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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

Introduced By: Senators Archambault, Ruggerio, Euer, Lombardi, and McCaffrey

Date Introduced: June 13, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (ii) Any person over the age of eighteen (18) who is convicted under this section for
3 operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of
4 these, while a child under the age of thirteen (13) years was present as a passenger in the motor
5 vehicle when the offense was committed shall be subject to immediate license suspension
6 pending prosecution. Any person convicted of violating this section shall be guilty of a
7 misdemeanor for a first offense and may be sentenced to a term of imprisonment of not more than
8 one year and a fine not to exceed one thousand dollars (\$1,000). Any person convicted of a
9 second or subsequent offense shall be guilty of a felony offense and may be sentenced to a term
10 of imprisonment of not more than five (5) years and a fine not to exceed five thousand dollars
11 (\$5,000). The sentencing judge shall also order a license suspension of up to two (2) years,
12 require attendance at a special course on driving while intoxicated or under the influence of a
13 controlled substance, and alcohol or drug education and/or treatment. The individual may also be
14 required to pay a highway assessment fee of no more than five hundred dollars (\$500) and the
15 assessment shall be deposited in the general fund.

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

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

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

30 (ii) If the person convicted of violating this section is under the age of eighteen (18)
31 years, for a second or subsequent violation regardless of whether any prior violation and
32 subsequent conviction was a violation and subsequent under this statute or under the driving
33 under the influence of liquor or drugs statute of any other state, he or she shall be subject to a
34 mandatory suspension of his or her driving license until such time as he or she is twenty-one (21)

1 years of age and may, in the discretion of the sentencing judge, also be sentenced to the Rhode
2 Island training school for a period of not more than one year and/or a fine of not more than five
3 hundred dollars (\$500).

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

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

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

23 (2) Persons convicted under the provisions of this chapter shall be required to attend a
24 special course on driving while intoxicated or under the influence of a controlled substance,
25 and/or participate in an alcohol or drug treatment program; provided, however, that the court may
26 permit a servicemember or veteran to complete any court-approved counseling program
27 administered or approved by the Veterans' Administration. The course shall take into
28 consideration any language barrier that may exist as to any person ordered to attend, and shall
29 provide for instruction reasonably calculated to communicate the purposes of the course in
30 accordance with the requirements of the subsection. Any costs reasonably incurred in connection
31 with the provision of this accommodation shall be borne by the person being retrained. A copy of
32 any violation under this section shall be forwarded by the court to the alcohol and drug safety
33 unit. In the event that persons convicted under the provisions of this chapter fail to attend and
34 complete the above course or treatment program, as ordered by the judge, then the person may be

1 brought before the court, and after a hearing as to why the order of the court was not followed,
2 may be sentenced to jail for a period not exceeding one year.

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

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

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

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

20 (j) An order to attend a special course on driving while intoxicated that shall be
21 administered in cooperation with a college or university accredited by the state, shall include a
22 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars
23 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into
24 the general fund.

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

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

32 (m) For the purposes of this section, "servicemember" means a person who is presently
33 serving in the armed forces of the United States, including the Coast Guard, a reserve component
34 thereof, or the National Guard. "Veteran" means a person who has served in the armed forces,

1 including the Coast Guard of the United States, a reserve component thereof, or the National
2 Guard, and has been discharged under other than dishonorable conditions.

3 **31-27-2.1. Refusal to submit to chemical test.**

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

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

1 ~~noncompliance with this section; and that the person had refused to submit to the tests upon the~~
2 ~~request of a law enforcement officer; shall promptly order that the person's operator's license or~~
3 ~~privilege to operate a motor vehicle in this state be immediately suspended, however, said~~
4 ~~suspension shall be subject to the hardship provisions enumerated in § 31-27-2.8.~~

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

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

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

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

31 (2) Every person convicted of a second violation within a five-year (5) period, except
32 with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall
33 be imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred
34 dollars (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of

1 public community restitution; and the person's driving license in this state shall be suspended for
2 a period of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug
3 treatment for the individual. The sentencing judge or magistrate shall prohibit that person from
4 operating a motor vehicle that is not equipped with an ignition interlock system [and/or blood and](#)
5 [urine testing](#) as provided in § 31-27-2.8.

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

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

28 (5) For a third or subsequent violation within a five-year (5) period with respect to a case
29 of a refusal to submit to a blood test, a fine in the amount of eight hundred dollars (\$800) to one
30 thousand dollars (\$1,000); the person shall perform not less than one hundred (100) hours of
31 public community restitution; and the person's driving license in this state shall be suspended for
32 a period of two (2) to five (5) years. The sentencing judicial officer shall prohibit that person from
33 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §
34 31-27-2.8. The judicial officer shall require alcohol and/or drug treatment for the individual. Such

1 a violation with respect to refusal to submit to a chemical test of blood shall be a civil offense.
2 Provided, that prior to the reinstatement of a license to a person charged with a third or
3 subsequent violation within a three-year (3) period, a hearing shall be held before a judicial
4 officer. At the hearing, the judicial officer shall review the person's driving record, his or her
5 employment history, family background, and any other pertinent factors that would indicate that
6 the person has demonstrated behavior that warrants the reinstatement of their license.

7 (6) 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 (7) 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 (8) 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)~~ §§ 31-27-2(f) and 31-
16 27-2(g), that shall be deposited as general revenues, not restricted receipts.

17 (9) 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 (10) Implied consent notice for persons eighteen (18) years of age or older: "Rhode
21 Island law requires you to submit to a chemical test of your blood, breath, or urine for the purpose
22 of determining the chemical content of your body fluids or breath. If you refuse this testing,
23 certain penalties can be imposed and include the following: for a first offense your Rhode Island
24 driver's license or privilege to operate a motor vehicle in this state can be suspended for six (6)
25 months to one year or modified to permit operation in connection with an ignition interlock
26 device for a period specified by law, a fine from two hundred dollars (\$200) to five hundred
27 dollars (\$500) can be imposed, and you can be ordered to perform ten (10) to sixty (60) hours of
28 community service and attend a special course on driving while intoxicated or under the influence
29 of a controlled substance and/or alcohol or drug treatment. If you have had one or more previous
30 offenses within the past five (5) years, your refusal to submit to a chemical test of breath or urine
31 at this time can have criminal penalties, including incarceration up to six (6) months for a second
32 offense and up to one year for a third or subsequent offense, and can carry increased license
33 suspension or ignition interlock period, fines and community service. All violators shall pay a
34 five hundred dollar (\$500) highway safety assessment fee, a two hundred dollar (\$200)

1 department of health chemical testing programs assessment fee, and a license reinstatement fee. If
2 you refuse to submit to a chemical test, you will be required to maintain proof of financial
3 responsibility for three (3) years and all Rhode Island registrations in your name may be
4 suspended unless proof of financial responsibility is provided for such vehicles. Refusal to submit
5 to a chemical test of blood shall not subject you to criminal penalties for the refusal itself, but if
6 you have one or more previous offenses other civil penalties may increase. You have the right to
7 be examined at your own expense by a physician selected by you. If you submit to a chemical test
8 at this time, you have the right to have an additional chemical test performed at your own
9 expense. You will be afforded a reasonable opportunity to exercise these rights. Access to a
10 telephone will be made available for you to make those arrangements. You may now use a
11 telephone."

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

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

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

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

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

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

33 ~~(d)~~(e) For the purposes of this section, any test of a sample of blood, breath, or urine for
34 the presence of alcohol that relies, in whole or in part, upon the principle of infrared light

1 absorption is considered a chemical test.

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

6 **31-27-2.5. Chemical tests to persons under eighteen (18) years of age -- Refusal --**
7 **License suspension.**

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

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

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

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

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

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

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

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

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

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

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

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

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

28 "Rhode Island law requires you to submit to a chemical test of your blood, breath, or
29 urine for the purpose of determining the chemical content of your body fluids or breath. If you
30 refuse this testing, certain penalties can be imposed. These penalties include the following: your
31 Rhode Island driver's license or privilege to operate a motor vehicle in this state can be suspended
32 for six (6) months or modified to permit operation in connection with an ignition interlock device
33 for a period specified by law, a fine from two hundred dollars (\$200) to five hundred dollars
34 (\$500) can be imposed, and you can be ordered to perform ten (10) to sixty (60) hours of

1 community service and attend a special course on driving while intoxicated or under the influence
2 of a controlled substance and/or alcohol or drug treatment. If you have had one or more previous
3 offenses within the past five (5) years, your loss or modification of license, fine and community
4 service sanctions can increase over those provided for a first offense. All violators shall pay a five
5 hundred dollar (\$500) highway safety assessment fee, a two hundred dollar (\$200) department of
6 health chemical testing programs fee, and a license reinstatement fee. If you refuse to submit to a
7 chemical test, you will be required to maintain proof of financial responsibility for three (3) years.
8 Refusal to submit to a chemical test shall not be considered a criminal offense. You have the right
9 to be examined at your own expense by a physician selected by you. If you submit to a chemical
10 test at this time, you have the right to have an additional chemical test performed at your own
11 expense. You will be afforded a reasonable opportunity to exercise these rights. Access to a
12 telephone will be made available for you to make those arrangements. You may now use the
13 telephone."

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

17 **31-27-2.8. Ignition interlock system imposed as part of sentence --- Requirements**
18 **Ignition interlock system and/or blood and urine testing imposed as a part of sentence --**
19 **Requirements.**

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

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

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

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

13 (b) Notwithstanding any other provisions contained in this chapter, ~~after a finding of~~
14 ~~eligibility~~, any mandatory period of license suspension shall, upon request, be reduced by the
15 imposition of an ignition interlock system and/or blood and urine testing ordered by the court or
16 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 and/or blood and urine
19 testing for three (3) months to one year.

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

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

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

1 (7) ~~In any case where a person is convicted of a first offense under the provisions of § 31-~~
2 ~~27-2(d)(1) or under § 31-27-2.1(b)(1), the sentencing judge or magistrate shall, upon request,~~
3 ~~grant the person a conditional hardship license immediately upon a plea or admission of guilt, or~~
4 ~~an initial suspension under § 31-27-2.1(b), and after a finding of need under this section;~~
5 ~~provided, however, that in a case where a conditional hardship license shall be granted by the~~
6 ~~sentencing judge or magistrate upon an initial suspension under § 31-27-2.1(b) and prior to the~~
7 ~~installation of an ignition interlock device, said hardship license shall be issued to the motorist~~
8 ~~upon proof of installation of an ignition interlock device. No license suspension shall be subject~~
9 ~~to more than a thirty (30) day license suspension based solely upon the imposition of an ignition~~
10 ~~interlock system.~~

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

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

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

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

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

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

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

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

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

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

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

28 (c) However, in any case where a motorist ~~has a prior~~ is convicted of an alcohol-related
29 offense pursuant to the provisions of this chapter ~~or a prior reckless driving conviction under §~~
30 ~~31-27-4 or reckless eluding conviction under § 31-27-4.1, within the prior ten (10) years of the~~
31 ~~offense, or when the instant offense involves a motor vehicle accident,~~ the judge or magistrate
32 may exercise their discretion in the granting of the hardship license by imposing up to a ninety
33 (90) day loss of license prior to any imposition of the hardship license. ~~If the instant matter~~
34 ~~involves a blood alcohol level of fifteen hundredths (.15) BAC or above, the judge or magistrate~~

1 ~~may exercise his or her discretion in the granting of the hardship license by imposing up to a six~~
2 ~~(6) month loss of license prior to any imposition of the hardship license.~~ Said hardship license
3 shall be valid ~~only~~ for twelve (12) continuous hours per day ~~to get to and from employment,~~
4 ~~necessary medical appointments, job training, schooling, or~~ for any ~~other~~ valid reason approved
5 in advance by the sentencing judge or magistrate, which shall include employment, medical
6 appointments, job training, schooling or for religious purposes. The hardship license shall not be
7 for less than twelve (12) continuous hours per day. A hardship license shall only be granted in
8 conjunction with the installation of an ignition interlock device and/or blood and urine testing.
9 Any conditional driving privileges must be set by the sentencing judge or magistrate after a
10 hearing in which the motorist must provide proof of employment status and hours of
11 employment, or any other legitimate reasons justifying a hardship license. These shall include,
12 but not be limited to, any unemployment training, schooling, medical appointments, therapy
13 treatments, or any other valid requests set forth by sworn affidavit. Once said hardship period has
14 concluded, the motorist must still be subject to the conditions of the ignition interlock system
15 and/or blood and urine testing as set forth under this section for the period of time as directed by
16 the court. Any individual who violates the requirements of this subsection shall be subject to the
17 penalties enumerated in § 31-11-18.1.

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

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

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

33 ~~(f)~~(g) In addition to the requirements of subsection ~~(e)~~ (f) of this section, the court or
34 traffic tribunal shall:

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

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

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

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

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

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

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

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

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

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

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

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

5 ~~(3)~~(1) Any person who attempts to start, or starts, a motor vehicle equipped with an
6 ignition interlock system, tampers with, or in any way attempts to circumvent, the operation of an
7 ignition interlock system that has been installed in the motor vehicle for the purpose of providing
8 an operable motor vehicle to a person who is prohibited from operating a motor vehicle that is not
9 equipped with an ignition interlock system, shall be guilty of a misdemeanor punishable by up to
10 one year imprisonment or a fine of up to one thousand dollars (\$1,000), or both.

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

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LC002815
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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 grant a judge or magistrate the discretion to impose the requirement of
2 blood and/or urine testing or the use of the ignition interlock system or both upon those persons
3 seeking the issuance of a conditional hardship license after conviction of driving under the
4 influence of alcohol or illegal substances or the refusal to submit to a chemical test. It would also
5 require any person accused of driving under the influence, refusal to take a chemical test, be
6 given notice of the implied consent law and would permit the hand delivery of test results at the
7 location of the test.

8 This act would take effect upon passage.

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LC002815
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