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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES - MOTOR VEHICLE OFFENSES

Introduced By: Representatives Serpa, and Noret

Date Introduced: January 19, 2023

Referred To: House Judiciary

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)~~ ten-year (10)
4 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above,
5 but less than fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is
6 unknown, or who has a blood presence of any controlled substance as defined in chapter 28 of title
7 21, and every person convicted of a second violation within a ~~five-year (5)~~ ten-year (10) period,
8 regardless of whether the prior violation and subsequent conviction was a violation and subsequent
9 conviction under this statute or under the driving under the influence of liquor or drugs statute of
10 any other state, shall be subject to a mandatory fine of four hundred dollars (\$400). The person's
11 driving license shall be suspended for a period of one year to two (2) years, and the individual shall
12 be sentenced to not less than ten (10) days, nor more than one year, in jail. The sentence may be
13 served in any unit of the adult correctional institutions in the discretion of the sentencing judge;
14 however, not less than forty-eight (48) hours of imprisonment shall be served consecutively. The
15 sentencing judge shall require alcohol or drug treatment for the individual; provided, however, that
16 the court may permit a servicemember or veteran to complete any court-approved counseling
17 program administered or approved by the Veterans' Administration and shall prohibit that person
18 from operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not
19 equipped with an ignition interlock system and/or blood and urine testing as provided in § 31-27-
20 2.8.

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

34 (3)(i) Every person convicted of a third or subsequent violation within a ~~five-year (5)~~ ten-

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

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

29 (iii) In addition to the foregoing penalties, every person convicted of a third or subsequent
30 violation within a ~~five-year (5)~~ [ten-year \(10\)](#) period, regardless of whether any prior violation and
31 subsequent conviction was a violation and subsequent conviction under this statute or under the
32 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 seized
34 and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred to the

1 general fund.

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

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

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

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

34 (ii) Any person convicted of a violation under this section shall be assessed a fee of eighty-

1 six dollars (\$86).

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

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

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

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

1 or both, the judge or magistrate may exercise his or her discretion and eliminate the requirement
2 of an ignition interlock system; provided, that blood and/or urine testing is mandated as a condition
3 to operating a motor vehicle as provided in § 31-27-2.8.

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

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

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

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

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

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

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

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

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

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

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

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

30 **31-27-2.1. Refusal to submit to chemical test.**

31 (a) Any person who operates a motor vehicle within this state shall be deemed to have
32 given his or her consent to chemical tests of his or her breath, blood, and/or urine for the purpose
33 of determining the chemical content of his or her body fluids or breath. No more than two (2)
34 complete tests, one for the presence of intoxicating liquor and one for the presence of toluene or

1 any controlled substance, as defined in § 21-28-1.02, shall be administered at the direction of a law
2 enforcement officer having reasonable grounds to believe the person to have been driving a motor
3 vehicle within this state while under the influence of intoxicating liquor, toluene, or any controlled
4 substance, as defined in chapter 28 of title 21, or any combination of these. The director of the
5 department of health is empowered to make and file, with the secretary of state, regulations that
6 prescribe the techniques and methods of chemical analysis of the person's body fluids or breath and
7 the qualifications and certification of individuals authorized to administer the testing and analysis.

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

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

33 (2) If the magistrate determines that subsection (b)(1) of this section has been satisfied they
34 shall promptly order that the person's operator's license or privilege to operate a motor vehicle in

1 this state be immediately suspended. Said suspension shall be subject to the hardship provisions
2 enumerated in § 31-27-2.8.

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

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

13 (2) Every person convicted of a second violation within a ~~five-year (5)~~ ten-year (10) period,
14 except with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor;
15 shall be imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred
16 dollars (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of
17 public community restitution; and the person's driving license in this state shall be suspended for a
18 period of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug
19 treatment for the individual. The sentencing judge or magistrate shall prohibit that person from
20 operating a motor vehicle that is not equipped with an ignition interlock system and/or blood and
21 urine testing as provided in § 31-27-2.8.

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

1 his or her license.

2 (4) For a second violation within a ~~five-year (5)~~ ten-year (10) period with respect to a case
3 of a refusal to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one
4 thousand dollars (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public
5 community restitution; and the person's driving license in this state shall be suspended for a period
6 of two (2) years. The judicial officer shall require alcohol and/or drug treatment for the individual.
7 The sentencing judicial officer shall prohibit that person from operating a motor vehicle that is not
8 equipped with an ignition interlock system as provided in § 31-27-2.8. Such a violation with respect
9 to refusal to submit to a chemical blood test shall be a civil offense.

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

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

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

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

33 (9) No fines, suspensions, assessments, alcohol or drug treatment programs, course on
34 driving while intoxicated or under the influence of a controlled substance, or public community

1 restitution provided for under this section can be suspended.

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

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

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

33 (1) The law enforcement officer making the sworn report had reasonable grounds to believe
34 that the arrested person had been driving a motor vehicle within this state while under the influence

1 of intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or
2 any combination of these;

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

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

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

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

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

17 SECTION 3. This act shall take effect upon passage.

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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 extend the "lookback" period for repeat offenses involving driving under
2 the influence of alcohol or drugs under § 31-27-2 and for repeat offenses related to failure or refusal
3 to submit to chemical tests under § 31-27-2.1 from five (5) years to ten (10) years.

4 This act would take effect upon passage.

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