

2022 -- S 3041 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MOTOR VEHICLE OFFENSES

Introduced By: Senator Stephen R. Archambault

Date Introduced: June 18, 2022

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

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

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

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

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

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

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

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

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

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

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

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

10 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-
11 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent
12 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less than
13 one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required to
14 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for
15 up to one year. The sentence may be served in any unit of the adult correctional institutions in the
16 discretion of the sentencing judge [or magistrate](#). The person's driving license shall be suspended
17 for a period of ~~three (3) months to twelve (12) months~~ [thirty \(30\) days](#). The sentencing judge [or](#)
18 [magistrate](#) shall require attendance at a special course on driving while intoxicated or under the
19 influence of a controlled substance and/or alcoholic or drug treatment for the individual; provided,
20 however, that the court may permit a servicemember or veteran to complete any court-approved
21 counseling program administered or approved by the Veterans' Administration. The sentencing
22 judge or magistrate may prohibit that person from operating a motor vehicle that is not equipped
23 with an ignition interlock system [for a period of up to one hundred eighty \(180\) days](#) as provided
24 in § 31-27-2.8.

25 (iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen
26 hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any
27 controlled substance [as defined in chapter 28 of title 21, or](#) as defined in subsection (b)(1), [or any](#)
28 [combination of these](#), shall be subject to a fine of five hundred dollars (\$500) and shall be required
29 to perform twenty (20) to sixty (60) hours of public community restitution and/or shall be
30 imprisoned for up to one year. The sentence may be served in any unit of the adult correctional
31 institutions in the discretion of the sentencing judge [or magistrate](#). The person's driving license
32 shall be suspended for a period of three (3) months to eighteen (18) months. The sentencing judge
33 [or magistrate](#) shall require attendance at a special course on driving while intoxicated or under the
34 influence of a controlled substance and/or alcohol or drug treatment for the individual; provided,

1 however, that the court may permit a servicemember or veteran to complete any court-approved
2 counseling program administered or approved by the Veterans' Administration. The sentencing
3 judge or magistrate shall prohibit that person from operating a motor vehicle, pursuant to subsection
4 (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system and/or blood
5 ~~and~~ and/or urine 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 chapter 28 of title 21, and every
10 person convicted of a second violation within a five-year (5) period, regardless of whether the prior
11 violation and subsequent conviction was a violation and subsequent conviction under this statute
12 or under the driving under the influence of liquor or drugs statute of any other state, shall be subject
13 to a mandatory fine of four hundred dollars (\$400). The person's driving license shall be suspended
14 for a period of one year to two (2) years, and the individual shall be sentenced to not less than ten
15 (10) days, nor more than one year, in jail. The sentence may be served in any unit of the adult
16 correctional institutions in the discretion of the sentencing judge or magistrate; however, not less
17 than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge or
18 magistrate shall require alcohol or drug treatment for the individual; provided, however, that the
19 court 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 subsection (d)(9) or (d)(10) of this section, that is not
22 equipped with an ignition interlock system and/or blood ~~and~~ and/or urine testing as provided in §
23 31-27-2.8.

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

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

3 (3)(i) Every person convicted of a third or subsequent violation within a five-year (5)
4 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above,
5 but less than fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is
6 unknown or who has a blood presence of any scheduled controlled substance as defined in chapter
7 28 of title 21, regardless of whether any prior violation and subsequent conviction was a violation
8 and subsequent conviction under this statute or under the driving under the influence of liquor or
9 drugs statute of any other state, shall be guilty of a felony and be subject to a mandatory fine of
10 four hundred (\$400) dollars. The person's driving license shall be suspended for a period of two (2)
11 years to three (3) years, and the individual shall be sentenced to not less than one year and not more
12 than three (3) years in jail. The sentence may be served in any unit of the adult correctional
13 institutions in the discretion of the sentencing judge [or magistrate](#); however, not less than forty-
14 eight (48) hours of imprisonment shall be served consecutively. The sentencing judge [or magistrate](#)
15 shall require alcohol or drug treatment for the individual; provided, however, that the court may
16 permit a servicemember or veteran to complete any court-approved counseling program
17 administered or approved by the Veterans' Administration, and shall prohibit that person from
18 operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not
19 equipped with an ignition interlock system and/or blood ~~and~~ [and/or](#) urine testing as provided in §
20 31-27-2.8.

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

33 (iii) In addition to the foregoing penalties, every person convicted of a third or subsequent
34 violation within a five-year (5) period, regardless of whether any prior violation and subsequent

1 conviction was a violation and subsequent conviction under this statute or under the driving under
2 the influence of liquor or drugs statute of any other state, shall be subject, in the discretion of the
3 sentencing judge [or magistrate](#), to having the vehicle owned and operated by the violator seized
4 and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred to the
5 general fund.

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

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

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

34 (6)(i) Any person convicted of a violation under this section shall pay a highway

1 assessment fine of five hundred dollars (\$500) that shall be deposited into the general fund. The
2 assessment provided for by this subsection shall be collected from a violator before any other fines
3 authorized by this section.

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

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

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

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

33 (9) Notwithstanding any other sentencing and disposition provisions contained in this
34 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was

1 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
2 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
3 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a
4 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration,
5 or both, the judge or magistrate may exercise his or her discretion and eliminate the requirement
6 of an ignition interlock system; provided, that blood and/or urine testing is mandated as a condition
7 to operating a motor vehicle as provided in § 31-27-2.8.

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

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

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

24 (2) Persons convicted under the provisions of this chapter shall be required to attend a
25 special course on driving while intoxicated or under the influence of a controlled substance, and/or
26 participate in an alcohol or drug treatment program; provided, however, that the court may permit
27 a servicemember or veteran to complete any court-approved counseling program administered or
28 approved by the Veterans' Administration. The course shall take into consideration any language
29 barrier that may exist as to any person ordered to attend, and shall provide for instruction reasonably
30 calculated to communicate the purposes of the course in accordance with the requirements of the
31 subsection. Any costs reasonably incurred in connection with the provision of this accommodation
32 shall be borne by the person being retrained. A copy of any violation under this section shall be
33 forwarded by the court to the alcohol and drug safety unit. In the event that persons convicted under
34 the provisions of this chapter fail to attend and complete the above course or treatment program, as

1 ordered by the judge [or magistrate](#), then the person may be brought before the court, and after a
2 hearing as to why the order of the court was not followed, may be sentenced to jail for a period not
3 exceeding one year.

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

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

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

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

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

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

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

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

1 **31-27-2.1. Refusal to submit to chemical test.**

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

26 (1) At the initial traffic tribunal appearance, the judge or magistrate shall review the
27 incident, action, and/or arrest reports submitted by the law enforcement officer to determine if there
28 exists reasonable grounds to believe that the person had been driving a motor vehicle while under
29 the influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28
30 of title 21, or any combination thereof. The judge or magistrate shall also determine if the person
31 had been informed of the penalties incurred as a result of failing to submit to a chemical test as
32 provided in this section and that the person had been informed of the implied consent notice
33 contained in subsection (c)(10) of this section. For the purpose of this subsection only, "driving a
34 motor vehicle while under the influence of any controlled substance as defined in chapter 28 of title

1 21" shall be indicated by the presence ~~or aroma~~ of a controlled substance on or about the person or
2 vehicle of the individual refusing the chemical test or other reliable indicia or articulable conditions
3 that the person was impaired due to their intake of a controlled substance.

4 (2) If the judge or magistrate determines that subsection (b)(1) of this section has been
5 satisfied they shall promptly order that the person's operator's license or privilege to operate a motor
6 vehicle in this state be immediately suspended. Said suspension shall be subject to the hardship
7 provisions enumerated in § 31-27-2.8.

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

10 (1) Impose, for the first violation, a fine in the amount of two hundred dollars (\$200) to
11 five hundred dollars (\$500) and shall order the person to perform ten (10) to sixty (60) hours of
12 public community restitution. The person's driving license in this state shall be suspended for a
13 period of ~~six (6) months to one year~~ thirty (30) days. The traffic tribunal judge or magistrate shall
14 require attendance at a special course on driving while intoxicated or under the influence of a
15 controlled substance and/or alcohol or drug treatment for the individual. The traffic tribunal judge
16 or magistrate may prohibit that person from operating a motor vehicle that is not equipped with an
17 ignition interlock system ~~and/or blood and urine testing~~ for up to one year as provided in § 31-27-
18 2.8.

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

28 (3) Every person convicted for a third or subsequent violation within a five-year (5) period,
29 except with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor;
30 and shall be imprisoned for not more than one year; fined eight hundred dollars (\$800) to one
31 thousand dollars (\$1,000); shall perform not less than one hundred (100) hours of public community
32 restitution; and the person's operator's license in this state shall be suspended for a period of two
33 (2) years to five (5) years. The sentencing judge or magistrate shall prohibit that person from
34 operating a motor vehicle that is not equipped with an ignition interlock system ~~and/or blood and~~

1 ~~urine testing~~ as provided in § 31-27-2.8. The judge or magistrate shall require alcohol or drug
2 treatment for the individual. Provided, that prior to the reinstatement of a license to a person charged
3 with a third or subsequent violation within a three-year (3) period, a hearing shall be held before a
4 judge or magistrate. At the hearing, the judge or magistrate shall review the person's driving record,
5 his or her employment history, family background, and any other pertinent factors that would
6 indicate that the person has demonstrated behavior that warrants the reinstatement of his or her
7 license.

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

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

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

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

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

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

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

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

33 (d) Upon suspending or refusing to issue a license or permit as provided in subsection (a),
34 the traffic tribunal or district court shall immediately notify the person involved in writing, and

1 upon his or her request, within fifteen (15) days, afford the person an opportunity for a hearing as
2 early as practical upon receipt of a request in writing. Upon a hearing, the judge [or magistrate](#) may
3 administer oaths and may issue subpoenas for the attendance of witnesses and the production of
4 relevant books and papers. If the judge [or magistrate](#) finds after the hearing that:

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

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

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

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

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

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

24 **31-27-2.5. Chemical tests to persons under eighteen (18) years of age -- Refusal --**
25 **License suspension.**

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

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

31 (c) If a person as set forth in subsection (a) of this section refuses, upon the request of a
32 law enforcement officer, to submit to a test as provided in § 31-27-2.1, none shall be given, but a
33 judge of the family court, upon receipt of a report or testimony of a law enforcement officer: that
34 he or she had probable cause to stop the arrested person and reasonable grounds to believe the

1 arrested person had been driving a motor vehicle within this state while impaired by intoxicating
2 liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or any combination
3 of these; that the person had been informed of his or her rights in accordance with § 31-27-3; that
4 the person had been informed of the implied consent notice contained in subsection (h) of this
5 section; and that the person had refused to submit to the test upon the request of a law enforcement
6 officer; shall promptly order a hearing on whether the person's operator's license or privilege to
7 operate a motor vehicle in this state shall be suspended. Upon suspension, the judge shall order the
8 license of the person to be surrendered to the department of administration, division of motor
9 vehicles, within three (3) days.

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

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

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

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

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

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

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

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

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

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

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

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

32 ~~**31-27-2.8. Ignition interlock system and/or blood and urine testing imposed as a part**~~
33 ~~**of sentence -- Requirements Ignition interlock system and/or blood and/or urine testing**~~
34 ~~**imposed as a part of sentence -- Requirements.**~~

1 (a) Any person subject to suspension pursuant to ~~§§ 31-27-2.1(b)(1) and 31-27-2.1(b)(2)~~
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-
3 27-2(d)(3)(ii), ~~or whose violation is sustained under the provisions of §§ 31-27-2.1(b)(1) and 31-~~
4 ~~27-2.1(b)(2)~~, may be prohibited by the sentencing judge or magistrate from operating a motor
5 vehicle that is not equipped with an ignition interlock system, and/or blood ~~and~~ and/or urine testing
6 ~~by a licensed physician with knowledge and clinical experience in the diagnosis and treatment of~~
7 ~~drug-related disorders, a licensed or certified psychologist, social worker, or EAP professional with~~
8 ~~like knowledge, or a substance abuse counselor certified by the National Association of Alcohol~~
9 ~~and Drug Abuse Counselors (all of whom shall be licensed in Rhode Island), pursuant to this~~
10 ~~section.~~

11 (1) Notwithstanding any other sentencing and disposition provisions contained in this
12 chapter, if a ~~Rhode Island traffic tribunal~~ judge or magistrate makes a finding that a motorist was
13 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
14 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
15 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a
16 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration or
17 both, the judge or magistrate may exercise his or her discretion and eliminate the requirement of an
18 ignition interlock system; provided, that blood and/or urine testing is mandated as a condition to
19 operating a motor vehicle as provided in this section.

20 (2) Notwithstanding any other sentencing and disposition provisions contained in this
21 chapter, if a ~~Rhode Island traffic tribunal~~ judge or magistrate makes a finding that a motorist was
22 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
23 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
24 or other reliable indicia or articulable conditions thereof and intoxicating liquor based on a
25 preliminary breath test, results from a breathalyzer that indicates blood alcohol concentration or
26 both, the judge or magistrate may require an ignition interlock system in addition to blood and/or
27 urine testing as a condition to operating a motor vehicle as provided in this section.

28 (b) Notwithstanding any other provisions contained in this chapter, any mandatory period
29 of license suspension shall, upon request, be reduced by the imposition of an ignition interlock
30 system and/or blood ~~and~~ and/or urine testing ordered by the court or traffic tribunal as follows:

31 (1) For a violation of § 31-27-2(d)(1)(i or ii), a person shall be subject to a ~~minimum~~
32 thirty-day (30) license suspension and an imposition of an ignition interlock system and/or blood
33 ~~and~~ and/or urine testing for three (3) months to ~~one year~~ six (6) months.

34 ~~(2) For a violation of § 31-27-2.1(c)(1), a person shall be subject to a minimum thirty day~~

1 ~~(30) license suspension and an imposition of an ignition interlock system and/or blood and and/or~~
2 ~~urine testing for a period of six (6) months to two (2) years.~~

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

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

9 ~~(5)~~(3) For a violation of § 31-27-2(d)(3), a person shall be subject to a minimum sixty-day
10 (60) license suspension and imposition of an ignition interlock system and/or blood ~~and~~ ~~and/or~~
11 urine testing for a period of one to four (4) years.

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

15 ~~(7) No license suspension shall be subject to more than a thirty-day (30) license suspension~~
16 ~~based solely upon the imposition of an ignition interlock system.~~

17 (4) Notwithstanding any other provisions contained in this chapter, and absent any
18 evidence of aggravating factors articulated on the record, including, but not limited to, a prior
19 conviction pursuant to chapter 26 of title 31 or chapter 27 of title 31, or violation of § 31-27-2.1,
20 no license suspension pursuant to a violation of §§ 31-27-2(d)(1)(i), 31-27-2(d)(1)(ii), or 31-27-
21 2.1(c)(1) shall be for more than thirty (30) days.

22 ~~(4)~~(5) If a conviction pursuant to § 31-27-2(d)(1) or § 31-27-2.1(c)(1) is a first offense, or
23 upon an initial suspension pursuant to § 31-27-2.1(b)(1), where there has been a finding or
24 determination that the motorist was under the influence of intoxicating liquor only, the judge or
25 magistrate shall, upon request, immediately grant a conditional hardship license after a finding of
26 need pursuant to this section and upon proof of the installation of an ignition interlock device.

27 ~~(4)~~(6) If a conviction pursuant to § 31-27-2(d)(1) or § 31-27-2.1(c)(1) is a first offense, or
28 upon an initial suspension pursuant to § 31-27-2.1(b)(1), where there has been a finding or
29 determination that the motorist was under the influence of drugs, toluene, or a controlled substance,
30 but not intoxicating liquor, the judge or magistrate shall, upon request immediately grant a
31 conditional hardship license after a finding of need pursuant to this section and upon proof of blood
32 ~~and~~ ~~and/or~~ urine testing pursuant to this section.

33 ~~(4)~~(7) If a conviction pursuant to § 31-27-2(d)(1) ~~or § 31-27-2.1(c)(1)~~ is a first offense, ~~or~~
34 ~~upon an initial suspension pursuant to § 31-27-2.1(b)(1),~~ where there has been a finding or

1 determination that the motorist was under the influence of intoxicating liquor and/or drugs, toluene,
2 or a controlled substance, ~~or any combination thereof~~, the judge or magistrate shall, upon request
3 immediately grant a conditional hardship license after a finding of need pursuant to this section and
4 upon proof of the installation of an ignition interlock device, ~~subject also to the following testing:~~
5 and/or upon proof of blood and/or urine testing.

6 (c) The pretrial services unit and/or the department of corrections probation and parole unit
7 shall be responsible for overseeing, monitoring, and enforcing the blood and urine testing pursuant
8 to this section. These responsibilities include, but are not limited to:

9 (1) The receipt, documentation, and review of blood and/or urine tests; and

10 (2) Reporting a motorist's failure to comply with testing pursuant to subsection (c)(iv) of
11 this section, and/or a motorist's positive blood and/or urine tests pursuant to subsection (c)(v) of
12 this section to the court that ordered the blood and/or urine testing. Said reporting shall be done
13 within twenty-four (24) hours of the pretrial services unit and/or probation and parole unit's receipt
14 of notice of the failure or positive test result. Said hardship licenses that require blood and/or urine
15 testing shall also be subject to review of the court that ordered the blood and/or urine testing. All
16 blood and/or urine testing pursuant to this section shall conform to the following:

17 ~~(A)(i) The testing collection or draw of either blood or urine is being shall be performed~~
18 ~~by or and monitored by a licensed physician with knowledge and clinical experience in the~~
19 ~~diagnosis and treatment of drug related disorders, a licensed or certified psychologist, social~~
20 ~~worker, or EAP professional with like knowledge, or a substance abuse counselor certified by the~~
21 ~~National Association of Alcohol and Drug Abuse Counselors (all of whom shall be licensed in~~
22 ~~Rhode Island)~~ substance abuse professional pursuant to subsection (a) of this section. The substance
23 abuse professional shall be responsible for sending the collected samples to the appropriate
24 laboratory as defined by subsection (c)(2)(iii) of this section.

25 ~~(B)(ii) The motorist is required to shall pay for the substance abuse professional, any and~~
26 all collection, testing, retesting, monitoring, and reporting costs of associated with the blood and
27 and/or urine testing.

28 ~~(C)(iii) Blood and urine samples Samples are to shall be collected, tested and confirmed~~
29 by a federally certified laboratory approved by the director of the department of health of the State
30 of Rhode Island. The testing and confirmation shall be done by means of gas chromatography/mass
31 spectrometry or technology recognized as being equally scientifically accurate. The laboratory shall
32 be responsible for communicating the results of said testing to the substance abuse professional
33 who submitted the sample for testing by means of gas chromatography/mass spectrometry or
34 technology recognized as being at least as scientifically accurate.

1 ~~(D)~~(iv) Samples ~~are to~~ shall be taken weekly for the first sixty (60) days, thereafter in
2 accordance with the recommendation of the substance abuse professional and/or the pretrial
3 services unit and/or probation and parole unit. The samples taken thereafter may be ordered
4 randomly, but must be provided by the motorist within twenty-four (24) hours of the request. The
5 substance abuse professional shall report to the ~~department of the attorney general~~ pretrial services
6 unit and/or probation and parole unit within twenty-four (24) hours any failure by the motorist to
7 comply with a request for a sample.

8 ~~(E)~~(v) A positive test of urine ~~or~~ and/or blood that evidences any controlled substances
9 shall be reported by the substance abuse professional to the motorist and to the ~~department of the~~
10 ~~attorney general~~ pretrial services unit and/or probation and parole unit within twenty-four (24)
11 hours of receipt of the results. The motorist may, at his or her own expense, ~~have an opportunity to~~
12 have the sample retested or reevaluated by an independent federally licensed testing facility which
13 shall provide the result directly to the substance abuse professional. The pretrial services unit and/or
14 probation and parole unit ~~attorney general~~ may request, at any time, a copy of any or all test results
15 from the substance abuse professional and/or testing laboratory, which shall forward the requested
16 results within forty-eight (48) hours.

17 ~~(F)~~(vi) Upon completion of the license suspension, conditional hardship, ignition interlock
18 ~~and substance abuse~~ and/or blood and/or urine testing periods, a finalized report shall be presented
19 to the department of motor vehicles prior to any license reinstatement. For blood and/or urine
20 testing, this report shall be prepared by and signed by the pretrial services unit and/or probation and
21 parole unit monitoring the testing results.

22 ~~(G)~~(vii) ~~If a judge or magistrate determines that a motorist either failed, without good~~
23 ~~cause, to comply with a sample request or tested positive for any controlled substance, he or she~~
24 ~~may exercise his or her discretion and revoke the conditional hardship license, extend the time~~
25 ~~period for the ignition interlock system and/or substance abuse testing for an additional period of~~
26 ~~up to twelve (12) months and/or impose an additional loss of license for up to twenty four (24)~~
27 ~~months.~~ A motorist's failure to comply with a sample request or positive test result for any
28 controlled substance may result in the motorist being declared a violator.

29 (viii) The superior court and district court shall have exclusive jurisdiction over the
30 granting, issuance, and monitoring of conditional hardship licenses that require blood and/or urine
31 testing. Violations of § 31-27-2.1 (Refusal to submit to a chemical test) shall be ineligible for
32 conditional hardship licenses that require blood and/or urine testing.

33 ~~(H)~~(d) A motorist who has failed, without good cause, to comply with a sample request or
34 tested positive for any controlled substance for a second time within twelve (12) months of the first

1 failure and/or positive test determination shall be guilty of a misdemeanor punishable by up to one
2 year imprisonment, ~~or~~ and a fine of up to one thousand dollars (\$1,000), ~~or both~~. For a third
3 violation within twelve (12) months from entry of the order, the person violating the order shall be
4 imprisoned for a term of not less than six (6) months and not more than one year.

5 ~~(e)~~(e) However, in any case where a motorist is convicted of an alcohol-related or drug,
6 toluene or controlled substance-related offense pursuant to the provisions of this chapter, the judge
7 or magistrate may exercise his or her discretion in the granting of the hardship license by imposing
8 ~~up to a ninety (90) day~~ loss of license prior to any imposition of the hardship license. The hardship
9 license shall be valid for twelve (12) ~~continuous~~ hours per day for any valid reason approved in
10 advance by the sentencing judge or magistrate, which shall include employment, medical
11 appointments, job training, schooling, or religious purposes. ~~The hardship license shall not be for~~
12 ~~less than twelve (12) continuous hours per day.~~ It shall not be limited to commute time only, but
13 shall include all hours of employment or all hours of other approved valid reasons, but not to exceed
14 twelve (12) hours per day. A hardship license shall only be granted in conjunction with the
15 installation of an ignition interlock device and/or blood ~~and~~ and/or urine testing. Any conditional
16 driving privileges must be set by the sentencing judge or magistrate after a hearing in which the
17 motorist must provide proof of employment status and hours of employment, or any other
18 legitimate reasons justifying a hardship license. These shall include, but not be limited to, any
19 unemployment training, schooling, medical appointments, therapy treatments, or any other valid
20 requests set forth by sworn affidavit. Once said hardship period has concluded, the motorist must
21 still be subject to the conditions of the ignition interlock system and/or blood ~~and~~ and/or urine
22 testing as set forth under this section for the period of time as directed by the court. Any individual
23 who violates the requirements of this subsection shall be subject to the penalties enumerated in §
24 31-11-18.1.

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

31 ~~(e)~~(g) Any person who operates a motor vehicle with a suspended license during the period
32 of suspension, and the reason for the suspension was due to a conviction of driving under the
33 influence of drugs or alcohol or a sustained violation or conviction of refusal to submit to a chemical
34 test, shall be subject to the further use of the ignition interlock system and/or blood ~~and~~ and/or urine

1 testing for a period of six (6) months subsequent to the penalties enumerated in § 31-11-18.1.

2 ~~(f)~~(h) When the court orders the use of an ignition interlock system and/or blood and/or
3 urine testing, the judge or magistrate shall cause an appropriate notation to be made on the person's
4 record that clearly sets forth the requirement for, and the period of the use of, the ignition interlock
5 system and/or blood and/or urine testing. Copies of these records shall be sent to the division of
6 motor vehicles.

7 ~~(g)~~(i) In addition to the requirements of subsection ~~(f)~~(h) of this section, the court or traffic
8 tribunal shall:

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

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

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

17 (4) The requirements under subsection ~~(g)~~(i) of this section shall be the responsibility of
18 the probation department or justice assistance, if the individual is under their control, or the division
19 of motor vehicles if the individual is not monitored as a condition of the individual's plea or finding
20 of guilt.

21 ~~(h)~~(j) Any person granted a conditional hardship license upon proof of installation of an
22 ignition interlock device and/or blood and/or urine testing, may operate that motor vehicle during
23 the ~~entire twelve hour (12)~~ period of operation granted by the sentencing judge or magistrate
24 ~~including during the scope of the person's employment and/or any other valid reason approved by~~
25 ~~the sentencing judge or magistrate~~ which shall be no more than twelve (12) hours per day.

26 ~~(i)~~(k) If a person is required, in the course of the person's employment, to operate a motor
27 vehicle owned or provided by the person's employer, the person may operate that motor vehicle in
28 the course of the person's employment without installation of an ignition interlock system if the
29 court makes specific findings expressly permitting the person to operate, in the course of the
30 person's employment, a motor vehicle that is not equipped with an ignition interlock system.

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

34 ~~(2) For a second violation within six (6) months from entry of the order, the person~~

1 ~~violating the order shall be imprisoned for a term of not less than ten (10) days and not more than~~
2 ~~one year.~~

3 ~~(l)~~ (l) Any person subject to an order concerning the use of an ignition interlock device who
4 violates this order shall be guilty of a misdemeanor punishable by up to one year imprisonment and
5 a fine of up to one thousand dollars (\$1,000). For a second violation within six (6) months from
6 entry of the order, the person violating the order shall be imprisoned for a term of not less than six
7 (6) months and not more than one year. For the purposes of this subsection, a violation of the
8 interlock order, includes, but is not limited to:

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

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

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

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

21 SECTION 2. This act shall take effect upon passage, with the exception of § 31-27-2.8 as
22 it relates to blood and/or urine testing. Section 31-27-2.8, as it relates to blood and/or urine testing,
23 shall take effect on July 1, 2023.

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LC006147
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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 amend the statutory laws relating to driving under the influence and refusal
2 to submit to chemical tests by adding the requirement for blood and/or urine testing. The division
3 of motor vehicles' alcohol and drug safety unit would be responsible for overseeing, monitoring
4 and enforcing the blood and urine testing. This act would provide that a motorist who failed, without
5 good cause, to provide a test sample upon request within twelve (12) months of a positive test for
6 a controlled substance or who tested positive for a second time or who violated an order concerning
7 the use of an ignition interlock device shall be guilty of a misdemeanor and imprisoned for a
8 minimum of ten (10) days. A second violation of an order regarding an order to use an ignition
9 interlock device committed within six (6) months would be punishable by a term of imprisonment
10 of not less than six (6) months.

11 This act would take effect upon passage.

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