

2019 -- S 0970 SUBSTITUTE A

LC002815/SUB A

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

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

1 ~~provided in subsection (d).~~

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

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

11 (2) A true copy of the report of the test result was [hand delivered at the location of the](#)
12 [test or](#) mailed within seventy-two (72) hours of the taking of the test to the person submitting to a
13 breath test.

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

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

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

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

31 (d)(1)(i) Every person found to have violated subsection (b)(1) shall be sentenced as
32 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one
33 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood
34 presence of any scheduled controlled substance as defined in ~~subsection (b)(2)~~ [chapter 28 of title](#)

1 [21](#), shall be subject to a fine of not less than one hundred dollars (\$100), nor more than three
2 hundred dollars (\$300); shall be required to perform ten (10) to sixty (60) hours of public
3 community restitution, and/or shall be imprisoned for up to one year. The sentence may be served
4 in any unit of the adult correctional institutions in the discretion of the sentencing judge and/or
5 shall be required to attend a special course on driving while intoxicated or under the influence of
6 a controlled substance; provided, however, that the court may permit a servicemember or veteran
7 to complete any court-approved counseling program administered or approved by the Veterans'
8 Administration, and his or her driver's license shall be suspended for thirty (30) days up to one
9 hundred eighty (180) days. The sentencing judge or magistrate may prohibit that person from
10 operating a motor vehicle, [pursuant to §§ 31-27-2\(d\)\(9\) or 31-27-2 \(d\)\(10\)](#), that is not equipped
11 with an ignition interlock system [and/or blood and urine testing](#) as provided in § 31-27-2.8.

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

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

1 the individual; provided, however, that the court may permit a servicemember or veteran to
2 complete any court-approved counseling program administered or approved by the Veterans'
3 Administration. The sentencing judge or magistrate may prohibit that person from operating a
4 motor vehicle, pursuant to §§ 31-27-2(d)(9) or 31-27-2(d)(10), that is not equipped with an
5 ignition interlock system and/or blood and urine testing as provided in § 31-27-2.8.

6 (2)(i) Every person convicted of a second violation within a five-year (5) period with a
7 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than
8 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or
9 who has a blood presence of any controlled substance as defined in ~~subsection (b)(2)~~ chapter 28
10 of title 21, and every person convicted of a second violation within a five-year (5) period,
11 regardless of whether the prior violation and subsequent conviction was a violation and
12 subsequent conviction under this statute or under the driving under the influence of liquor or
13 drugs statute of any other state, shall be subject to a mandatory fine of four hundred dollars
14 (\$400). The person's driving license shall be suspended for a period of one year to two (2) years,
15 and the individual shall be sentenced to not less than ten (10) days, nor more than one year, in
16 jail. The sentence may be served in any unit of the adult correctional institutions in the discretion
17 of the sentencing judge; however, not less than forty-eight (48) hours of imprisonment shall be
18 served consecutively. The sentencing judge shall require alcohol or drug treatment for the
19 individual; provided, however, that the court may permit a servicemember or veteran to complete
20 any court-approved counseling program administered or approved by the Veterans'
21 Administration and shall prohibit that person from operating a motor vehicle, pursuant to §§ 31-
22 27-2(d)(9) or 31-27-2(d)(10), that is not equipped with an ignition interlock system and/or blood
23 and urine testing as provided in § 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 subsection (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 may prohibit that person from operating a motor vehicle, pursuant

1 [to §§ 31-27-2\(d\)\(9\) or 31-27-2\(d\)\(10\)](#), that is not equipped with an ignition interlock system
2 [and/or blood and urine testing](#) as provided in § 31-27-2.8.

3 (3)(i) Every person convicted of a third or subsequent violation within a five-year (5)
4 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or
5 above, but less than fifteen hundredths of one percent (.15%), or whose blood alcohol
6 concentration is unknown or who has a blood presence of any scheduled controlled substance as
7 defined in ~~subsection (b)(2)~~ [chapter 28 of title 21](#), regardless of whether any prior violation and
8 subsequent conviction was a violation and subsequent conviction under this statute or under the
9 driving under the influence of liquor or drugs statute of any other state, shall be guilty of a felony
10 and be subject to a mandatory fine of four hundred (\$400) dollars. The person's driving license
11 shall be suspended for a period of two (2) years to three (3) years, and the individual shall be
12 sentenced to not less than one year and not more than three (3) years in jail. The sentence may be
13 served in any unit of the adult correctional institutions in the discretion of the sentencing judge;
14 however, not less than forty-eight (48) hours of imprisonment shall be served consecutively. The
15 sentencing judge shall require alcohol or drug treatment for the individual; provided, however,
16 that the court may permit a servicemember or veteran to complete any court-approved counseling
17 program administered or approved by the Veterans' Administration, and shall prohibit that person
18 from operating a motor vehicle, [pursuant to §§ 31-27-2\(d\)\(9\) or 31-27-2\(d\)\(10\)](#), that is not
19 equipped with an ignition interlock system [and/or blood and urine testing](#) as provided in § 31-27-
20 2.8.

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

33 (iii) In addition to the foregoing penalties, every person convicted of a third or
34 subsequent violation within a five-year (5) period, regardless of whether any prior violation and

1 subsequent conviction was a violation and subsequent conviction under this statute or under the
2 driving under the influence of liquor or drugs statute of any other state, shall be subject, in the
3 discretion of the sentencing judge, to having the vehicle owned and operated by the violator
4 seized and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred
5 to the general fund.

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

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

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

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

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

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

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

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

34 [\(9\) Notwithstanding any other sentencing and disposition provisions contained in this](#)

1 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was
2 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
3 substance as evidenced by the presence of controlled substances on or about the person or
4 vehicle, or other reliable indicia or articulable conditions thereof, but not intoxicating liquor
5 based on a preliminary breath test, results from a breathalyzer which indicates no blood alcohol
6 concentration, or both, the judge or magistrate may exercise their discretion and eliminate the
7 requirement of an ignition interlock system; provided, that blood and/or urine testing is mandated
8 as a condition to operating a motor vehicle as provided in § 31-27-2.8.

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

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

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

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

1 unit. In the event that persons convicted under the provisions of this chapter fail to attend and
2 complete the above course or treatment program, as ordered by the judge, then the person may be
3 brought before the court, and after a hearing as to why the order of the court was not followed,
4 may be sentenced to jail for a period not exceeding one year.

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

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

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

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

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

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

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

34 (m) For the purposes of this section, "servicemember" means a person who is presently

1 serving in the armed forces of the United States, including the Coast Guard, a reserve component
2 thereof, or the National Guard. "Veteran" means a person who has served in the armed forces,
3 including the Coast Guard of the United States, a reserve component thereof, or the National
4 Guard, and has been discharged under other than dishonorable conditions.

5 **31-27-2.1. Refusal to submit to chemical test.**

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

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

1 ~~any combination of these; that the person had been informed of his or her rights in accordance~~
2 ~~with § 31-27-3; that the person had been informed of the penalties incurred as a result of~~
3 ~~noncompliance with this section; and that the person had refused to submit to the tests upon the~~
4 ~~request of a law enforcement officer; shall promptly order that the person's operator's license or~~
5 ~~privilege to operate a motor vehicle in this state be immediately suspended, however, said~~
6 ~~suspension shall be subject to the hardship provisions enumerated in § 31-27-2.8.~~

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

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

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

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

33 (2) Every person convicted of a second violation within a five-year (5) period, except
34 with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall

1 be imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred
2 dollars (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of
3 public community restitution; and the person's driving license in this state shall be suspended for
4 a period of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug
5 treatment for the individual. The sentencing judge or magistrate shall prohibit that person from
6 operating a motor vehicle that is not equipped with an ignition interlock system [and/or blood and](#)
7 [urine testing](#) as provided in § 31-27-2.8.

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

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

30 (5) For a third or subsequent violation within a five-year (5) period with respect to a case
31 of a refusal to submit to a blood test, a fine in the amount of eight hundred dollars (\$800) to one
32 thousand dollars (\$1,000); the person shall perform not less than one hundred (100) hours of
33 public community restitution; and the person's driving license in this state shall be suspended for
34 a period of two (2) to five (5) years. The sentencing judicial officer shall prohibit that person from

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

9 (6) 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 (7) 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 (8) 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)~~ [§§ 31-27-2\(f\) and 31-](#)
18 [27-2\(g\)](#), that shall be deposited as general revenues, not restricted receipts.

19 (9) 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 [\(10\) Implied consent notice for persons eighteen \(18\) years of age or older: "Rhode](#)
23 [Island law requires you to submit to a chemical test of your blood, breath, or urine for the purpose](#)
24 [of determining the chemical content of your body fluids or breath. If you refuse this testing,](#)
25 [certain penalties can be imposed and include the following: for a first offense your Rhode Island](#)
26 [driver's license or privilege to operate a motor vehicle in this state can be suspended for six \(6\)](#)
27 [months to one year or modified to permit operation in connection with an ignition interlock](#)
28 [device for a period specified by law, a fine from two hundred dollars \(\\$200\) to five hundred](#)
29 [dollars \(\\$500\) can be imposed, and you can be ordered to perform ten \(10\) to sixty \(60\) hours of](#)
30 [community service and attend a special course on driving while intoxicated or under the influence](#)
31 [of a controlled substance and/or alcohol or drug treatment. If you have had one or more previous](#)
32 [offenses within the past five \(5\) years, your refusal to submit to a chemical test of breath or urine](#)
33 [at this time can have criminal penalties, including incarceration up to six \(6\) months for a second](#)
34 [offense and up to one year for a third or subsequent offense, and can carry increased license](#)

1 suspension or ignition interlock period, fines and community service. All violators shall pay a
2 five hundred dollar (\$500) highway safety assessment fee, a two hundred dollar (\$200)
3 department of health chemical testing programs assessment fee, and a license reinstatement fee.
4 Refusal to submit to a chemical test of blood shall not subject you to criminal penalties for the
5 refusal itself, but if you have one or more previous offenses other civil penalties may increase.
6 You have the right to be examined at your own expense by a physician selected by you. If you
7 submit to a chemical test at this time, you have the right to have an additional chemical test
8 performed at your own expense. You will be afforded a reasonable opportunity to exercise these
9 rights. Access to a telephone will be made available for you to make those arrangements. You
10 may now use a telephone."

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

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

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

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

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

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

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

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

5 **31-27-2.5. Chemical tests to persons under eighteen (18) years of age -- Refusal --**
6 **License suspension.**

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

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

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

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

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

34 (2) The person's driving license shall be suspended for six (6) months on a first violation,

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

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

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

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

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

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

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

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

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

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

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

16 **31-27-2.8. Ignition interlock system imposed as part of sentence -- Requirements**
17 **Ignition interlock system and/or blood and urine testing imposed as a part of sentence --**
18 **Requirements.**

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

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

1 concentration or both, the magistrate may exercise their discretion and eliminate the requirement
2 of an ignition interlock system; provided, that blood and/or urine testing is mandated as a
3 condition to operating a motor 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 which 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, ~~after a finding of~~
13 ~~eligibility~~, any mandatory period of license suspension shall, upon request, be reduced by the
14 imposition of an ignition interlock system and/or blood and urine testing ordered by the court or
15 traffic tribunal as follows:

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

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

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

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

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

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

34 (7) ~~In any case where a person is convicted of a first offense under the provisions of § 31-~~

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

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

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

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

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

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

34 (C) Samples are to be collected, tested and confirmed by a federally certified laboratory

1 by means of gas chromatography/mass spectrometry or technology recognized as being at least as
2 scientifically accurate.

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

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

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

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

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

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

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

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

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

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

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

34 (1) Require proof of the installation of the ignition interlock system and periodic

1 reporting by the person for the purpose of verification of the proper operation of the ignition
2 interlock system;

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

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

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

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

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

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

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

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

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

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

34 (3) Soliciting or attempting to have another person start a motor vehicle equipped with an

1 ignition interlock system for the purpose of providing an operable motor vehicle to a person who
2 is prohibited from operating a motor vehicle that is not equipped with an ignition interlock
3 system.

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

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

=====
LC002815/SUB A
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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/SUB A
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