

2021 -- H 5094 SUBSTITUTE A AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

Introduced By: Representative Jason Knight

Date Introduced: January 22, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 31-27-2, 31-27-2.1, 31-27-2.5 and 31-27-2.8 of the General Laws
2 in Chapter 31-27 entitled "Motor Vehicle Offenses" are hereby amended to read as follows:

3 **31-27-2. Driving under influence of liquor or drugs.**

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

1 ~~subsection (d).~~

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

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

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

14 (3) Any person submitting to a chemical test of blood, urine, or other body fluids shall have
15 a true copy of the report of the test result mailed to him or her within thirty (30) days following the
16 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 tested
20 for accuracy within thirty (30) days preceding the test by personnel qualified as hereinbefore
21 provided, and breathalyzer operators shall be qualified and certified by the department of health
22 within three hundred sixty-five (365) days of the test.

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

31 (d)(1)(i) Every person found to have violated subsection (b)(1) shall be sentenced as
32 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one
33 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood presence
34 of any scheduled controlled substance as defined in ~~subsection (b)(2)~~ [chapter 28 of title 21](#), shall

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

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

26 (iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen
27 hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any
28 controlled substance as defined in subsection (b)(~~4~~), shall be subject to a fine of five hundred dollars
29 (\$500) and shall be required to perform twenty (20) to sixty (60) hours of public community
30 restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit
31 of the adult correctional institutions in the discretion of the sentencing judge. The person's driving
32 license shall be suspended for a period of three (3) months to eighteen (18) months. The sentencing
33 judge shall require attendance at a special course on driving while intoxicated or under the influence
34 of a controlled substance and/or alcohol or drug treatment for the individual; provided, however,

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

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

23 (ii) Every person convicted of a second violation within a five-year (5) period whose blood
24 alcohol concentration is fifteen hundredths of one percent (.15%) or above, by weight as shown by
25 a chemical analysis of a blood, breath, or urine sample, or who is under the influence of a drug,
26 toluene, or any controlled substance as defined in subsection (b)(~~4~~), shall be subject to mandatory
27 imprisonment of not less than six (6) months, nor more than one year; a mandatory fine of not less
28 than one thousand dollars (\$1,000); and a mandatory license suspension for a period of two (2)
29 years from the date of completion of the sentence imposed under this subsection. The sentencing
30 judge shall require alcohol or drug treatment for the individual; provided, however, that the court
31 may permit a servicemember or veteran to complete any court approved counseling program
32 administered or approved by the Veterans' Administration. The sentencing judge or magistrate shall
33 prohibit that person from operating a motor vehicle, [pursuant to §§ 31-27-2\(d\)\(9\) or 31-27-2\(d\)\(10\)](#),
34 that is not equipped with an ignition interlock system [and/or blood and urine testing](#) as provided in

1 § 31-27-2.8.

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

19 (ii) Every person convicted of a third or subsequent violation within a ~~five-year (5)~~ [ten year](#)
20 [\(10\)](#) period whose blood alcohol concentration is fifteen hundredths of one percent (.15%) above
21 by weight as shown by a chemical analysis of a blood, breath, or urine sample, or who is under the
22 influence of a drug, toluene, or any controlled substance as defined in subsection (b)(1), shall be
23 subject to mandatory imprisonment of not less than three (3) years, nor more than five (5) years; a
24 mandatory fine of not less than one thousand dollars (\$1,000), nor more than five thousand dollars
25 (\$5,000); and a mandatory license suspension for a period of three (3) years from the date of
26 completion of the sentence imposed under this subsection. The sentencing judge shall require
27 alcohol or drug treatment for the individual. The sentencing judge or magistrate shall prohibit that
28 person from operating a motor vehicle, [pursuant to §§ 31-27-2\(d\)\(9\) or 31-27-2\(d\)\(10\)](#), that is not
29 equipped with an ignition interlock system [and/or blood and urine testing](#) as provided in § 31-27-
30 2.8.

31 (iii) In addition to the foregoing penalties, every person convicted of a third or subsequent
32 violation within a five-year (5) period, regardless of whether any prior violation and subsequent
33 conviction was a violation and subsequent conviction under this statute or under the driving under
34 the influence of liquor or drugs statute of any other state, shall be subject, in the discretion of the

1 sentencing judge, to having the vehicle owned and operated by the violator seized and sold by the
2 state of Rhode Island, with all funds obtained by the sale to be transferred to the general fund.

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

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

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

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

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

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

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

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

30 (9) Notwithstanding any other sentencing and disposition provisions contained in this
31 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was
32 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
33 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
34 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a

1 preliminary breath test, results from a breathalyzer which indicates no blood alcohol concentration,
2 or both, the judge or magistrate may exercise their discretion and eliminate the requirement of an
3 ignition interlock system; provided, that blood and/or urine testing is mandated as a condition to
4 operating a motor vehicle as provided in § 31-27-2.8.

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

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

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

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

34 (3) The alcohol and drug safety action program within the division of motor vehicles shall

1 be funded by general revenue appropriations.

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

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

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

17 (j) An order to attend a special course on driving while intoxicated, that shall be
18 administered in cooperation with a college or university accredited by the state, shall include a
19 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars
20 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into
21 the general fund.

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

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

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

34 **31-27-2.1. Refusal to submit to chemical test.**

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

13 (b) If a person, for religious or medical reasons, cannot be subjected to blood tests, the
14 person may file an affidavit with the division of motor vehicles stating the reasons why he or she
15 cannot be required to take blood tests and a notation to this effect shall be made on his or her
16 license. If that person is asked to submit to chemical tests as provided under this chapter, the person
17 shall only be required to submit to chemical tests of his or her breath or urine. When a person is
18 requested to submit to blood tests, only a physician or registered nurse, or a medical technician
19 certified under regulations promulgated by the director of the department of health, may withdraw
20 blood for the purpose of determining the alcoholic content in it. This limitation shall not apply to
21 the taking of breath or urine specimens. The person tested shall be permitted to have a physician of
22 his or her own choosing, and at his or her own expense, administer chemical tests of his or her
23 breath, blood, and/or urine in addition to the tests administered at the direction of a law enforcement
24 officer. If a person, having been placed under arrest, refuses upon the request of a law enforcement
25 officer to submit to the tests, as provided in § 31-27-2, none shall be given. ~~, but a judge or
26 magistrate of the traffic tribunal or district court judge or magistrate, upon receipt of a report of a
27 law enforcement officer: that he or she had reasonable grounds to believe the arrested person had
28 been driving a motor vehicle within this state under the influence of intoxicating liquor, toluene, or
29 any controlled substance, as defined in chapter 28 of title 21, or any combination of these; that the
30 person had been informed of his or her rights in accordance with § 31-27-3; that the person had
31 been informed of the penalties incurred as a result of noncompliance with this section; and that the
32 person had refused to submit to the tests upon the request of a law enforcement officer; shall
33 promptly order that the person's operator's license or privilege to operate a motor vehicle in this
34 state be immediately suspended, however, said suspension shall be subject to the hardship~~

1 ~~provisions enumerated in § 31-27-2.8.~~

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

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

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

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

28 (2) Every person convicted of a second violation within a five-year (5) period, except with
29 respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall be
30 imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred dollars
31 (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of public
32 community restitution; and the person's driving license in this state shall be suspended for a period
33 of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug treatment
34 for the individual. The sentencing judge or magistrate shall prohibit that person from operating a

1 motor vehicle that is not equipped with an ignition interlock system [and/or blood and urine testing](#)
2 as provided in § 31-27-2.8.

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

17 (4) For a second violation within a five-year (5) period with respect to a case of a refusal
18 to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one thousand dollars
19 (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public community
20 restitution; and the person's driving license in this state shall be suspended for a period of two (2)
21 years. The judicial officer shall require alcohol and/or drug treatment for the individual. The
22 sentencing judicial officer shall prohibit that person from operating a motor vehicle that is not
23 equipped with an ignition interlock system as provided in § 31-27-2.8. Such a violation with respect
24 to refusal to submit to a chemical blood test shall be a civil offense.

25 (5) For a third or subsequent violation within a five-year (5) period with respect to a case
26 of a refusal to submit to a blood test, a fine in the amount of eight hundred dollars (\$800) to one
27 thousand dollars (\$1,000); the person shall perform not less than one hundred (100) hours of public
28 community restitution; and the person's driving license in this state shall be suspended for a period
29 of two (2) to five (5) years. The sentencing judicial officer shall prohibit that person from operating
30 a motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.
31 The judicial officer shall require alcohol and/or drug treatment for the individual. Such a violation
32 with respect to refusal to submit to a chemical test of blood shall be a civil offense. Provided, that
33 prior to the reinstatement of a license to a person charged with a third or subsequent violation within
34 a three-year (3) period, a hearing shall be held before a judicial officer. At the hearing, the judicial

1 officer shall review the person's driving record, his or her employment history, family background,
2 and any other pertinent factors that would indicate that the person has demonstrated behavior that
3 warrants the reinstatement of their license.

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

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

10 (8) In addition to any other fines and highway safety assessments, a two-hundred-dollar
11 (\$200) assessment shall be paid by any person found in violation of this section to support the
12 department of health's chemical testing programs outlined in ~~§ 31-27-2(4)~~ [§§ 31-27-2\(f\) and 31-](#)
13 [27-2\(g\)](#), that shall be deposited as general revenues, not restricted receipts.

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

17 [\(10\) Implied consent notice for persons eighteen \(18\) years of age or older: "Rhode Island](#)
18 [law requires you to submit to a chemical test of your blood, breath, or urine for the purpose of](#)
19 [determining the chemical content of your body fluids or breath. If you refuse this testing, certain](#)
20 [penalties can be imposed and include the following: for a first offense your Rhode Island driver's](#)
21 [license or privilege to operate a motor vehicle in this state can be suspended for six \(6\) months to](#)
22 [one year or modified to permit operation in connection with an ignition interlock device for a period](#)
23 [specified by law, a fine from two hundred dollars \(\\$200\) to five hundred dollars \(\\$500\) can be](#)
24 [imposed, and you can be ordered to perform ten \(10\) to sixty \(60\) hours of community service and](#)
25 [attend a special course on driving while intoxicated or under the influence of a controlled substance](#)
26 [and/or alcohol or drug treatment. If you have had one or more previous offenses within the past](#)
27 [five \(5\) years, your refusal to submit to a chemical test of breath or urine at this time can have](#)
28 [criminal penalties, including incarceration up to six \(6\) months for a second offense and up to one](#)
29 [year for a third or subsequent offense, and can carry increased license suspension or ignition](#)
30 [interlock period, fines and community service. All violators shall pay a five hundred dollar \(\\$500\)](#)
31 [highway safety assessment fee, a two hundred dollar \(\\$200\) department of health chemical testing](#)
32 [programs assessment fee, and a license reinstatement fee. Refusal to submit to a chemical test of](#)
33 [blood shall not subject you to criminal penalties for the refusal itself, but if you have one or more](#)
34 [previous offenses other civil penalties may increase. You have the right to be examined at your](#)

1 own expense by a physician selected by you. If you submit to a chemical test at this time, you have
2 the right to have an additional chemical test performed at your own expense. You will be afforded
3 a reasonable opportunity to exercise these rights. Access to a telephone will be made available for
4 you to make those arrangements. You may now use a telephone."

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

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

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

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

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

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

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

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

33 **31-27-2.5. Chemical tests to persons under eighteen (18) years of age -- Refusal --**
34 **License suspension.**

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

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

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

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

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

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

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

1 drug treatment for the individual.

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

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

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

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

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

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

19 "Rhode Island law requires you to submit to a chemical test of your blood, breath, or urine
20 for the purpose of determining the chemical content of your body fluids or breath. If you refuse this
21 testing, certain penalties can be imposed. These penalties include the following: your Rhode Island
22 driver's license or privilege to operate a motor vehicle in this state can be suspended for six (6)
23 months or modified to permit operation in connection with an ignition interlock device for a period
24 specified by law, a fine from two hundred dollars (\$200) to five hundred dollars (\$500) can be
25 imposed, and you can be ordered to perform ten (10) to sixty (60) hours of community service and
26 attend a special course on driving while intoxicated or under the influence of a controlled substance
27 and/or alcohol or drug treatment. If you have had one or more previous offenses within the past
28 five (5) years, your loss or modification of license, fine and community service sanctions can
29 increase over those provided for a first offense. All violators shall pay a five hundred dollar (\$500)
30 highway safety assessment fee, a two hundred dollar (\$200) department of health chemical testing
31 programs fee, and a license reinstatement fee. If you refuse to submit to a chemical test, you will
32 be required to maintain proof of financial responsibility for three (3) years. Refusal to submit to a
33 chemical test shall not be considered a criminal offense. You have the right to be examined at your
34 own expense by a physician selected by you. If you submit to a chemical test at this time, you have

1 the right to have an additional chemical test performed at your own expense. You will be afforded
2 a reasonable opportunity to exercise these rights. Access to a telephone will be made available for
3 you to make those arrangements. You may now use the telephone."

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

7 ~~**31-27-2.8. Ignition interlock system imposed as part of sentence --- Requirements**~~
8 **Ignition interlock system and/or blood and urine testing imposed as a part of sentence --**
9 **Requirements.**

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

20 (1) Notwithstanding any other sentencing and disposition provisions contained in this
21 chapter, if a Rhode Island traffic tribunal magistrate makes a finding that a motorist was operating
22 a vehicle in the state while under the influence of drugs, toluene, or any controlled substance as
23 evidenced by the presence of controlled substances on or about the person or vehicle, or other
24 reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a preliminary
25 breath test, results from a breathalyzer which indicates no blood alcohol concentration or both, the
26 magistrate may exercise their discretion and eliminate the requirement of an ignition interlock
27 system; provided, that blood and/or urine testing is mandated as a condition to operating a motor
28 vehicle as provided in this section.

29 (2) Notwithstanding any other sentencing and disposition provisions contained in this
30 chapter, if a Rhode Island traffic tribunal magistrate makes a finding that a motorist was operating
31 a vehicle in the state while under the influence of drugs, toluene, or any controlled substance as
32 evidenced by the presence of controlled substances on or about the person or vehicle, or other
33 reliable indicia or articulable conditions thereof and intoxicating liquor based on a preliminary
34 breath test, results from a breathalyzer which indicates blood alcohol concentration or both, the

1 [magistrate may require an ignition interlock system in addition to blood and/or urine testing as a](#)
2 [condition to operating a motor vehicle as provided in this section.](#)

3 (b) Notwithstanding any other provisions contained in this chapter, ~~after a finding of~~
4 ~~eligibility~~, any mandatory period of license suspension shall, upon request, be reduced by the
5 imposition of an ignition interlock system [and/or blood and urine testing](#) ordered by the court or
6 traffic tribunal as follows:

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

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

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

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

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

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

25 (7) ~~In any case where a person is convicted of a first offense under the provisions of § 31-~~
26 ~~27-2(d)(1) or under § 31-27-2.1(b)(1), the sentencing judge or magistrate shall, upon request, grant~~
27 ~~the person a conditional hardship license immediately upon a plea or admission of guilt, or an initial~~
28 ~~suspension under § 31-27-2.1(b), and after a finding of need under this section; provided, however,~~
29 ~~that in a case where a conditional hardship license shall be granted by the sentencing judge or~~
30 ~~magistrate upon an initial suspension under § 31-27-2.1(b) and prior to the installation of an ignition~~
31 ~~interlock device, said hardship license shall be issued to the motorist upon proof of installation of~~
32 ~~an ignition interlock device. No license suspension shall be subject to more than a thirty (30) day~~
33 ~~license suspension based solely upon the imposition of an ignition interlock system.~~

34 [\(i\) If a conviction pursuant to §§ 31-27-2\(d\)\(1\) or 31-27-2.1\(c\)\(1\) is a first offense, or upon](#)

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

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

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

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

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

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

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

32 (E) A positive test of urine or blood which evidences any controlled substances shall be
33 reported by the substance abuse professional to the motorist and to the department of the attorney
34 general within twenty-four (24) hours of receipt of the results. The motorist may, at their own

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

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

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

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

17 (c) However, in any case where a motorist ~~has a prior~~ is convicted of an alcohol-related
18 offense pursuant to the provisions of this chapter ~~or a prior reckless driving conviction under § 31-~~
19 ~~27-4 or reckless eluding conviction under § 31-27-4.1, within the prior ten (10) years of the offense,~~
20 ~~or when the instant offense involves a motor vehicle accident,~~ the judge or magistrate may exercise
21 their discretion in the granting of the hardship license by imposing up to a ninety (90) day loss of
22 license prior to any imposition of the hardship license. ~~If the instant matter involves a blood alcohol~~
23 ~~level of fifteen hundredths (.15) BAC or above, the judge or magistrate may exercise his or her~~
24 ~~discretion in the granting of the hardship license by imposing up to a six (6) month loss of license~~
25 ~~prior to any imposition of the hardship license.~~ Said hardship license shall be valid ~~only~~ for twelve
26 (12) ~~continuous~~ hours per day ~~to get to and from employment, necessary medical appointments,~~
27 ~~job training, schooling, or for~~ any ~~other~~ valid reason approved in advance by the sentencing judge
28 or magistrate, ~~which shall include employment, medical appointments, job training, schooling or~~
29 ~~for religious purposes. The hardship license shall not be for less than twelve (12) continuous hours~~
30 ~~per day.~~ A hardship license shall only be granted in conjunction with the installation of an ignition
31 interlock device ~~and/or blood and urine testing.~~ Any conditional driving privileges must be set by
32 the sentencing judge or magistrate after a hearing in which the motorist must provide proof of
33 employment status and hours of employment, or any other legitimate reasons justifying a hardship
34 license. These shall include, but not be limited to, any unemployment training, schooling, medical

1 appointments, therapy treatments, or any other valid requests set forth by sworn affidavit. Once
2 said hardship period has concluded, the motorist must still be subject to the conditions of the
3 ignition interlock system [and/or blood and urine testing](#) as set forth under this section for the period
4 of time as directed by the court. Any individual who violates the requirements of this subsection
5 shall be subject to the penalties enumerated in § 31-11-18.1.

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

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

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

20 ~~(g)~~ In addition to the requirements of subsection ~~(f)~~ [\(f\) of this section](#), the court or traffic
21 tribunal shall:

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

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

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

30 (4) The requirements under subsection ~~(g)~~ [\(g\) of this section](#) shall be the responsibility of
31 the probation department or justice assistance, if the individual is under their control, or the division
32 of motor vehicles if the individual is not monitored as a condition of the individual's plea or finding
33 of guilt.

34 [\(h\) Any person granted a conditional hardship license upon proof of installation of an](#)

1 ignition interlock device, may operate that motor vehicle during the entire twelve (12) hour period
2 of operation granted by the sentencing judge or magistrate including during the scope of their
3 employment and/or any other valid reason approved by the sentencing judge or magistrate.

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

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

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

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

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

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

29 SECTION 2. With respect to any provisions of this act which require the department of
30 motor vehicles to modify or upgrade their computer systems, said provisions of the act shall take
31 effect on January 1, 2022, and the remaining provisions of the act shall take effect upon passage.

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LC000586/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

1 This act would grant a judge or magistrate the discretion to impose the requirement of
2 blood and/or urine testing or the use of the ignition interlock system or both upon those persons
3 seeking the issuance of a conditional hardship license after a conviction of driving under the
4 influence of alcohol or illegal substances or the refusal to submit to a chemical test. It would also
5 require any person accused of driving under the influence, refusal to take a chemical test, be given
6 notice of the implied consent law and would permit the hand delivery of test results at the location
7 of the test.

8 With respect to any provisions of this act which require the department of motor vehicles
9 to modify or upgrade their computer systems, said provisions of the act shall take effect on January
10 1, 2022, and the remaining provisions of the act shall take effect upon passage.

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LC000586/SUB A
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