subsection (a)
21 of this section, the traffic tribunal or district court shall immediately notify the person involved in
22 writing, and upon his or her request, within fifteen (15) days, shall afford the person an
23 opportunity for a hearing as early as practical upon receipt of a request in writing. Upon a
24 hearing, the judge may administer oaths and may issue subpoenas for the attendance of witnesses
25 and the production of relevant books and papers. If the judge finds after the hearing that: (1) The
26 law enforcement officer making the sworn report had reasonable grounds to believe that the
27 arrested person had been driving a motor vehicle within this state while under the influence of
28 intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or
29 any combination of these; (2) The person, while under arrest, refused to submit to the tests upon
30 the request of a law enforcement officer; (3) The person had been informed of his or her rights in
31 accordance with § 31-27-3; and (4) The person had been informed of the penalties incurred as a
32 result of noncompliance with this section; the judge shall sustain the violation. The judge shall
33 then impose the penalties set forth in subsection (b) of this section. Action by the judge must be
34 taken within seven (7) days after the hearing or it shall be presumed that the judge has refused to

1 issue his or her order of suspension.

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

5 (e) If any provision of this section, or the application of any provision, shall, for any
6 reason, be judged invalid, the judgment shall not affect, impair, or invalidate the remainder of the
7 section, but shall be confined in this effect to the provisions or application directly involved in the
8 controversy giving rise to the judgment.

9 **31-27-2.8. Ignition interlock system imposed as part of sentence -- Requirements. --**

10 (a) Any person convicted under the provisions of § 31-27-2(d)1, 2 or 3 (1)(i) or (ii), or whose
11 violation is sustained under the provisions of § 31-27-2.1(b)(1), may be prohibited by the
12 sentencing judge or magistrate from operating a motor vehicle that is not equipped with an
13 ignition interlock system.

14 (b) Notwithstanding any other provisions contained in this chapter, after a finding of
15 eligibility, any mandatory period of license suspension ~~may~~ shall, upon request be reduced by the
16 imposition of an ignition interlock system ordered by the court or traffic tribunal as follows:

17 (1) For a violation of § 31-27-2(d)(1), a person shall be subject to a minimum thirty-day
18 (30) license suspension and an imposition of an ignition interlock system for three (3) months to
19 one year.

20 (2) For a violation of § 31-27-2.1(b)(1), a person shall be subject to a minimum thirty-
21 day (30) license suspension and an imposition of an ignition interlock system for a period of six
22 (6) months to two (2) years.

23 (3) For a violation of § 31-27-2(d)(2), a person shall be subject to a minimum forty-five-
24 day (45) license suspension and an imposition of an ignition interlock system for a period of six
25 (6) months to two (2) years.

26 (4) For a violation of § 31-27-2.1(b)(2), a person shall be subject to a minimum sixty-day
27 (60) license suspension and an imposition of an ignition interlock system for a period of one to
28 four (4) years.

29 (5) For a violation of § 31-27-2(d)(3), a person shall be subject to a minimum sixty-day
30 (60) license suspension and imposition of an ignition interlock system for a period of one to four
31 (4) years.

32 (6) For a violation of § 31-27-2.1(b)(3), a person shall be subject to a minimum ninety-
33 day (90) license suspension and imposition of an ignition interlock system for a period of two (2)
34 to ten (10) years.

1 (7) In any case where a person is convicted of a first offense under the provisions of §
2 31-27-2(d)(1), ~~or a second offense under the provisions of § 31-27-2(d)(2)~~, or under § 31-27-
3 2.1(b)(1), the sentencing judge or magistrate ~~may~~ shall, upon request grant the person a
4 conditional hardship license ~~during the period of license suspension.~~ immediately upon a plea or
5 admission of guilt, or an initial suspension under §31-27-2.1(b), and after a finding of need under
6 this section; provided, however, that in a case where a conditional hardship license shall be
7 granted by the sentencing judge or magistrate upon an initial suspension under §31-27-2.1(b) and
8 prior to the installation of an ignition interlock device, said hardship license shall be issued to the
9 motorist upon proof of installation of an ignition interlock device. However, in any case where a
10 motorist has a prior alcohol related offense or a prior reckless driving conviction under §31-27-4
11 or reckless eluding conviction under §31-27-4.1 within the prior ten (10) years of the offense, or
12 when the instant offense involves a motor vehicle accident, the judge or magistrate may exercise
13 their discretion in the granting of the hardship license by imposing up to a ninety (90) day loss of
14 license prior to any imposition of the hardship license. If the instant matter involves a blood
15 alcohol level of fifteen hundredths (.15) BAC or above, the judge or magistrate may exercise their
16 discretion in the granting of the hardship license by imposing up to a six (6) month loss of license
17 prior to any imposition of the hardship license. Said hardship license shall be valid only for
18 twelve (12) hours per day to get to and from employment, necessary medical appointments, job
19 training, schooling, or any other valid reason approved in advance by the sentencing judge or
20 magistrate. A hardship license shall only be granted in conjunction with the installation of an
21 ignition interlock device. Any conditional driving privileges must be set by the sentencing judge
22 or magistrate after a hearing in which the motorist must provide proof of employment status and
23 hours of employment- , or any other legitimate reasons justifying a hardship license. These shall
24 include, but not be limited to, any unemployment training, schooling, medical appointments,
25 therapy treatments, or any other valid requests set forth by sworn affidavit. Once said hardship
26 period has concluded, the motorist must still be subject to the conditions of the ignition interlock
27 system as set forth under this section for the period of time as directed by the court. Any
28 individual who violates the requirements of this subsection shall be subject to the penalties
29 enumerated in § ~~31-27-18.1~~ 31-11-18.1.

30 (c) Any person convicted of an offense of driving under the influence of liquor or drugs
31 resulting in death, § 31-27-2.2; driving under the influence of liquor or drugs resulting in serious
32 bodily injury, § 31-27-2.6; driving to endanger resulting in death, § 31-27-1; or driving to
33 endanger resulting in serious bodily injury, § 31-27-1.1; may, in addition to any other penalties
34 provided by law, be prohibited from operating a motor vehicle that is not equipped with an

1 approved ignition interlock system for one to five (5) years.

2 (d) Any person who operates a motor vehicle with a suspended license during the period
3 of suspension and the reason for the suspension was due to a conviction of driving under the
4 influence of drugs or alcohol or a sustained violation or conviction of refusal to submit to a
5 chemical test, shall be subject ~~to the imposition of an ignition interlock system for six (6) months~~
6 ~~to be ordered by the court or the traffic tribunal~~ to the further use of the ignition interlock system
7 for a period of six (6) months subsequent to the penalties enumerated in §31-11-18.1.

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

11 (f) In addition to the requirements of subsection (e) of this section, the court or traffic
12 tribunal shall:

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

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

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

22 (4) The requirements under subsection (f) of this section shall be the responsibility of the
23 probation department or justice assistance, if the individual is under their control, or the division
24 of motor vehicles if the individual is not monitored as a condition of the individual's plea or
25 finding of guilt.

26 (g) If a person is required, in the course of the person's employment, to operate a motor
27 vehicle owned or provided by the person's employer, the person may operate that motor vehicle
28 in the course of the person's employment without installation of an ignition interlock system if the
29 court makes specific findings expressly permitting the person to operate, in the course of the
30 person's employment, a motor vehicle that is not equipped with an ignition interlock system.

31 (h) Any person subject to an ignition interlock order who violates such order shall be
32 guilty of a misdemeanor punishable by up to one year imprisonment, or a fine of up to one
33 thousand dollars (\$1,000), or both. For the purposes of this subsection, a violation of the interlock
34 order, includes, but is not limited to:

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

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

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

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

15 SECTION 2. Section 31-49-3 of the General Laws in Chapter 31-49 entitled "Ignition
16 Interlock Systems" is hereby amended to read as follows:

17 **31-49-3. Rules and regulations.** -- (a) The rules and regulations adopted pursuant to §
18 31-49-2 shall include requirements that ignition interlock systems:

19 (1) Do not impede the safe operation of the vehicle;

20 (2) Minimize opportunities to be bypassed;

21 (3) Correlate accurately with established measures of blood alcohol levels;

22 (4) Work accurately and reliably in an unsupervised environment;

23 (5) Require a proper and accurate measure of blood alcohol levels;

24 (6) Resist tampering and provide evidence of attempted tampering;

25 (7) Are difficult to circumvent, and require premeditation to circumvent;

26 (8) Minimize inconvenience to a sober user;

27 (9) Are manufactured by a party responsible for installation, user training, service, and
28 maintenance;

29 (10) Operate reliably over the range of motor vehicle environments or motor vehicle
30 manufacturing standards;

31 (11) Are manufactured by a person who is adequately insured for products liability; and

32 (12) Provide the option for an electronic log of the driver's experience with the system.

33 (b) ~~Prior to the reinstatement of an unrestricted license, the~~ Upon the expiration of the
34 interlock order by the court, the division of motor vehicles shall review the person's ~~driving~~

1 ~~record and~~ compliance with the ignition interlock order to ensure that the person has fulfilled the
2 specific requirements as set forth by the sentencing judge or magistrate. Upon verification that
3 said conditions have been satisfied, a motorist's license shall be reinstated. ~~demonstrated behavior~~
4 ~~that warrants the reinstatement of his or her license.~~

5 SECTION 3. This act shall take effect upon passage.

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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 extend the time for arresting police departments to provide a copy of a
2 chemical or blood test relative to charges of driving under the influence and would require a
3 judge or magistrate to immediately grant a hardship license upon a finding or admission of guilt
4 to driving under the influence or refusal to submit to a breathalyzer or other chemical test, subject
5 to a finding of need. A finding of need can be based on employment, job training, medical
6 appointments, schooling or other reason determined to be valid by the court. Under some
7 circumstances, a judge or magistrate may order a suspension of the offender's license prior to the
8 imposition of a hardship license.

9 This act would take effect upon passage.

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