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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: Senators Archambault, Lombardi, Ruggerio, McCaffrey, and Jabour

Date Introduced: February 10, 2016

Referred To: Senate 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 five (5) business days of the taking of the test, or hand-delivered at the police station
14 accompanied by a receipt by the arresting police department to the person submitting to a breath
15 test.

16 (3) Any person submitting to a chemical test of blood, urine, or other body fluids shall
17 have a true copy of the report of the test result mailed to him or her ~~within thirty (30) days~~
18 following the taking of the test and its receipt by the arresting police department.

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

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

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

33 (d) (1) (i) Every person found to have violated subdivision (b)(1) of this section shall be
34 sentenced as follows: for a first violation whose blood alcohol concentration is eight one-

1 hundredths of one percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who
2 has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2), shall
3 be subject to a fine of not less than one hundred dollars (\$100) nor more than three hundred
4 dollars (\$300); shall be required to perform ten (10) to sixty (60) hours of public community
5 restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit
6 of the adult correctional institutions in the discretion of the sentencing judge and/or shall be
7 required to attend a special course on driving while intoxicated or under the influence of a
8 controlled substance; provided, however, that the court may permit a servicemember or veteran to
9 complete any court-approved counseling program administered or approved by the Veterans'
10 Administration, and his or her driver's license shall be suspended for thirty (30) days up to one
11 hundred eighty (180) days. The sentencing judge or magistrate may prohibit that person from
12 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §
13 31-27-2.8.

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

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

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

7 (2) (i) Every person convicted of a second violation within a five-year (5) period with a
8 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than
9 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or
10 who has a blood presence of any controlled substance as defined in subdivision (b)(2), and every
11 person convicted of a second violation within a five-year (5) period, regardless of whether the
12 prior violation and subsequent conviction was a violation and subsequent conviction under this
13 statute or under the driving under the influence of liquor or drugs statute of any other state, shall
14 be subject to a mandatory fine of four hundred dollars (\$400). The person's driving license shall
15 be suspended for a period of one year to two (2) years, and the individual shall be sentenced to
16 not less than ten (10) days, nor more than one year, in jail. The sentence may be served in any
17 unit of the adult correctional institutions in the discretion of the sentencing judge; however, not
18 less than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing
19 judge shall require alcohol or drug treatment for the individual; provided, however, that the court
20 may permit a servicemember or veteran to complete any court-approved counseling program
21 administered or approved by the Veterans' Administration and shall prohibit that person from
22 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §
23 31-27-2.8.

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

1 not equipped with an ignition interlock system as provided in § 31-27-2.8

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

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

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

1 to the general fund.

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

14 (5) (i) For purposes of determining the period of license suspension, a prior violation
15 shall constitute any charge brought and sustained under the provisions of this section or § 31-27-
16 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, may be sentenced to a term of imprisonment of not
21 more than one year, and further, shall not be entitled to the benefit of suspension or deferment of
22 this sentence. The sentence imposed under this section may be served in any unit of the adult
23 correctional institutions in the discretion of the sentencing judge.

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

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

30 (7) (i) If the person convicted of violating this section is under the age of eighteen (18)
31 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of
32 public community restitution and the juvenile's driving license shall be suspended for a period of
33 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing
34 judge shall also require attendance at a special course on driving while intoxicated or under the

1 influence of a controlled substance and alcohol or drug education and/or treatment for the
2 juvenile. The juvenile may also be required to pay a highway assessment fine of no more than
3 five hundred dollars (\$500) and the assessment imposed shall be deposited into the general fund.

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

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

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

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

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

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

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

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

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

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

27 (j) An order to attend a special course on driving while intoxicated that shall be
28 administered in cooperation with a college or university accredited by the state, shall include a
29 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars
30 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into
31 the general fund.

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

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

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

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

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

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

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

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

30 (3) Every person convicted for a third or subsequent violation within a five-year (5)
31 period shall be guilty of a misdemeanor; and shall be imprisoned for not more than one year;
32 fined eight hundred dollars (\$800) to one thousand dollars (\$1,000); shall perform not less than
33 one hundred (100) hours of public community restitution; and the person's operator's license in
34 this state shall be suspended for a period of two (2) years to five (5) years. The sentencing judge

1 or magistrate shall prohibit that person from operating a motor vehicle that is not equipped with
2 an ignition interlock system as provided in § 31-27-2.8. The judge or magistrate shall require
3 alcohol or drug treatment for the individual. Provided, that prior to the reinstatement of a license
4 to a person charged with a third or subsequent violation within a three-year (3) period, a hearing
5 shall be held before a judge or magistrate. At the hearing, the judge or magistrate shall review the
6 person's driving record, his or her employment history, family background, and any other
7 pertinent factors that would indicate that the person has demonstrated behavior that warrants the
8 reinstatement of his or her license.

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

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

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

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

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

1 then impose the penalties set forth in subsection (b) of this section. Action by the judge must be
2 taken within seven (7) days after the hearing or it shall be presumed that the judge has refused to
3 issue his or her order of suspension.

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

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

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

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

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

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

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

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

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

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

34 (6) For a violation of § 31-27-2.1(b)(3), a person shall be subject to a minimum ninety-

1 day (90) license suspension and imposition of an ignition interlock system for a period of two (2)
2 to ten (10) years.

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

28 (c) Any person convicted of an offense of driving under the influence of liquor or drugs
29 resulting in death, § 31-27-2.2; driving under the influence of liquor or drugs resulting in serious
30 bodily injury, § 31-27-2.6; driving to endanger resulting in death, § 31-27-1; or driving to
31 endanger resulting in serious bodily injury, § 31-27-1.1; may, in addition to any other penalties
32 provided by law, be prohibited from operating a motor vehicle that is not equipped with an
33 approved ignition interlock system for one to five (5) years.

34 (d) Any person who operates a motor vehicle with a suspended license during the period

1 [of suspension](#) and the reason for the suspension was due to a conviction of driving under the
2 influence of drugs or alcohol or a sustained violation or conviction of refusal to submit to a
3 chemical test, shall be subject ~~to the imposition of an ignition interlock system for six (6) months~~
4 ~~to be ordered by the court or the traffic tribunal~~ [to the further use of the ignition interlock system](#)
5 [for a period of six \(6\) months subsequent to the penalties enumerated in §31-11-18.1.](#)

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

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

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

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

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

20 [\(4\) The requirements under subsection \(f\) of this section shall be the responsibility of the](#)
21 [probation department or justice assistance, if the individual is under their control, or the division](#)
22 [of motor vehicles if the individual is not monitored as a condition of the individual's plea or](#)
23 [finding of guilt.](#)

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

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

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

1 section;

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

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

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

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

15 **31-49-3. Rules and regulations.** -- (a) The rules and regulations adopted pursuant to §
16 31-49-2 shall include requirements that ignition interlock systems:

- 17 (1) Do not impede the safe operation of the vehicle;
- 18 (2) Minimize opportunities to be bypassed;
- 19 (3) Correlate accurately with established measures of blood alcohol levels;
- 20 (4) Work accurately and reliably in an unsupervised environment;
- 21 (5) Require a proper and accurate measure of blood alcohol levels;
- 22 (6) Resist tampering and provide evidence of attempted tampering;
- 23 (7) Are difficult to circumvent, and require premeditation to circumvent;
- 24 (8) Minimize inconvenience to a sober user;
- 25 (9) Are manufactured by a party responsible for installation, user training, service, and
26 maintenance;
- 27 (10) Operate reliably over the range of motor vehicle environments or motor vehicle
28 manufacturing standards;
- 29 (11) Are manufactured by a person who is adequately insured for products liability; and
- 30 (12) Provide the option for an electronic log of the driver's experience with the system.

31 (b) ~~Prior to the reinstatement of an unrestricted license, the~~ Upon the expiration of the
32 interlock order by the court, the division of motor vehicles shall review the person's ~~driving~~
33 ~~record and~~ compliance with the ignition interlock order to ensure that the person has fulfilled the
34 specific requirements as set forth by the sentencing judge or magistrate. Upon verification that

1 said conditions have been satisfied, a motorist's license shall be reinstated. ~~demonstrated behavior~~
2 ~~that warrants the reinstatement of his or her license.~~

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

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LC004261
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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 require a judge or magistrate to grant a hardship license immediately upon
2 the finding or admission of guilt to driving under the influence or refusal to submit to a chemical
3 test, subject to a finding of need.

4 This act would take effect upon passage.

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LC004261
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