

New Law: Rhode Island DUI Conditional Hardship Licenses



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On January 1, 2015, Rhode Island joined Massachusetts and Connecticut in allowing individuals convicted of drunk driving (DUI) to have a conditional hardship license (CHL) during the period of license suspension.¹ However, the CHL comes at a price and will “only be granted in conjunction with the installation of an ignition interlock device.”² The CHL “shall be valid only for twelve (12) hours per day.”³ The primary purpose of the CHL is to allow individuals the ability to travel to and from their employment, but other non-employment hardships may also be considered. The terms of the CHL are to be set by the sentencing judge or magistrate after a hearing in which the individual shall provide proof of employment or evidence of a non-employment hardship.⁴

A CHL will also be available for an individual convicted of a first offense Refusal charge.⁵

In all cases where a CHL is available, the individual requesting the CHL must first install an ignition interlock device (IID) and must suffer at least a thirty day license suspension. For more serious offenses, a greater license suspension may be required, with or without the benefit of a CHL.

Of great significance is that the newly revised statutes of R.I. Gen. Laws 31-27-2 (drunk driving statute), R.I. Gen. Laws 31-27-2.1 (refusal statute), and the newly enacted R.I. Gen. Laws 31-27-2.8 (ignition interlock statute) all hereinafter referred to collectively as the new statutes, will allow for, and in some cases require, the installation of an IID. Previously, an IID was only utilized in the most serious offenses. However, these new statutes now authorize the installation

of an IID in first offense DUI cases with blood alcohol content (BAC) readings below .15 or with unknown BAC readings at the discretion of the sentencing judge or magistrate.⁶ An IID is mandatory in more serious cases such as a first offense DUI charge with BAC readings over .15, as well as second, third and subsequent offenses for DUI and second, third and subsequent offenses for Refusal.⁷ Please note that, although an IID is required in more serious DUI and Refusal offenses, a CHL is not always available.⁸ An individual who violates the requirements of the CHL or the IID “shall be subject to the penalties enumerated in: § 31-27-18.1.”⁹

The following chart illustrates potential outcomes when an IID is discretionary or mandatory, the eligibility for a CHL and the period of license suspension if an IID is installed.

The new statutes address one of the greatest

The new statutes authorize the installation of an ignition interlock device in first offense DUI cases, with unknown, or below .15 BAC readings, at the discretion of the sentencing judge or magistrate.

Offense	License Suspension Period (Prior to Revisions)	Must the Ignition Interlock Device (IID) be installed?	License Suspension Period (no CHL available); THEN License Suspension Period once IID installed	Conditional Hardship License (“CHL”) Eligibility if IID installed
1st offense DUI .08-.10	30 - 180 days	No	Min. 30 days; 3 months to 1 yr	YES
1st offense DUI .10-.15/Unknown	3-12 months	No	Min. 30 days; 3 months to 1 yr	YES
1st offense DUI .15 and above	3-18 months	Yes	Min. 30 days; 3 months to 1 yr	YES
2nd offense DUI .08-.15/Unknown	1-2 years	Yes	Min. 45 days; 6 months to 2 yrs	YES
2nd offense DUI .15 and above	2 years from date of sentence completion	Yes	Min. 45 days; 6 months to 2 yrs	YES
3rd offense DUI .08-.15/Unknown	2-3 years	Yes	Min. 60 days; 1 yr to 4 yrs	NO
3rd offense DUI .15 and above	3 years from date of sentence completion	Yes	Min. 60 days; 1 yr to 4 yrs	NO
1st offense Refusal	6 months - 1 year	No	Min. 30 days; 6 months to 2 yrs	YES
2nd offense Refusal	1-2 years	Yes	Min. 60 days; 1 yr to 4 yrs	NO
3rd offense Refusal	2-5 years	Yes	Min. 90 days; 2 yrs to 10 yrs	NO
DUI Serious Injury/Death	Up to 2 years/ 5 years	No	1 yr to 5 yrs if installation of IID	NO

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problems in connection with most DUI and Refusal cases: the need for individuals to continue their employment and to care for their families during the period of license suspension. These are significant changes to Rhode Island's DUI and Refusal laws, and there will be a dramatic change in how these cases are litigated and resolved after January 1, 2015. Once these aforementioned changes are implemented, the varying components of the provided illustrative chart will require revision. This article provides conditional, initial prosecutorial and defense attorney guidance in these challenging cases.¹⁰

Note: Kimberly A. Petta, Esq., of the Law Office of Robert H. Humphrey, provided valued assistance in researching and writing this article.

ENDNOTES

- 1 R.I. Gen. Laws 31-27-2 and 31-27-2.8.
- 2 R.I. Gen. Laws 31-27-2.8(b)(7).
- 3 *Id.*
- 4 *Id.*
- 5 *Id.*
- 6 R.I. Gen. Laws 31-27-2(d)(1)(i) and (ii).
- 7 R.I. Gen. Laws 31-27-2(d)(1)(iii), (d)(2)(i), (ii), (d)(3)(i) and (ii); 31-27-2.1(b)(2) and (3).
- 8 R.I. Gen. Laws 31-27-2 and 31-27-2.1. (*emphasis added*)
- 9 R.I. Gen. Laws 31-27-2.8(b)(7). *See also*, R.I. Gen. Laws 31-27-2.8(b).
- 10 *The authors express their deep appreciation for the assistance of Kathleen Child and Jodi Van Sprang in the preparation of this article.* ❖

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