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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO ALCOHOLIC BEVERAGES -- RETAIL LICENSES

Introduced By: Representatives Finkelman, Dawson, and Craven

Date Introduced: February 15, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 3-7-29 of the General Laws in Chapter 3-7 entitled "Retail Licenses"
2 is hereby amended to read as follows:

3 **3-7-29. Liquor liability insurance.**

4 Any applicant or holder of any retail license for the sale of alcoholic beverages issued
5 pursuant to this chapter, except those applicants for or holders of class F liquor licenses or class AS
6 liquor licenses and except as provided in § 3-7-27, shall file with the application a certificate of
7 insurance evidencing commercial, general-liability, and liquor-liability and property-damage
8 coverage in the minimum amount of ~~three hundred thousand dollars (\$300,000)~~ one million dollars
9 (\$1,000,000). Failure to maintain insurance as required by this section shall result in a revocation
10 of the retail license unless the holder of the license reinstates insurance coverage within forty-eight
11 (48) hours of notice of revocation. The certificate of insurance shall provide that the insurance shall
12 not be modified or cancelled unless prior, advance notice is given to the licensing authority.

13 SECTION 2. Section 3-14-4 of the General Laws in Chapter 3-14 entitled "Rhode Island
14 Liquor Liability Act" is hereby amended to read as follows:

15 **3-14-4. Plaintiffs.**

16 (a) Except as provided in subsection (b), any person who suffers damage, as provided in §
17 3-14-8, may bring an action under this chapter. This chapter shall not be construed to limit any
18 currently existing common law or statutory right.

19 (b) The following persons may not bring an action under this chapter against a defendant

1 for negligently or recklessly serving liquor to an individual, ~~but may bring an action under this~~
2 ~~chapter against a defendant for recklessly serving liquor to an individual:~~

3 (1) The intoxicated tortfeasor if he or she was at least twenty-one (21) years old when
4 served by the defendant;

5 (2) The estate of the intoxicated tortfeasor if he or she was at least twenty-one (21) years
6 old when served by the defendant; and

7 (3) Any person asserting claims arising out of the personal injury or death of the intoxicated
8 tortfeasor if the intoxicated tortfeasor was at least twenty-one (21) years old when served.

9 SECTION 3. Section 31-27-2 of the General Laws in Chapter 31-27 entitled "Motor
10 Vehicle Offenses" is hereby amended to read as follows:

11 **31-27-2. Driving under influence of liquor or drugs.**

12 (a) Whoever drives or otherwise operates any vehicle in the state while under the influence
13 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of
14 title 21, or any combination of these, shall be guilty of a misdemeanor, except as provided in
15 subsection (d)(3), and shall be punished as provided in subsection (d) of this section.

16 (b)(1) Any person charged under subsection (a), whose blood alcohol concentration is eight
17 one-hundredths of one percent (.08%) or more by weight, as shown by a chemical analysis of a
18 blood, breath, or urine sample, shall be guilty of violating subsection (a). This provision shall not
19 preclude a conviction based on other admissible evidence, including the testimony of a drug
20 recognition expert or evaluator, certified pursuant to training approved by the Rhode Island
21 department of transportation office on highway safety. Proof of guilt under this section may also
22 be based on evidence that the person charged was under the influence of intoxicating liquor, drugs,
23 toluene, or any controlled substance defined in chapter 28 of title 21, or any combination of these,
24 to a degree that rendered the person incapable of safely operating a vehicle. The fact that any person
25 charged with violating this section is, or has been, legally entitled to use alcohol or a drug shall not
26 constitute a defense against any charge of violating this section.

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

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

34 (1) The defendant has consented to the taking of the test upon which the analysis is made.

1 Evidence that the defendant had refused to submit to the test shall not be admissible unless the
2 defendant elects to testify.

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

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

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

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

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

23 (d)(1)(i) Every person found to have violated subsection (b)(1) shall be sentenced as
24 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one
25 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood presence
26 of any scheduled controlled substance as defined in chapter 28 of title 21, shall be subject to a fine
27 of not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300); shall be
28 required to perform ten (10) to sixty (60) hours of public community restitution, and/or shall be
29 imprisoned for up to one year. The sentence may be served in any unit of the adult correctional
30 institutions in the discretion of the sentencing judge and/or shall be required to attend a special
31 course on driving while intoxicated or under the influence of a controlled substance; provided,
32 however, that the court may permit a servicemember or veteran to complete any court-approved
33 counseling program administered or approved by the Veterans' Administration, and his or her
34 driver's license shall be suspended for thirty (30) days up to one hundred eighty (180) days. The

1 sentencing judge or magistrate may prohibit that person from operating a motor vehicle, pursuant
2 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system
3 and/or blood and urine testing as provided in § 31-27-2.8.

4 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-
5 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent
6 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less than
7 one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required to
8 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for
9 up to one year. The sentence may be served in any unit of the adult correctional institutions in the
10 discretion of the sentencing judge. The person's driving license shall be suspended for a period of
11 three (3) months to twelve (12) months. The sentencing judge shall require attendance at a special
12 course on driving while intoxicated or under the influence of a controlled substance and/or
13 alcoholic or drug treatment for the individual; provided, however, that the court may permit a
14 servicemember or veteran to complete any court-approved counseling program administered or
15 approved by the Veterans' Administration. The sentencing judge or magistrate may prohibit that
16 person from operating a motor vehicle that is not equipped with an ignition interlock system as
17 provided in § 31-27-2.8.

18 (iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen
19 hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any
20 controlled substance as defined in subsection (b)(1), shall be subject to a fine of five hundred dollars
21 (\$500) and shall be required to perform twenty (20) to sixty (60) hours of public community
22 restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit
23 of the adult correctional institutions in the discretion of the sentencing judge. The person's driving
24 license shall be suspended for a period of three (3) months to eighteen (18) months. The sentencing
25 judge shall require attendance at a special course on driving while intoxicated or under the influence
26 of a controlled substance and/or alcohol or drug treatment for the individual; provided, however,
27 that the court may permit a servicemember or veteran to complete any court-approved counseling
28 program administered or approved by the Veterans' Administration. The sentencing judge or
29 magistrate shall prohibit that person from operating a motor vehicle, pursuant to subsection (d)(9)
30 or (d)(10) of this section, that is not equipped with an ignition interlock system and/or blood and
31 urine testing as provided in § 31-27-2.8.

32 (2)(i) Every person convicted of a second violation within a five-year (5) period with a
33 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than
34 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or

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

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

29 (3)(i) Every person convicted of a third or subsequent violation within a five-year (5)
30 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above,
31 but less than fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is
32 unknown or who has a blood presence of any scheduled controlled substance as defined in chapter
33 28 of title 21, regardless of whether any prior violation and subsequent conviction was a violation
34 and subsequent conviction under this statute or under the driving under the influence of liquor or

1 drugs statute of any other state, shall be guilty of a felony and be subject to a mandatory fine of
2 four hundred (\$400) dollars. The person's driving license shall be suspended for a period of two
3 (2) years to three (3) years, and the individual shall be sentenced to not less than one year and not
4 more than three (3) years in jail. The sentence may be served in any unit of the adult correctional
5 institutions in the discretion of the sentencing judge; however, not less than forty-eight (48) hours
6 of imprisonment shall be served consecutively. The sentencing judge shall require alcohol or drug
7 treatment for the individual; provided, however, that the court may permit a servicemember or
8 veteran to complete any court-approved counseling program administered or approved by the
9 Veterans' Administration, and shall prohibit that person from operating a motor vehicle, pursuant
10 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system
11 and/or blood and urine testing as provided in § 31-27-2.8.

12 (ii) Every person convicted of a third or subsequent violation within a ten-year (10) period
13 whose blood alcohol concentration is fifteen hundredths of one percent (.15%) above by weight as
14 shown by a chemical analysis of a blood, breath, or urine sample, or who is under the influence of
15 a drug, toluene, or any controlled substance as defined in subsection (b)(1), shall be subject to
16 mandatory imprisonment of not less than three (3) years, nor more than five (5) years; a mandatory
17 fine of not less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000);
18 and a mandatory license suspension for a period of three (3) years from the date of completion of
19 the sentence imposed under this subsection. The sentencing judge shall require alcohol or drug
20 treatment for the individual. The sentencing judge or magistrate 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 urine testing as provided in § 31-27-
23 2.8.

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

30 (4) Whoever drives or otherwise operates any vehicle in the state while under the influence
31 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of
32 title 21, or any combination of these, when his or her license to operate is suspended, revoked, or
33 cancelled for operating under the influence of a narcotic drug or intoxicating liquor, shall be guilty
34 of a felony punishable by imprisonment for not more than three (3) years and by a fine of not more

1 than three thousand dollars (\$3,000). The court shall require alcohol and/or drug treatment for the
2 individual; provided, the penalties provided for in this subsection (d)(4) shall not apply to an
3 individual who has surrendered his or her license and served the court-ordered period of suspension,
4 but who, for any reason, has not had his or her license reinstated after the period of suspension,
5 revocation, or suspension has expired; provided, further, the individual shall be subject to the
6 provisions of subsection (d)(2)(i), (d)(2)(ii), (d)(3)(i), (d)(3)(ii), or (d)(3)(iii) regarding subsequent
7 offenses, and any other applicable provision of this section.

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

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

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

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

30 (7)(i) If the person convicted of violating this section is under the age of eighteen (18)
31 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of
32 public community restitution and the juvenile's driving license shall be suspended for a period of
33 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing
34 judge shall also require attendance at a special course on driving while intoxicated or under the

1 influence of a controlled substance and alcohol or drug education and/or treatment for the juvenile.
2 The juvenile may also be required to pay a highway assessment fine of no more than five hundred
3 dollars (\$500) and the assessment imposed shall be deposited into the general fund.

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

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

23 (9) Notwithstanding any other sentencing and disposition provisions contained in this
24 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was
25 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
26 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
27 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a
28 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration,
29 or both, the judge or magistrate may exercise his or her discretion and eliminate the requirement of
30 an ignition interlock system; provided, that blood and/or urine testing is mandated as a condition
31 to operating a motor vehicle as provided in § 31-27-2.8.

32 (10) Notwithstanding any other sentencing and disposition provisions contained in this
33 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was
34 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled

1 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
2 or other reliable indicia or articulable conditions thereof and intoxicating liquor based on a
3 preliminary breath test, results from a breathalyzer that indicates blood alcohol concentration, or
4 both, the judge or magistrate may require an ignition interlock system in addition to blood and/or
5 urine testing as a condition to operating a motor vehicle as provided in § 31-27-2.8.

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

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

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

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

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

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

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

9 (j) An order to attend a special course on driving while intoxicated, that shall be
10 administered in cooperation with a college or university accredited by the state, shall include a
11 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars
12 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into
13 the general fund.

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

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

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

26 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO ALCOHOLIC BEVERAGES -- RETAIL LICENSES

1 This act would increase the minimum liability coverage requirement of retail license
2 holders for the sale of alcoholic beverages from three hundred thousand dollars (\$300,000) to one
3 million dollars (\$1,000,000). Additionally, it would expressly prohibit the adult consumer of any
4 alcohol to recover damages from the provider of the alcohol, for injuries suffered by the consumer,
5 arising out of their ingestion of alcohol. Finally, it would increase the mandatory minimum jail
6 sentence for second time violators for driving under the influence of liquor or drugs, from six (6)
7 months to one year of imprisonment and a maximum sentence from one year to two (2) year
8 imprisonment.

9 This act would take effect upon passage.

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