

2022 -- H 7810

LC005015

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

Introduced By: Representatives Amore, Craven, Henries, and Speakman

Date Introduced: March 03, 2022

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 31-27-2 and 31-27-2.1 of the General Laws in Chapter 31-27 entitled  
2 "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 influence  
5 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of  
6 title 21, or any combination of these, shall be guilty of a misdemeanor, except as provided in  
7 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 eight  
9 one-hundredths of one percent (.08%) or more by weight, as shown by a chemical analysis of a  
10 blood, breath, or urine sample, shall be guilty of violating subsection (a). This provision shall not  
11 preclude a conviction based on other admissible evidence. Proof of guilt under this section may  
12 also be based on evidence that the person charged was under the influence of intoxicating liquor,  
13 drugs, toluene, or any controlled substance defined in chapter 28 of title 21, or any combination of  
14 these, to a degree that rendered the person incapable of safely operating a vehicle. The fact that any  
15 person charged with violating this section is, or has been, legally entitled to use alcohol or a drug  
16 shall not constitute a defense against any charge of violating this section.

17 (2) [Deleted by P.L. 2021, ch. 170, § 1 and P.L. 2021, ch. 171, § 1.]

18 (c) In any criminal prosecution for a violation of subsection (a), evidence as to the amount  
19 of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or

1 any combination of these, in the defendant's blood at the time alleged as shown by a chemical  
2 analysis of the defendant's breath, blood, or urine or other bodily substance, shall be admissible and  
3 competent, provided that evidence is presented that the following conditions have been complied  
4 with:

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

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

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

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

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

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

28 (d)(1) (i) Every person found to have violated subsection (b)(1) shall be sentenced as  
29 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one  
30 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood presence  
31 of any scheduled controlled substance as defined in chapter 28 of title 21, shall be subject to a fine  
32 of not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300); shall be  
33 required to perform ten (10) to sixty (60) hours of public community restitution, and/or shall be  
34 imprisoned for up to one year. The sentence may be served in any unit of the adult correctional

1 institutions in the discretion of the sentencing judge and/or shall be required to attend a special  
2 course on driving while intoxicated or under the influence of a controlled substance; provided,  
3 however, that the court may permit a servicemember or veteran to complete any court-approved  
4 counseling program administered or approved by the Veterans' Administration, and his or her  
5 driver's license shall be suspended for thirty (30) days up to one hundred eighty (180) days. The  
6 sentencing judge or magistrate may prohibit that person from operating a motor vehicle, pursuant  
7 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system  
8 and/or blood and urine testing as provided in § 31-27-2.8.

9 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-  
10 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent  
11 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less than  
12 one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required to  
13 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for  
14 up to one year. The sentence may be served in any unit of the adult correctional institutions in the  
15 discretion of the sentencing judge. The person's driving license shall be suspended for a period of  
16 three (3) months to twelve (12) months. The sentencing judge shall require attendance at a special  
17 course on driving while intoxicated or under the influence of a controlled substance and/or  
18 alcoholic or drug treatment for the individual; provided, however, that the court may permit a  
19 servicemember or veteran to complete any court-approved counseling program administered or  
20 approved by the Veterans' Administration. The sentencing judge or magistrate may prohibit that  
21 person from operating a motor vehicle that is not equipped with an ignition interlock system as  
22 provided in § 31-27-2.8.

23 (iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen  
24 hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any  
25 controlled substance as defined in subsection (b)(1), shall be subject to a fine of five hundred dollars  
26 (\$500) and shall be required to perform twenty (20) to sixty (60) hours of public community  
27 restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit  
28 of the adult correctional institutions in the discretion of the sentencing judge. The person's driving  
29 license shall be suspended for a period of three (3) months to eighteen (18) months. The sentencing  
30 judge shall require attendance at a special course on driving while intoxicated or under the influence  
31 of a controlled substance and/or alcohol or drug treatment for the individual; provided, however,  
32 that the court may permit a servicemember or veteran to complete any court-approved counseling  
33 program administered or approved by the Veterans' Administration. The sentencing judge or  
34 magistrate shall prohibit that person from operating a motor vehicle, pursuant to subsection (d)(9)

1 or (d)(10) of this section, that is not equipped with an ignition interlock system and/or blood and  
2 urine testing as provided in § 31-27-2.8.

3 (2)(i) Every person convicted of a second violation within a five-year (5) period with a  
4 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than  
5 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or  
6 who has a blood presence of any controlled substance as defined in chapter 28 of title 21, and every  
7 person convicted of a second violation within a five-year (5) period, regardless of whether the prior  
8 violation and subsequent conviction was a violation and subsequent conviction under this statute  
9 or under the driving under the influence of liquor or drugs statute of any other state, shall be subject  
10 to a mandatory fine of four hundred dollars (\$400). The person's driving license shall be suspended  
11 for a period of one year to two (2) years, and the individual shall be sentenced to not less than ten  
12 (10) days, nor more than one year, in jail. The sentence may be served in any unit of the adult  
13 correctional institutions in the discretion of the sentencing judge; however, not less than forty-eight  
14 (48) hours of imprisonment shall be served consecutively. The sentencing judge shall require  
15 alcohol or drug treatment for the individual; provided, however, that the court may permit a  
16 servicemember or veteran to complete any court-approved counseling program administered or  
17 approved by the Veterans' Administration and shall prohibit that person from operating a motor  
18 vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition  
19 interlock system and/or blood and urine testing as provided in § 31-27-2.8.

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

33 (3)(i) Every person convicted of a third or subsequent violation within a ~~five-year (5)~~ ten-  
34 year (10) period with a blood alcohol concentration of eight one-hundredths of one percent (.08%)

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

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

28 (iii) In addition to the foregoing penalties, every person convicted of a third or subsequent  
29 violation within a ~~five-year (5)~~ ten-year (10) period, regardless of whether any prior violation and  
30 subsequent conviction was a violation and subsequent conviction under this statute or under the  
31 driving under the influence of liquor or drugs statute of any other state, shall be subject, in the  
32 discretion of the sentencing judge, to having the vehicle owned and operated by the violator seized  
33 and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred to the  
34 general fund.

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

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

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

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

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

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

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

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

28 (9) Notwithstanding any other sentencing and disposition provisions contained in this  
29 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was  
30 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled  
31 substance as evidenced by the presence of controlled substances on or about the person or vehicle,  
32 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a  
33 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration,  
34 or both, the judge or magistrate may exercise his or her discretion and eliminate the requirement

1 of an ignition interlock system; provided, that blood and/or urine testing is mandated as a condition  
2 to operating a motor vehicle as provided in § 31-27-2.8.

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

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

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

18 (2) Persons convicted under the provisions of this chapter shall be required to attend a  
19 special course on driving while intoxicated or under the influence of a controlled substance, and/or  
20 participate in an alcohol or drug treatment program; provided, however, that the court may permit  
21 a servicemember or veteran to complete any court-approved counseling program administered or  
22 approved by the Veterans' Administration. The course shall take into consideration any language  
23 barrier that may exist as to any person ordered to attend, and shall provide for instruction reasonably  
24 calculated to communicate the purposes of the course in accordance with the requirements of the  
25 subsection. Any costs reasonably incurred in connection with the provision of this accommodation  
26 shall be borne by the person being retrained. A copy of any violation under this section shall be  
27 forwarded by the court to the alcohol and drug safety unit. In the event that persons convicted under  
28 the provisions of this chapter fail to attend and complete the above course or treatment program, as  
29 ordered by the judge, then the person may be brought before the court, and after a hearing as to  
30 why the order of the court was not followed, may be sentenced to jail for a period not exceeding  
31 one year.

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

34 (g) The director of the department of health is empowered to make and file with the



1 secretary of state regulations that prescribe the techniques and methods of chemical analysis of the  
2 person's body fluids or breath and the qualifications and certification of individuals authorized to  
3 administer this testing and analysis.

4 (h) Jurisdiction for misdemeanor violations of this section shall be with the district court  
5 for persons eighteen (18) years of age or older and to the family court for persons under the age of  
6 eighteen (18) years. The courts shall have full authority to impose any sentence authorized and to  
7 order the suspension of any license for violations of this section. Trials in superior court are not  
8 required to be scheduled within thirty (30) days of the arraignment date.

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

12 (j) An order to attend a special course on driving while intoxicated, that shall be  
13 administered in cooperation with a college or university accredited by the state, shall include a  
14 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars  
15 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into  
16 the general fund.

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

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

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

29 **31-27-2.1. Refusal to submit to chemical test.**

30 (a) Any person who operates a motor vehicle within this state shall be deemed to have  
31 given his or her consent to chemical tests of his or her breath, blood, and/or urine for the purpose  
32 of determining the chemical content of his or her body fluids or breath. No more than two (2)  
33 complete tests, one for the presence of intoxicating liquor and one for the presence of toluene or  
34 any controlled substance, as defined in § 21-28-1.02, shall be administered at the direction of a law

1 enforcement officer having reasonable grounds to believe the person to have been driving a motor  
2 vehicle within this state while under the influence of intoxicating liquor, toluene, or any controlled  
3 substance, as defined in chapter 28 of title 21, or any combination of these. The director of the  
4 department of health is empowered to make and file, with the secretary of state, regulations that  
5 prescribe the techniques and methods of chemical analysis of the person's body fluids or breath and  
6 the qualifications and certification of individuals authorized to administer the testing and analysis.

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

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

32 (2) If the magistrate determines that subsection (b)(1) of this section has been satisfied they  
33 shall promptly order that the person's operator's license or privilege to operate a motor vehicle in  
34 this state be immediately suspended. Said suspension shall be subject to the hardship provisions

1 enumerated in § 31-27-2.8.

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

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

12 (2) Every person convicted of a second violation within a five-year (5) period, except with  
13 respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall be  
14 imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred dollars  
15 (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of public  
16 community restitution; and the person's driving license in this state shall be suspended for a period  
17 of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug treatment  
18 for the individual. The sentencing judge or magistrate shall prohibit that person from operating a  
19 motor vehicle that is not equipped with an ignition interlock system and/or blood and urine testing  
20 as provided in § 31-27-2.8.

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

1 (4) For a second violation within a five-year (5) period with respect to a case of a refusal  
2 to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one thousand dollars  
3 (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public community  
4 restitution; and the person's driving license in this state shall be suspended for a period of two (2)  
5 years. The judicial officer shall require alcohol and/or drug treatment for the individual. The  
6 sentencing judicial officer shall prohibit that person from operating a motor vehicle that is not  
7 equipped with an ignition interlock system as provided in § 31-27-2.8. Such a violation with respect  
8 to refusal to submit to a chemical blood test shall be a civil offense.

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

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

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

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

32 (9) No fines, suspensions, assessments, alcohol or drug treatment programs, course on  
33 driving while intoxicated or under the influence of a controlled substance, or public community  
34 restitution provided for under this section can be suspended.

1 (10) Implied consent notice for persons eighteen (18) years of age or older: "Rhode Island  
2 law requires you to submit to a chemical test of your blood, breath, or urine for the purpose of  
3 determining the chemical content of your body fluids or breath. If you refuse this testing, certain  
4 penalties can be imposed and include the following: for a first offense, your Rhode Island driver's  
5 license or privilege to operate a motor vehicle in this state can be suspended for six (6) months to  
6 one year or modified to permit operation in connection with an ignition interlock device for a period  
7 specified by law; a fine from two hundred dollars (\$200) to five hundred dollars (\$500) can be  
8 imposed; and you can be ordered to perform ten (10) to sixty (60) hours of community service and  
9 attend a special course on driving while intoxicated or under the influence of a controlled substance  
10 and/or alcohol or drug treatment. If you have had one or more previous offenses within the past  
11 five (5) years, your refusal to submit to a chemical test of breath or urine at this time can have  
12 criminal penalties, including incarceration up to six (6) months for a second offense and up to one  
13 year for a third or subsequent offense, and can carry increased license suspension or ignition  
14 interlock period, fines, and community service. All violators shall pay a five hundred dollar (\$500)  
15 highway safety assessment fee, a two hundred dollar (\$200) department of health chemical testing  
16 programs assessment fee, and a license reinstatement fee. Refusal to submit to a chemical test of  
17 blood shall not subject you to criminal penalties for the refusal itself, but if you have one or more  
18 previous offenses other civil penalties may increase. You have the right to be examined at your  
19 own expense by a physician selected by you. If you submit to a chemical test at this time, you have  
20 the right to have an additional chemical test performed at your own expense. You will be afforded  
21 a reasonable opportunity to exercise these rights. Access to a telephone will be made available for  
22 you to make those arrangements. You may now use a telephone."

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

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

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

1 any combination of these;

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

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

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

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

12 (f) If any provision of this section, or the application of any provision, shall, for any reason,  
13 be judged invalid, the judgment shall not affect, impair, or invalidate the remainder of the section,  
14 but shall be confined in this effect to the provisions or application directly involved in the  
15 controversy giving rise to the judgment.

16 SECTION 2. This act shall take effect upon passage and shall apply to all convictions  
17 imposed before or after the effective date.

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LC005015  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

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1           This act would extend the "lookback" period for third and subsequent offenses pursuant  
2 §31-27-2 ("driving under influence of liquor or drugs") and §31-27-2.1 ("refusal to submit to  
3 chemical test") from five (5) to ten (10) years.

4           This act would take effect upon passage and would apply to all convictions imposed before  
5 or after the effective date.

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LC005015  
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