

2011 -- H 5678

LC01679

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES

Introduced By: Representatives Gallison, JP O'Neill, Morrison, Malik, and McCauley

Date Introduced: March 03, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 31-26-1 of the General Laws in Chapter 31-26 entitled "Accidents
2 and Accident Reports" is hereby amended to read as follows:

3 **31-26-1. Duty to stop in accidents resulting in personal injury.** -- (a) The driver of any
4 vehicle knowingly involved in an accident resulting in injury to, serious bodily injury to, or death
5 of any person shall immediately stop the vehicle at the scene of the accident or as close to it as
6 possible, but shall then immediately return to and in every event shall remain at the scene of the
7 accident until he or she has fulfilled the requirements of section 31-26-3. A stop shall be made
8 without obstructing traffic more than is necessary.

9 (b) Any person knowingly failing to stop or to comply with the requirements under
10 circumstances which result in injury to any person shall upon conviction be punished by a
11 mandatory loss of license for at least one year and not more than five (5) years and imprisonment
12 for not more than five (5) years and/or fined up to five thousand dollars (\$5,000).

13 (c) (1) Any person knowingly failing to stop or to comply with the requirements under
14 circumstances which result in serious bodily injury to any person shall upon conviction be
15 punished as follows:

16 (i) Every person convicted of a first violation shall be punished by imprisonment for not
17 less than one year and for not more than ten (10) years and by a fine of not less than one thousand
18 dollars (\$1,000), nor more than five thousand dollars (\$5,000). The sentencing judge shall have
19 the discretion to sentence the person to any unit of the adult correctional institutions.

1 Additionally, the license of the person ~~may~~ shall be revoked for a period of ~~up to~~ two (2) years to
2 five (5) years. The license privilege shall not be reinstated until evidence satisfactory to the
3 administrator of the division of motor vehicles establishes that no grounds exist which would
4 authorize refusal to issue a license and until the person gives proof of financial responsibility
5 pursuant to chapter 32 of this title.

6 (ii) For a second or subsequent conviction under this subsection within a five (5) year
7 period, a person shall be punished by imprisonment for not less than two (2) years nor more than
8 fifteen (15) years and by a fine of not less than three thousand dollars (\$3,000) nor more than ten
9 thousand dollars (\$10,000). The sentencing judge shall have the discretion to sentence the person
10 to any unit of the adult correctional institutions. Additionally, the license of the person may be
11 revoked for a period of ~~up to four (4)~~ three (3) to ten (10) years. The license privilege shall not be
12 reinstated until evidence satisfactory to the administrator of the division of motor vehicles
13 establishes that no grounds exist which would authorize refusal to issue a license and until the
14 person gives proof of financial responsibility pursuant to chapter 32 of this title.

15 (2) As used in this subsection, "serious bodily injury" means physical injury that creates
16 a substantial risk of death or causes serious physical disfigurement or protracted loss or
17 impairment of the function of any bodily member or organ.

18 (d) Any person knowingly failing to stop or to comply with the requirements under
19 circumstances which result in the death of any person, shall upon conviction be punished
20 pursuant to the provisions of this subsection as follows:

21 (1) Every person convicted of a first violation of this subsection shall be punished by
22 imprisonment in the state prison for not less than two (2) years and for not more than fifteen (15)
23 years, in any unit of the adult correctional institutions in the discretion of the sentencing judge, by
24 a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars
25 (\$10,000), and his or her license to operate a motor vehicle shall be revoked for a period of three
26 (3) years. The license privilege shall not be reinstated until evidence satisfactory to the
27 administrator of the division of motor vehicles establishes that no grounds exist which would
28 authorize the refusal to issue a license, and until the person gives proof of financial responsibility
29 pursuant to chapter 32 of this title.

30 (2) Every person convicted of a second or subsequent violation of this subsection within
31 a five (5) year period shall be punished by imprisonment in the state prison for not less than five
32 (5) years and for not more than twenty (20) years, in any unit of the adult correctional institutions
33 in the discretion of the sentencing judge, by a fine of not less than ten thousand dollars (\$10,000)
34 nor more than twenty thousand dollars (\$20,000) and his or her license to operate a motor vehicle

1 shall be revoked for a period of five (5) to fifteen (15) years . The license privilege shall not be
2 reinstated until evidence satisfactory to the administrator of the division of motor vehicles
3 establishes that no grounds exist which would authorize the refusal to issue a license, and until
4 the person gives proof of financial responsibility pursuant to chapter 32 of this title.

5 (e) This section shall apply in its entirety to any driver of a motor vehicle knowingly
6 involved in an accident with a person riding a bicycle.

7 SECTION 2. Sections 31-27-1, 31-27-1.1, 31-27-2, 31-27-2.1, 31-27-2.2, 31-27-2.6 and
8 31-27-2.8 of the General Laws in Chapter 31-27 entitled "Motor Vehicle Offenses" are hereby
9 amended to read as follows:

10 **31-27-1. Driving so as to endanger, resulting in death.** -- (a) When the death of any
11 person ensues as a proximate result of an injury received by the operation of any vehicle in
12 reckless disregard of the safety of others, including violations of section 31-27-22, the person so
13 operating the vehicle shall be guilty of "driving so as to endanger, resulting in death".

14 (b) Any person charged with the commission of this offense shall upon conviction be
15 imprisoned for not more than ~~ten (10)~~ twenty (20) years and have his or her license to operate a
16 motor vehicle suspended for no more than five (5) years.

17 **31-27-1.1. Driving so as to endanger, resulting in personal injury.** -- (a) When the
18 serious bodily injury of any person ensues as a proximate result of the operation of any vehicle in
19 reckless disregard of the safety of others, including violations of section 31-27-22, the person so
20 operating the vehicle shall be guilty of "driving so as to endanger, resulting in serious bodily
21 injury".

22 (b) "Serious bodily injury" means physical injury that creates a substantial risk of death
23 or causes serious permanent disfigurement or protracted loss or impairment of the function of any
24 bodily member or organ.

25 (c) Any person charged with a violation of this section shall upon conviction be
26 imprisoned for not more than ~~five (5)~~ ten (10) years and have his or her license to operate a motor
27 vehicle suspended for no more than three (3) years.

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

33 (b) (1) Any person charged under subsection (a) of this section whose blood alcohol
34 concentration is eight one-hundredths of one percent (.08%) or more by weight as shown by a

1 chemical analysis of a blood, breath, or urine sample shall be guilty of violating subsection (a) of
2 this section. This provision shall not preclude a conviction based on other admissible evidence.
3 Proof of guilt under this section may also be based on evidence that the person charged was under
4 the influence of intoxicating liquor, drugs, toluene, or any controlled substance defined in chapter
5 28 of title 21, or any combination of these, to a degree which rendered the person incapable of
6 safely operating a vehicle. The fact that any person charged with violating this section is or has
7 been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of
8 violating this section.

9 (2) Whoever drives or otherwise operates any vehicle in the state with a blood presence
10 of any scheduled controlled substance as defined within chapter 28 of title 21, as shown by
11 analysis of a blood or urine sample, shall be guilty of a misdemeanor and shall be punished as
12 provided in subsection (d) of this section.

13 (c) In any criminal prosecution for a violation of subsection (a) of this section, evidence
14 as to the amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter
15 28 of title 21, or any combination of these, in the defendant's blood at the time alleged as shown
16 by a chemical analysis of the defendant's breath, blood, or urine or other bodily substance shall be
17 admissible and competent, provided that evidence is presented that the following conditions have
18 been complied with:

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

22 (2) A true copy of the report of the test result was mailed within seventy-two (72) hours
23 of the taking of the test to the person submitting to a breath test.

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

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

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

33 (6) The person arrested and charged with operating a motor vehicle while under the
34 influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of

1 title 21, or, any combination of these in violation of subsection (a) of this section was afforded the
2 opportunity to have an additional chemical test. The officer arresting or so charging the person
3 shall have informed the person of this right and afforded him or her a reasonable opportunity to
4 exercise this right, and a notation to this effect is made in the official records of the case in the
5 police department. Refusal to permit an additional chemical test shall render incompetent and
6 inadmissible in evidence the original report.

7 (d) (1) (i) Every person found to have violated subdivision (b)(1) of this section shall be
8 sentenced as follows: for a first violation whose blood alcohol concentration is eight one-
9 hundredths of one percent (.08%) but less than one-tenth of one percent (.1%) by weight or who
10 has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2) shall
11 be subject to a fine of not less than one hundred dollars (\$100) nor more than three hundred
12 dollars (\$300), shall be required to perform ten (10) to sixty (60) hours of public community
13 restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit
14 of the adult correctional institutions in the discretion of the sentencing judge and/or shall be
15 required to attend a special course on driving while intoxicated or under the influence of a
16 controlled substance, and his or her driver's license shall be suspended for thirty (30) days up to
17 one hundred eighty (180) days. [The sentencing judge may prohibit that person from operating a
18 motor vehicle that is not equipped with an ignition interlock system, as provided in section 31-27-
19 2.8, for up to one year following the completion of the license suspension.](#)

20 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-
21 tenth of one percent (.1%) by weight or above but less than fifteen hundredths of one percent
22 (.15%) or whose blood alcohol concentration is unknown shall be subject to a fine of not less than
23 one hundred (\$100) dollars nor more than four hundred dollars (\$400) and shall be required to
24 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned
25 for up to one year. The sentence may be served in any unit of the adult correctional institutions in
26 the discretion of the sentencing judge. The person's driving license shall be suspended for a
27 period of three (3) months to twelve (12) months. [The sentencing judge may prohibit that person
28 from operating a motor vehicle that is not equipped with an ignition interlock system, as provided
29 in section 31-27-2.8, for up to one year following the completion of the license suspension.](#)

30 The sentencing judge shall require attendance at a special course on driving while
31 intoxicated or under the influence of a controlled substance and/or alcoholic or drug treatment for
32 the individual.

33 (iii) Every person convicted of a first offense whose blood alcohol concentration is
34 fifteen hundredths of one percent (.15%) or above, or who is under the influence of a drug,

1 toluene, or any controlled substance as defined in subdivision (b)(1) shall be subject to a fine of
2 five hundred dollars (\$500) and shall be required to perform twenty (20) to sixty (60) hours of
3 public community restitution and/or shall be imprisoned for up to one year. The sentence may be
4 served in any unit of the adult correctional institutions in the discretion of the sentencing judge.
5 The person's driving license shall be suspended for a period of three (3) months to eighteen (18)
6 months. The sentencing judge may prohibit that person from operating a motor vehicle that is not
7 equipped with an ignition interlock system, as provided in section 31-27-2.8, for up to one year
8 following the completion of the license suspension.

9 The sentencing judge shall require attendance at a special course on driving while
10 intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for
11 the individual.

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

29 (ii) Every person convicted of a second violation within a ~~five (5)~~ ten (10) year period
30 whose blood alcohol concentration is fifteen hundredths of one percent (.15%) or above by
31 weight as shown by a chemical analysis of a blood, breath, or urine sample or who is under the
32 influence of a drug, toluene, or any controlled substance as defined in subdivision (b)(1) shall be
33 subject to mandatory imprisonment of not less than six (6) months nor more than one year, a
34 mandatory fine of not less than one thousand dollars (\$1,000) and a mandatory license suspension

1 for a period of two (2) years from the date of completion of the sentence imposed under this
2 subsection. The sentencing judge may prohibit that person from operating a motor vehicle that is
3 not equipped with an ignition interlock system, as provided in section 31-27-2.8, for a period of
4 one to two (2) years following the completion of the license suspension. The sentencing judge
5 shall require alcohol or drug treatment for the individual.

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

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

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

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

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

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

1 fines authorized by this section.

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

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

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

20 (8) Any person convicted of a violation under this section may undergo a clinical
21 assessment at the community college of Rhode Island 's center for workforce and community
22 education. Should this clinical assessment determine problems of alcohol, drug abuse, or
23 psychological problems associated with alcoholic or drug abuse, this person shall be referred to
24 an appropriate facility, licensed or approved by the department of mental health, retardation and
25 hospitals for treatment placement, case management, and monitoring.

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

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

33 (2) Persons convicted under the provisions of this chapter shall be required to attend a
34 special course on driving while intoxicated or under the influence of a controlled substance,

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

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

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

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

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

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

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

1 absorption is considered a chemical test.

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

6 **31-27-2.1. Refusal to submit to chemical test.** – (a) Any person who operates a motor
7 vehicle within this state shall be deemed to have given his or her consent to chemical tests of his
8 or her breath, blood, and/or urine for the purpose of determining the chemical content of his or
9 her body fluids or breath. No more than two (2) complete tests, one for the presence of
10 intoxicating liquor and one for the presence of toluene or any controlled substance, as defined in
11 section 21-28-1.02(7), shall be administered at the direction of a law enforcement officer having
12 reasonable grounds to believe the person to have been driving a motor vehicle within this state
13 while under the influence of intoxicating liquor, toluene, or any controlled substance, as defined
14 in chapter 28 of title 21, or any combination of these. The director of the department of health is
15 empowered to make and file with the secretary of state, regulations which prescribe the
16 techniques and methods of chemical analysis of the person's body fluids or breath and the
17 qualifications and certification of individuals authorized to administer the testing and analysis.

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

1 the person had been informed of his or her rights in accordance with section 31-27-3; that the
2 person had been informed of the penalties incurred as a result of noncompliance with this section;
3 and that the person had refused to submit to the tests upon the request of a law enforcement
4 officer; shall promptly order that the person's operator's license or privilege to operate a motor
5 vehicle in this state be immediately suspended and that the person's license be surrendered within
6 five (5) days of notice of suspension. A traffic tribunal judge or a district court judge pursuant to
7 the terms of subsection (c) of this section shall order as follows:

8 (1) Impose for the first violation a fine in the amount of two hundred dollars (\$200) to
9 five hundred dollars (\$500) and shall order the person to perform ten (10) to sixty (60) hours of
10 public community restitution. The person's driving license in this state shall be suspended for a
11 period of six (6) months to one year. The traffic tribunal judge shall require attendance at a
12 special course on driving while intoxicated or under the influence of a controlled substance and/or
13 alcohol or drug treatment for the individual.

14 (2) Every person convicted for a second violation within a ~~five (5)~~ ten (10) year period
15 shall be guilty of a misdemeanor, shall be imprisoned for not more than six (6) months and shall
16 pay a fine in the amount of six hundred dollars (\$600) to one thousand dollars (\$1,000), order the
17 person to perform sixty (60) to one hundred (100) hours of public community restitution, and the
18 person's driving license in this state shall be suspended for a period of one year to two (2) years.
19 The judge shall require alcohol and/or drug treatment for the individual.

20 (3) Every person convicted for a third or subsequent violation within a ~~five (5)~~ ten (10)
21 year period shall be guilty of a misdemeanor and shall be imprisoned for not more than one year,
22 fined eight hundred dollars (\$800) to one thousand dollars (\$1,000), order the person to perform
23 not less than one hundred (100) hours of public community restitution, and the person's operator's
24 license in this state shall be suspended for a period of two (2) years to five (5) years. The judge
25 shall require alcohol or drug treatment for the individual. Provided, that prior to the reinstatement
26 of a license to a person charged with a third or subsequent violation within a three (3) year period,
27 a hearing shall be held before a judge. At the hearing the judge shall review the person's driving
28 record, his or her employment history, family background, and any other pertinent factors that
29 would indicate that the person has demonstrated behavior which warrants the reinstatement of his
30 or her license.

31 (4) For purposes of determining the period of license suspension, a prior violation shall
32 constitute any charge brought and sustained under the provisions of this section or section 31-27-
33 2.

34 (5) In addition to any other fines, a highway safety assessment of five hundred dollars

1 (\$500) shall be paid by any person found in violation of this section, the assessment to be
2 deposited into the general fund. The assessment provided for by this subsection shall be collected
3 from a violator before any other fines authorized by this section.

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

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

11 (c) Upon suspending or refusing to issue a license or permit as provided in subsection (a)
12 of this section, the traffic tribunal or district court shall immediately notify the person involved in
13 writing, and upon his or her request, within fifteen (15) days shall afford the person an
14 opportunity for a hearing as early as practical upon receipt of a request in writing. Upon a hearing
15 the judge may administer oaths and may issue subpoenas for the attendance of witnesses and the
16 production of relevant books and papers. If the judge finds after the hearing that: (1) the law
17 enforcement officer making the sworn report had reasonable grounds to believe that the arrested
18 person had been driving a motor vehicle within this state while under the influence of intoxicating
19 liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or any
20 combination of these; (2) the person while under arrest refused to submit to the tests upon the
21 request of a law enforcement officer; (3) the person had been informed of his or her rights in
22 accordance with section 31-27-3; and (4) the person had been informed of the penalties incurred
23 as a result of noncompliance with this section; the judge shall sustain the violation. The judge
24 shall then impose the penalties set forth in subsection (b) of this section. Action by the judge must
25 be taken within seven (7) days after the hearing, or it shall be presumed that the judge has refused
26 to issue his or her order of suspension.

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

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

34 **31-27-2.2. Driving under the influence of liquor or drugs, resulting in death.** -- (a)

1 When the death of any person other than the operator ensues as a proximate result of an injury
2 received by the operation of any vehicle, the operator of which is under the influence of any
3 intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or
4 any combination of these, the person so operating the vehicle shall be guilty of "driving under the
5 influence of liquor or drugs, resulting in death".

6 (b) Any person charged with the commission of the offense set forth in subsection (a) of
7 this section shall, upon conviction, be punished ~~as follows~~:

8 (1) (i) ~~Every person convicted of a first violation shall be punished by~~ By imprisonment
9 in the state prison for not less than five (5) years and for not more than ~~fifteen (15)~~ thirty (30)
10 years, in any unit of the adult correctional institutions in the discretion of the sentencing judge, by
11 a fine of not less than five thousand dollars (\$5,000) nor more than ~~ten thousand dollars (\$10,000)~~
12 twenty thousand dollars (\$20,000) and his or her license to operate a motor vehicle shall be
13 revoked for a period of five (5) ~~to ten (10)~~ years. The license privilege shall not be reinstated until
14 evidence satisfactory to the administrator of the division of motor vehicles establishes that no
15 grounds exist which would authorize the refusal to issue a license, and until the person gives
16 proof of financial responsibility pursuant to chapter 32 of this title.

17 (ii) In addition, the person convicted may be required to successfully complete alcohol or
18 drug treatment in a program of their choice, at their own expense, as authorized by a judge of the
19 superior court, and may successfully complete the program before any license to operate a motor
20 vehicle is renewed.

21 ~~-(2) Every person convicted of a second or subsequent violation within a five (5) year~~
22 ~~period in this state or any other state, provided the out of state conviction was based on the same~~
23 ~~blood alcohol concentration as set forth in section 31-27-2 shall be punished by imprisonment in~~
24 ~~the state prison for not less than ten (10) years and for not more than twenty (20) years, in any~~
25 ~~unit of the adult correctional institutions in the discretion of the sentencing judge, by a fine of not~~
26 ~~less than ten thousand dollars (\$10,000) nor more than twenty thousand dollars (\$20,000) and his~~
27 ~~or her license to operate a motor vehicle shall be revoked for a period of five (5) years. In~~
28 ~~addition, the person convicted may be required to successfully complete alcohol or drug~~
29 ~~treatment, at their own expense, in a program established by the director of the department of~~
30 ~~corrections. The license privilege shall not be reinstated whether the convictions occurred in this~~
31 ~~or any other state until evidence satisfactory to the superior court, following a hearing establishes~~
32 ~~that no grounds exist which would authorize the refusal to issue a license, and until the person~~
33 ~~gives proof of financial responsibility pursuant to chapter 32 of this title.~~

34 **31-27-2.6. Driving under the influence of liquor or drugs, resulting in serious bodily**

1 **injury.** -- (a) When serious bodily injury of any person other than the operator is caused by the
2 operation of any motor vehicle, the operator of which is under the influence of any intoxicating
3 liquor, toluene, or any controlled substance as defined in chapter 28 of title 21 or any combination
4 of these, the person so operating the vehicle shall be guilty of driving under the influence of
5 liquor or drugs, resulting in serious bodily injury.

6 (b) As used in this section, "serious bodily injury" means physical injury that creates a
7 substantial risk of death or causes serious physical disfigurement or protracted loss or impairment
8 of the function of any bodily member or organ.

9 (c) Any person charged with the commission of the offense set forth in subsection (a) of
10 this section shall, upon conviction, be punished by imprisonment for not less than one year and
11 for not more than ~~ten (10)~~ twenty (20) years and by a fine of not less than one thousand dollars
12 (\$1,000) nor more than ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000). The
13 sentencing judge shall have the discretion to sentence the person to any unit of the adult
14 correctional institutions. The license of the person may be revoked for a period of ~~up to two (2)~~
15 three (3) to five (5) years. The license privilege shall not be reinstated until evidence satisfactory
16 to the administrator of the division of motor vehicles establishes that no grounds exist which
17 would authorize refusal to issue a license and until the person gives proof of financial
18 responsibility pursuant to chapter 32 of this title. In addition, the person convicted may be
19 required to successfully complete alcohol or drug treatment, at their own expense, in a program
20 established by the director of the department of corrections.

21 ~~-(d) For a second or subsequent conviction under this section within a five (5) year~~
22 ~~period, a person shall be punished by imprisonment for not less than two (2) years nor more than~~
23 ~~fifteen (15) years and by a fine of not less than three thousand dollars (\$3,000) nor more than ten~~
24 ~~thousand dollars (\$10,000). The sentencing judge shall have the discretion to sentence the person~~
25 ~~to any unit of the adult correctional institutions. In addition, the person convicted may be required~~
26 ~~to successfully complete alcohol or drug treatment, at their own expense, in a program established~~
27 ~~by the director of the department of corrections. The license of the person may be revoked for a~~
28 ~~period of up to four (4) years. The license privilege shall not thereafter be reinstated until~~
29 ~~evidence satisfactory to the administrator of the division of motor vehicles establishes that no~~
30 ~~grounds exist which would authorize refusal to issue a license and until the person gives proof of~~
31 ~~financial responsibility pursuant to chapter 32 of this title.~~

32 **31-27-2.8. Ignition interlock system imposed as part of sentence -- Requirements. --**

33 (a) Any person convicted under the provisions of ~~section~~ subdivision 31-27-2(d)(1), (2) or (3)
34 may be prohibited by the sentencing judge from operating a motor vehicle that is not equipped

1 with an ignition interlock system ~~for a period of not more than two (2) years following the~~
2 ~~completion of any sentence imposed pursuant to that section~~ in accordance with subdivision 31-
3 27-2(d)(1), (2) or (3).

4 (b) Any person convicted of an offense of driving under the influence of liquor or drugs
5 resulting in death, section 31-27-2.2, driving under the influence of liquor or drugs resulting in
6 serious bodily injury, section 31-27-2.6, driving to endanger resulting in death, section 31-27-1,
7 or driving to endanger resulting in serious bodily injury, section 31-27-1.1 may, in addition to any
8 other penalties provided by law, be prohibited from operating a motor vehicle which is not
9 equipped with an approved ignition interlock system for one to five (5) years.

10 (c) Any person who drives with a suspended license and the reason for the suspension
11 was a consequence of driving under the influence of drugs or alcohol, or refusal to submit to a
12 chemical test, may be subject to an additional six (6) months use of the ignition interlock system.

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

17 (1) Altering, tampering or in any way attempt 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
23 system.

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

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

32 **31-49-2. Certification of ignition interlock systems.** -- The division of motor vehicles
33 shall certify or cause to be certified ignition interlock systems for use in the state, and adopt rules
34 and regulations for the certification and requirements for participation of the ignition interlock

1 systems. All costs associated with the installation of the interlock ignition systems shall be borne
2 by the person required to install said system and the division shall charge an administrative fee of
3 one hundred dollars (\$100) to the person ordered to install said system unless the defendant is
4 indigent as defined by section 12-20-10 and 12-21-20.

5 **31-49-4. Warning label.** -- (a) (1) The division of motor vehicles shall design and adopt
6 a warning label to be affixed to an ignition interlock system on installation. The warning label
7 shall state that a person tampering with, circumventing, or otherwise misusing the ignition
8 interlock system is guilty of a misdemeanor, and on conviction, is subject to a fine up to five
9 hundred dollars (\$500), or one year imprisonment, or both.

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

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

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

16 (2) Require the person to have the system monitored for the proper use and accuracy by
17 a person, firm, corporation or other association to be approved by the department of revenue at
18 least once every six (6) months, or more frequently as the circumstances may require. Said
19 person, firm, corporation or other association who shall install and monitor said systems shall be
20 approved by the division of motor vehicles every six (6) months. Said person, firm, corporation or
21 other association shall also submit quarterly reports concerning proof of installation and proper
22 use of said ignition interlock systems to the division of motor vehicles, which will be aggregated
23 by the division of motor vehicles and sent to the appropriate court; and

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

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

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

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

1 ~~section.~~

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

6 (2)(d) If a person is required, in the course of the person's employment, to operate a
7 motor vehicle owned or provided by the person's employer, the person may operate that motor
8 vehicle in the course of the person's employment without installation of an ignition interlock
9 system if the court has expressly permitted the person to operate in the course of the person's
10 employment a motor vehicle that is not equipped with an ignition interlock system.

11 (g)(e) Any person who shall violate the provisions of this section shall be guilty of a
12 misdemeanor punishable by up to one year imprisonment or a fine of up to one thousand dollars
13 (\$1,000), or both.

14 **31-49-5. List of certified ignition interlock systems.** -- (a) The ~~administration~~ division
15 of motor vehicles shall publish a list of certified ignition interlock systems which shall be
16 included on the division of motor vehicle website.

17 (b) A manufacturer of an ignition interlock system that seeks to sell or lease the ignition
18 interlock system to persons subject to the provisions of section 31-27-2 shall pay the costs of
19 obtaining the required certification.

20 SECTION 4. Chapter 31-27 of the General Laws entitled "Motor Vehicle Offenses" is
21 hereby amended by adding thereto the following section:

22 **31-27-2.10. Driving under the influence of liquor or drugs, resulting in personal**
23 **injury.** – (a) When the personal injury of any person other than the operator is caused by the
24 operation of any motor vehicle, the operator of which is under the influence of any intoxicating
25 liquor, toluene, or any controlled substance as defined in chapter 28 of title 21 or any combination
26 of these, the person so operating the vehicle shall be guilty of driving under the influence of
27 liquor or drugs, resulting in personal injury.

28 (b) Any person charged with a violation of this section shall, upon conviction, be
29 imprisoned for not more than three (3) years and have his or her license to operate a motor
30 vehicle suspended for not more than one year.

31 SECTION 5. This act shall take effect upon passage.

=====
LC01679
=====

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

1 This act would lengthen the periods of revocation of a license upon a conviction where
2 there was a duty to stop in an accident resulting in personal injury. It would also lengthen the
3 terms of imprisonment for conviction when driving to endanger and either death or personal
4 injury result. This act would allow the sentencing judge to prohibit a person from operating a
5 motor vehicle not equipped with an ignition interlock system for up to one year following the
6 completion of license suspension when convicted for driving under the influence of liquor or
7 drugs. Also, when driving under the influence of liquor or drugs, resulting in death the term of
8 imprisonment and fines in lieu thereof shall be heightened. This act would also require persons,
9 firms, and corporations who install and monitor interlock ignition systems to be approved by the
10 division of motor vehicles every six (6) months.

11 This act would take effect upon passage.

=====
LC01679
=====