

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

Introduced By: Senators LaMountain, Burke, McKenney, and Acosta

Date Introduced: March 07, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 31-27-2.8 of the General Laws in Chapter 31-27 entitled "Motor
2 Vehicle Offenses" is hereby amended to read as follows:

3 **31-27-2.8. Ignition interlock system and/or blood and urine testing imposed as a part**
4 **of sentence — Requirements.**

5 (a) Any person subject to suspension pursuant to §§ 31-27-2.1(b)(1) and 31-27-2.1(b)(2)
6 or convicted under the provisions of § 31-27-2(d)(1), § 31-27-2(d)(2), § 31-27-2(d)(3)(i), or § 31-
7 27-2(d)(3)(ii), or whose violation is sustained under the provisions of §§ 31-27-2.1(b)(1) and 31-
8 27-2.1(b)(2), may be prohibited by the sentencing judge or magistrate from operating a motor
9 vehicle that is not equipped with an ignition interlock system, and/or blood and urine testing by a
10 licensed physician with knowledge and clinical experience in the diagnosis and treatment of drug-
11 related disorders, a licensed or certified psychologist, social worker, or EAP professional with like
12 knowledge, or a substance abuse counselor certified by the National Association of Alcohol and
13 Drug Abuse Counselors (all of whom shall be licensed in Rhode Island), pursuant to this section.

14 (1) Notwithstanding any other sentencing and disposition provisions contained in this
15 chapter, if a Rhode Island traffic tribunal magistrate makes a finding that a motorist was operating
16 a vehicle in the state while under the influence of drugs, toluene, or any controlled substance as
17 evidenced by the presence of controlled substances on or about the person or vehicle, or other
18 reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a preliminary
19 breath test, results from a breathalyzer that indicates no blood alcohol concentration or both, the

1 magistrate may exercise his or her discretion and eliminate the requirement of an ignition interlock
2 system; provided, that blood and/or urine testing is mandated as a condition to operating a motor
3 vehicle as provided in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (E) A positive test of urine or blood that evidences any controlled substances shall be
34 reported by the substance abuse professional to the motorist and to the department of the attorney

1 general within twenty-four (24) hours of receipt of the results. The motorist may, at his or her own
2 expense, have an opportunity to have the sample retested or reevaluated by an independent testing
3 facility which shall provide the result directly to the substance abuse professional. The attorney
4 general may request, at any time, a copy of any or all test results from the substance abuse
5 professional, who shall forward the requested results within forty-eight (48) hours.

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

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

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

18 (c) However, in any case where a motorist is convicted of an alcohol-related offense
19 pursuant to the provisions of this chapter, the judge or magistrate may exercise his or her discretion
20 in the granting of the hardship license by imposing up to a ninety (90) day loss of license prior to
21 any imposition of the hardship license. The hardship license shall be valid for twelve (12)
22 continuous hours per day for any valid reason approved in advance by the sentencing judge or
23 magistrate, which shall include employment, medical appointments, job training, schooling, or
24 religious purposes. The hardship license shall not be for less than twelve (12) continuous hours per
25 day. A hardship license shall only be granted in conjunction with the installation of an ignition
26 interlock device and/or blood and urine testing. Any conditional driving privileges must be set by
27 the sentencing judge or magistrate after a hearing in which the motorist must provide proof of
28 employment status and hours of employment, or any other legitimate reasons justifying a hardship
29 license. These shall include, but not be limited to, any unemployment training, schooling, medical
30 appointments, therapy treatments, or any other valid requests set forth by sworn affidavit. Once
31 said hardship period has concluded, the motorist must still be subject to the conditions of the
32 ignition interlock system and/or blood and urine testing as set forth under this section for the period
33 of time as directed by the court. Any individual who violates the requirements of this subsection
34 shall be subject to the penalties enumerated in § 31-11-18.1.

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

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

12 (f) When the court orders the use of an ignition interlock system, the judge or magistrate
13 shall cause an appropriate notation to be made on the person's record that clearly sets forth the
14 requirement for, and the period of the use of, the ignition interlock system; provided, however, the
15 division of motor vehicles, shall not, in conjunction with the installation of an ignition interlock
16 system and reinstatement of an operators' license, produce, file, submit, send notices or maintain
17 notices, in its database of pre-suspension of the person's license for failure to pay fines, failure to
18 pay for alcohol education classes, failure to engage in counseling, failure to complete community
19 service or for any other reason unless the time period for completion of any of the conditions has
20 passed. The division of motor vehicles, may, but shall not be required to, send out notices
21 containing a schedule of payments and conditions and when each must be completed. If, upon those
22 completion dates, then the division has the authority to send suspension notices to the operator.

23 (g) In addition to the requirements of subsection (f) of this section, the court or traffic
24 tribunal shall:

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

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

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

33 (4) The requirements under subsection (g) of this section shall be the responsibility of the
34 probation department or justice assistance, if the individual is under their control, or the division of

1 motor vehicles if the individual is not monitored as a condition of the individual's plea or finding
2 of guilt.

3 (h) Any person granted a conditional hardship license upon proof of installation of an
4 ignition interlock device, may operate that motor vehicle during the entire twelve-hour (12) period
5 of operation granted by the sentencing judge or magistrate including during the scope of the
6 person's employment and/or any other valid reason approved by the sentencing judge or magistrate.

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

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

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

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

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

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

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

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

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

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

1 This act would prohibit the division of motor vehicles, in conjunction with the installation
2 of an ignition interlock system and reinstatement of an operators' license, to generate or maintain
3 a notice of pre-suspension of the person's license for failure to satisfy any condition, or penalty
4 imposed for an alcohol related event until the time frame for completion has passed.

5 This act would take effect upon passage.

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