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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO MOTOR AND OTHER VEHICLES - MOTOR VEHICLE OFFENSES

Introduced By: Senators Sosnowski, Archambault, and Goodwin

Date Introduced: January 30, 2014

Referred To: Senate 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
2 entitled "Motor Vehicle Offenses" are hereby amended to read as follows:

3 **31-27-2. Driving under influence of liquor or drugs.** -- (a) Whoever drives or
4 otherwise operates any vehicle in the state while under the influence of any intoxicating liquor,
5 drugs, toluene, or any controlled substance as defined in chapter 28 of title 21, or any
6 combination of these, shall be guilty of a misdemeanor except as provided in subdivision (d)(3)
7 and shall be punished as provided in subsection (d) of this section.

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

18 (2) Whoever drives, or otherwise operates, any vehicle in the state with a blood presence
19 of any scheduled controlled substance as defined within chapter 28 of title 21, as shown by

1 analysis of a blood or urine sample, shall be guilty of a misdemeanor and shall be punished as
2 provided in subsection (d) of this section.

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

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

12 (2) A true copy of the report of the test result was mailed within seventy-two (72) hours
13 of the taking of the test to the person submitting to a 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) of this section, was afforded
26 the opportunity to have an additional chemical test. The officer arresting or so charging the
27 person shall have informed the person of this right and afforded him or her a reasonable
28 opportunity to exercise this right, and a notation to this effect is made in the official records of the
29 case in the police department. Refusal to permit an additional chemical test shall render
30 incompetent and inadmissible in evidence the original report.

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

1 be subject to a fine of not less than one hundred dollars (\$100) nor more than three hundred
2 dollars (\$300); shall be required to perform ten (10) to sixty (60) hours of public community
3 restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit
4 of the adult correctional institutions in the discretion of the sentencing judge and/or shall be
5 required to attend a special course on driving while intoxicated or under the influence of a
6 controlled substance; provided, however, that the court may permit a servicemember or veteran to
7 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 that is not equipped with an ignition interlock system as provided in](#)
11 [§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 subdivision (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 shall prohibit that person from operating a
4 motor vehicle that is not equipped with an ignition interlock system as provided in §31-27-2.8.

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

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

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

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

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

1 to the general fund.

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

15 (5) (i) For purposes of determining the period of license suspension, a prior violation
16 shall constitute any charge brought and sustained under the provisions of this section or ~~section~~
17 §31-27-2.1.

18 (ii) Any person over the age of eighteen (18) who is convicted under this section for
19 operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of
20 these, while a child under the age of thirteen (13) years was present as a passenger in the motor
21 vehicle when the offense was committed, may be sentenced to a term of imprisonment of not
22 more than one year, and further, shall not be entitled to the benefit of suspension or deferment of
23 this sentence. The sentence imposed under this section may be served in any unit of the adult
24 correctional institutions in the discretion of the sentencing judge.

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

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

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

1 judge shall also require attendance at a special course on driving while intoxicated or under the
2 influence of a controlled substance and alcohol or drug education and/or treatment for the
3 juvenile. The juvenile may also be required to pay a highway assessment fine of no more than
4 five hundred dollars (\$500); and the assessment imposed shall be deposited into the general fund.

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

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

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

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

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

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

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

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

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

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

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

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

1 absorption is considered a chemical test.

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

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

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

23 (b) If a person, for religious or medical reasons, cannot be subjected to blood tests, the
24 person may file an affidavit with the division of motor vehicles stating the reasons why he or she
25 cannot be required to take blood tests, and a notation to this effect shall be made on his or her
26 license. If that person is asked to submit to chemical tests as provided under this chapter, the
27 person shall only be required to submit to chemical tests of his or her breath or urine. When a
28 person is requested to submit to blood tests, only a physician or registered nurse, or a medical
29 technician certified under regulations promulgated by the director of the department of health,
30 may withdraw blood for the purpose of determining the alcoholic content in it. This limitation
31 shall not apply to the taking of breath or urine specimens. The person tested shall be permitted to
32 have a physician of his or her own choosing, and at his or her own expense, administer chemical
33 tests of his or her breath, blood, and/or urine in addition to the tests administered at the direction
34 of a law enforcement officer. If a person, having been placed under arrest, refuses upon the

1 request of a law enforcement officer to submit to the tests, as provided in ~~section~~ [§31-27-2](#), none
2 shall be given, but a judge [or magistrate](#) of the traffic tribunal or district court judge [or magistrate](#),
3 upon receipt of a report of a law enforcement officer: that he or she had reasonable grounds to
4 believe the arrested person had been driving a motor vehicle within this state under the influence
5 of intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or
6 any combination of these; that the person had been informed of his or her rights in accordance
7 with ~~section~~ [§31-27-3](#); that the person had been informed of the penalties incurred as a result of
8 noncompliance with this section; and that the person had refused to submit to the tests upon the
9 request of a law enforcement officer; shall promptly order that the person's operator's license or
10 privilege to operate a motor vehicle in this state be immediately suspended and that the person's
11 license be surrendered within five (5) days of notice of suspension. A traffic tribunal judge [or](#)
12 [magistrate](#), or a district court judge [or magistrate](#), pursuant to the terms of subsection (c) of this
13 section, shall order as follows:

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

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

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

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

9 (4) For purposes of determining the period of license suspension, a prior violation shall
10 constitute any charge brought and sustained under the provisions of this section or ~~section~~ §31-
11 27-2.

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

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

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

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

1 incurred as a result of noncompliance with this section; the judge shall sustain the violation. The
2 judge shall then impose the penalties set forth in subsection (b) of this section. Action by the
3 judge must be taken within seven (7) days after the hearing, or it shall be presumed that the judge
4 has refused to issue his or her order of suspension.

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

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

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

14 **31-27-2.8. Ignition interlock system imposed as part of sentence -- Requirements. --**

15 (a) Any person convicted under the provisions of ~~section §§31-27-2(d)(2) or (3)~~ 1, 2 or 3 (1)(i) or
16 (ii), or whose violation is sustained under the provisions of §31-27-2.1(b)(1), may be prohibited
17 by the sentencing judge or magistrate from operating a motor vehicle that is not equipped with an
18 ignition interlock system ~~for a period of not more than two (2) years following the completion of~~
19 ~~any sentence imposed pursuant to that section.~~

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

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

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

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

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

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

4 (6) For a violation of §31-27-2.1(b)(3), a person shall be subject to a minimum ninety-
5 day (90) license suspension and imposition of an ignition interlock system for a period of two (2)
6 to ten (10) years.

7 (7) In any case where a person is convicted of a first offense under the provisions of § 31-
8 27-2(d)(1), or a second offense under the provisions of § 31-27-2(d)(2), or under § 31-27-
9 2.1(b)(1), the sentencing judge or magistrate may grant the person a conditional hardship license
10 during the period of license suspension. Said hardship license shall be valid only for twelve (12)
11 hours per day to get to and from employment. A hardship license shall only be granted in
12 conjunction with the installation of an ignition interlock device. Any conditional driving
13 privileges must be set by the sentencing judge or magistrate after a hearing in which the motorist
14 must provide proof of employment status and hours of employment. Any individual who violates
15 the requirements of this subsection shall be subject to the penalties enumerated in § 31-27-18.1.

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

22 (d) Any person who operates a motor vehicle with a suspended license and the reason for
23 the suspension was due to a conviction of driving under the influence of drugs or alcohol or a
24 sustained violation or conviction of refusal to submit to a chemical test, shall be subject to the
25 imposition of an ignition interlock system for six (6) months to be ordered by the court or the
26 traffic tribunal.

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

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

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

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

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

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

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

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

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

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

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

30 SECTION 3. Sections 31-49-2, 31-49-3, 31-49-4, 31-49-5 and 31-49-6 of the General
31 Laws in Chapter 31-49 entitled "Ignition Interlock Systems" are hereby amended to read as
32 follows:

33 **31-49-2. Certification of ignition interlock systems.** -- The division of motor vehicles
34 shall certify, or cause to be certified, ignition interlock systems for use in the state, and adopt

1 rules and regulations for the certification and requirements for participation of the ignition
2 interlock systems. All costs associated with the installation of the ignition interlock system shall
3 be borne by the person required to install said system and the division shall charge an
4 administrative fee of one hundred dollars (\$100) to the person ordered to install said system.

5 **31-49-3. Rules and regulations.** – (a) The rules and regulations adopted pursuant to
6 ~~section §~~31-49-2 shall include requirements that ignition interlock systems:

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

21 (b) Prior to the reinstatement of an unrestricted license, the division of motor vehicles
22 shall review the person's driving record and compliance with the ignition interlock order to
23 ensure that the person demonstrated behavior that warrants the reinstatement of his or her license.

24 **31-49-4. Warning label.** -- ~~(a) (1)~~ The division of motor vehicles shall design and adopt
25 a warning label to be affixed to an ignition interlock system on installation. The warning label
26 shall state that a person tampering with, circumventing, or otherwise misusing the ignition
27 interlock system is guilty of a misdemeanor, and on conviction, is subject to a fine up to ~~five~~
28 ~~hundred dollars (\$500)~~ one thousand dollars (\$1,000), or one year imprisonment, or both.

29 ~~(2) If the court imposes the use of an ignition interlock system, the sentencing judge~~
30 ~~shall cause an appropriate notation to be made on the person's record which clearly sets forth the~~
31 ~~requirement for and the period of the use of the system.~~

32 ~~(b) In addition to the requirements of subsection (a) of this section, the court shall:~~

33 ~~(1) Require proof of the installation of the system and periodic reporting by the person~~
34 ~~for the purpose of verification of the proper operation of the system; and~~

1 ~~(2) Require the person to have the system monitored for the proper use and accuracy by~~
2 ~~a person, firm, corporation or other association to be approved by the department of revenue at~~
3 ~~least once every six (6) months, or more frequently as the circumstances may require; and~~

4 ~~(3) Shall require the person to pay the reasonable cost of leasing or buying, monitoring~~
5 ~~and maintenance of the system.~~

6 ~~(c) A person prohibited under this section from operating a motor vehicle that is not~~
7 ~~equipped with an ignition interlock system may not solicit or have another person attempt to start~~
8 ~~or start a motor vehicle equipped with an ignition interlock system.~~

9 ~~(d) A person may not attempt to start or start a motor vehicle equipped with an ignition~~
10 ~~interlock system for the purpose of providing an operable motor vehicle to a person who is~~
11 ~~prohibited under this section from operating a motor vehicle that is not equipped with an ignition~~
12 ~~interlock system.~~

13 ~~(e) A person may not tamper with, or in any way attempt to circumvent, the operation of~~
14 ~~an ignition interlock system that has been installed in the motor vehicle of a person under this~~
15 ~~section.~~

16 ~~(f) (1) Subject to the provisions of subdivision (2) of this subsection, a person may not~~
17 ~~knowingly furnish a motor vehicle not equipped with a functioning ignition interlock system to~~
18 ~~another person who the person knows is prohibited under subsection (b) of this section from~~
19 ~~operating a motor vehicle not equipped with an ignition interlock system.~~

20 ~~(2) If a person is required, in the course of the person's employment, to operate a motor~~
21 ~~vehicle owned or provided by the person's employer, the person may operate that motor vehicle~~
22 ~~in the course of the person's employment without installation of an ignition interlock system if the~~
23 ~~court has expressly permitted the person to operate in the course of the person's employment a~~
24 ~~motor vehicle that is not equipped with an ignition interlock system.~~

25 ~~(g) Any person who shall violate the provisions of this section shall be guilty of a~~
26 ~~misdemeanor.~~

27 **31-49-5. List of certified ignition interlock systems. --** (a) The ~~administration~~ [division](#)
28 [of motor vehicles](#) shall publish a list of certified ignition interlock systems [that shall be included](#)
29 [on the division of motor vehicles' website](#).

30 (b) A manufacturer of an ignition interlock system that seeks to sell or lease the ignition
31 interlock system to persons subject to the provisions of ~~section 31-27-2~~ [§31-27-2.8](#) shall pay the
32 costs of obtaining the required certification.

33 [\(c\) Said manufacturer who shall install and monitor said systems shall be approved by the](#)
34 [division of motor vehicles every year. Said manufacturer shall also submit quarterly reports](#)

1 [concerning proof of installation and proper use of said ignition interlock systems to the division](#)
2 [of motor vehicles, which will be aggregated by the division of motor vehicles.](#)

3 **31-49-6. Selling or leasing ignition interlock systems.** -- (a) A person may not sell or
4 lease, or offer to sell or lease an ignition interlock system to a person subject to the provisions of
5 ~~section 31-27-2~~ [§31-27-2.8](#) unless:

6 (1) The system has been certified by the ~~department~~ [division](#) of motor vehicles; and

7 (2) A warning label approved by the ~~department~~ [division](#) of motor vehicles is affixed to
8 the system stating that a person who tampers, circumvents, or otherwise misuses the system is
9 guilty of a misdemeanor, and on conviction is subject to a fine up to ~~five hundred dollars (\$500)~~
10 [one thousand dollars \(\\$1,000\)](#), or one year imprisonment, or both.

11 (b) A person who sells or leases ignition interlock systems in the state shall:

12 (1) Monitor the use of the system as required by the ~~court~~ [division of motor vehicles](#); and

13 (2) Issue a report of the results of the monitoring to the appropriate office of the [division](#)
14 [of motor vehicles](#) and the division of parole and probation.

15 SECTION 4. This act shall take effect on January 1, 2015.

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LC003874/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 authorize magistrates, in addition to judges, to prohibit drivers adjudicated
2 of driving under the influence of liquor or drugs, or refusal to submit to a chemical test, from
3 operating a motor vehicle not equipped with an ignition interlock system. It would also establish
4 updated rules, regulations, fines and penalties for the continued enforcement of the ignition
5 interlock system.

6 This act would take effect on January 1, 2015.

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LC003874/SUB A
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