

STATE:
General Reference:

RHODE ISLAND
General Laws of Rhode Island

Basis for a DWI Charge:

Standard DWI Offense:	Under the influence of intoxicating liquor* §31-27-2(a)
Illegal Per Se Law (BAC):	≥.08¹⁰⁴⁴ and Any Blood "Presence" of a Scheduled Controlled Substance¹⁰⁴⁵ §31-27-2(b)(1) and (2) <u>Persons under 21 years old</u> who have a BAC ≥.02 but <.10¹⁰⁴⁶ are considered to have been driving "while impaired" which is not a criminal offense. §§31-27-2.5(d) and (g) and 31-27-2.7
Presumption (BAC): Types of Drugs/Drugs and Alcohol"	None
Other:	Under the influence of (1) Any Drug , (2) Toluene, (3) any Controlled Substance or (4) Any Combination of These Substances and Intoxicating Liquor §31-27-2(a) DWI Serious Bodily Injury Offense: Causing a serious bodily injury ¹⁰⁴⁷ to a person while under the influence of any intoxicating liquor, toluene or any controlled substance. §31-27-2.6(a) For Commercial Motor Vehicle Operators, see below.

Chemical Breath Tests for Alcohol Concentration:

Preliminary Breath Test Law:	Yes §31-27-2.3
Implied Consent Law: Arrest Required (Yes/No):	No¹⁰⁴⁸ §31-27-2.1
Implied Consent Law Applies to Drugs (Yes/No):	Yes §31-27-2.1
Refusal to Submit to Chemical Test Admitted into Evidence:	Note: There is no statutory or case law on this subject.
Other Information:	None

DWI Offenses and Commercial Motor Vehicles (CMV)/Commercial Driver's Licenses (CDL): A person's privilege to operate a CMV is "suspended" for at least 1 mandatory year (3 years if transporting hazardous materials) if that person is convicted of driving a CMV (1) with a BAC ≥.04 (Standard: Blood alcohol concentration is based upon "percent by weight." There is no provision in the CMV law that further defines this standard. However, §31-27-2(e) provides that "percent by weight" of alcohol in the blood is to be based upon milligrams of alcohol per 100 cubic centimeters of blood.), (2) while under the influence of

¹⁰⁴⁴ Standard: "Percent by weight" of alcohol in the blood. §31-27-2(b). However, §31-27-2(e) provides that "percent by weight" of alcohol in the blood is to be based upon milligrams of alcohol per 100 cubic centimeters of blood.

¹⁰⁴⁵ **Comment:** The law does not appear to provide for an exemption for persons who are legally entitled to use a scheduled controlled substance.

¹⁰⁴⁶ Standard: Blood alcohol concentration based upon "percent by weight." §§31-27-2.5(d) and 31-27-2.7 There are no provisions in these sections that further define this standard. However, §31-27-2(e) provides that "percent by weight" of alcohol in the blood is to be based upon milligrams of alcohol per 100 cubic centimeters of blood.

¹⁰⁴⁷ A "serious bodily injury" is defined as a "physical injury that creates a substantial risk of death or causes serious physical disfigurement or protracted loss or impairment of the function of any bodily member or organ." §31-27-2.6(b)

¹⁰⁴⁸ A request to submit to a chemical test based on "reasonable grounds" of driving while under the influence of intoxicating liquor. §31-27-2.1

alcohol or controlled substances or (3) of a refusal to submit to a chemical test. For a second violation of any of the above-listed items, a person's privilege to operate a CMV is "revoked" for life (10 years mand). In addition, a CMV operator who has any alcohol in the system must "cease" to operate a CMV for 24 hours. Note: A CMV operator commits a "regular" DWI offense if that person should operate a CMV with a BAC \geq .04. §§31-10.3-3(9), (11), (13) and (28) and 31-10.3-31

***Legislative Oversight:** Section 31-27-2(d)(1) was amended in 2000 by Public Law Chapters 168 and 264 to provide a sanctioning scheme for first offenders based on blood alcohol concentrations (BACs). However, as a result, legislative oversight may have occurred as the law appears to provide sanctions ONLY for illegal per se violations; i.e., the law may not provide sanctions for a first offense for violating the standard DWI offense, driving while under the influence of intoxication liquor, where a BAC is NOT required.

Chemical Tests of Other Substances for Alcohol Concentration That Are Authorized Under the Implied Consent Law:

Blood:	Yes However, there is an exception on religious grounds. §§31-27-2 and 31-27-2.1
Urine:	Yes §§31-27-2 and 31-27-2.1
Other:	None

Adjudication of DWI Charges:

Mandatory Adjudication Law (Yes/No):	No
Anti-Plea-Bargaining Statute (Yes/No):	No
Pre-Sentencing Investigation Law (PSI) (Yes/No):	Yes Alcohol Assessment (Not Mandatory) §31-27-2(d)(7)

Sanctions for Refusal to Submit to a Chemical Test:

Refusal to Take a Preliminary Breath Test: Criminal Sanctions (Fine/Jail): Administrative Licensing Action (Susp/Rev): Other:	None None Administrative fine – \$75 §§31-27-2.3(b) and 31-41.1-4(a)
Refusal to Take <u>Implied Consent</u> Chemical Test: Criminal Sanction (Fine/Jail):	First refusal – \$200 to \$500, 10 to 60 hours of community service, and license suspension for 6 months to 1 year and required attendance of course on DUI and/or alcohol or drug treatment.; second refusal (within a 5-year period) – \$600 to \$1,000, 60-100 hours community service, license suspension for 1-2 years, and required alcohol or/drug treatment program; third and subsequent refusal (within a 5-year period) – \$800 to \$1,000, imprisonment for not more than 1 year, not less than 100 hours of community service, license suspension for 2-5 years, and required alcohol/drug

treatment. In addition, the judge must specifically approve reinstatement of the license in a separate hearing (if within 3 years). In addition to the above fines, a defendant must pay an assessment fee of **\$500**. The imposition of these fines, assessments and/or public community service is mandatory. §31-27-2.1 **Persons under 18** – A refusal by a person less than 18 years – **suspension** for a period of **6 months**. First refusal – Attendance at a DWI class or alcohol/drug treatment program; second refusal (within 5-year period) – Attendance at an alcohol/drug treatment program; third and subsequent refusal (within 5-year period) – Attendance at an alcohol/drug treatment program. **Special Note:** Attendance at these classes or programs is required.

Other:

Sanctions Following a Conviction for a DWI Offense:

Criminal Sanctions:

Imprisonment:

Term (Day, Month, Years,
Etc.):

A Non-Injury DWI Offense §31-27-2(b)(3): first offense – BAC ≥.08 but <.10- up to **one year or 10 to 60 hours of public community restitution**; first offense – BAC ≥.10 but <.15 (misdemeanor) – Not more than **1 year**; first offense (BAC ≥.15) (misdemeanor) – Not more than **1 year**; second offense (BAC ≥.08 but <.15 within any time period) or ANY second offense (within 5 years-misdemeanor) – **10 days to 1 year**; second offense (within 5 years with BAC ≥.15) – **6 months to 1 year**; third and subsequent offenses (within 5 years - felony) – **1 to 3 years**; third and subsequent offenses (within 5 years with BAC ≥.15 - felony) – **3 to 5 years**. §31-27-2(d) DWI serious bodily injury offenses – felony: first offense – **1 to 10 years**; second and subsequent offense(within 5 years) – **2 to 15 years**. §§11-1-2 and 31-27-2.

Mandatory Minimum Term:

ANY first offense – **None**; second offense (either with BAC ≥.08 but <.10 or any second offense within 5 years) – **10 days containing at least 48 consecutive hours**¹⁰⁴⁹; second offense (within 5 years with BAC ≥.15) – **6 months**; third and subsequent offenses (within 5 years) – **1 year containing at least 48 consecutive hours**; third and subsequent offenses

¹⁰⁴⁹ Neither jail, fines, assessments, “public community restitution” (i.e., community service) nor any other drunk-driving offense sanction can be suspended. §31-27-2(i)

Criminal Offender's Fees: Persons who are convicted of a criminal offense, whether violent or not, must pay the following fees, which fund the victims of violent crimes fund and are used to in part compensate victims of DWI-related deaths or injuries: Misdemeanor – either \$30 or 15 percent of the fine imposed which ever is the greater amount; felony (where imprisonment is <5 years) – either \$90 or 15 percent of the fine imposed which ever is the greater amount; and felony (where imprisonment is ≥5 years) – either \$150 or 15 percent of the fine imposed which ever is the greater amount. §12-25-28(a) and (b)

	(within 5 years w/ BAC ≥.15) (misdemeanor) – 3 years. §31-27-2(d) DWI serious injury offenses – None
Fine:	
Amount (\$ Range):	A Non-Injury DWI Offense: <u>first offense</u> (BAC ≥.08 but <.10) (Civil Violation) – \$100 to \$300 ; <u>first offense</u> (BAC ≥.10 but <.15 - misdemeanor) – \$100 to \$400 ; <u>first offense</u> (BAC ≥.15 - misdemeanor) – \$500 ; <u>second offense</u> (BAC ≥.08 but <.10 within any time period) or ANY second offense (within 5 years) or BAC unknown (misdemeanor) – \$400 ; <u>second offense</u> (within 5 years with BAC ≥.15) – Not less than \$1,000 ; <u>third and subsequent offenses</u> (within 5 years - felony) – \$400 ; <u>third and subsequent offenses</u> (within 5 years with BAC ≥.15 - felony) – \$1,000 to \$5,000. §31-27-2(d) DWI serious injury offenses: <u>first offense</u> – \$1,000 to \$5,000 ; <u>second and subsequent offense</u> (within 5 years) – \$3,000 to \$10,000. §31-27-2.6 See Criminal Offender's Fees below.
Mandatory Min. Fine (\$):	A Non-Injury DWI Offense: <u>first offense</u> (BAC ≥.08 but <.10 - Civil Violation) – \$100 ; <u>first offense</u> (BAC ≥.10 but <.15 - misdemeanor) – \$100 ; <u>first offense</u> (BAC ≥.15 - misdemeanor) – \$500 ; <u>second offense</u> (BAC ≥.08 but <.10 within any time period) or ANY second offense (within 5 years - misdemeanor) – \$400 ; <u>second offense</u> (within 5 years w/ BAC ≥.15) – not less than \$1,000 ; <u>third and subsequent offenses</u> (within 5 years - felony) – \$400 ; <u>third and subsequent offenses</u> (within 5 years with BAC ≥.15 - felony) – \$1,000. §31-27-2(d) DWI serious injury offense – None
Other Penalties:	
Community Service:	Non-Injury DWI Offense: <u>first offense</u> (BAC ≥.08 but <.10) – 10 (mand) to 60 hours ; <u>first offense</u> (BAC ≥.10 but <.15) – 10 (mand) to 60 hours ; <u>first offense</u> (BAC ≥.15) – 20 (mand) to 60 hours. §§31-27-2(d)(1) and (i) and 31-27-21.
Restitution (e.g., Victim's Fund)	Yes Victim's compensation fund §12-25-17 et seq. ^{1050and1051} See Criminal Offender's Fees.
Other:	Highway Assessment Fee: In addition to the above fines, a defendant must pay a highway assessment fee of \$500 ¹⁰⁵² §31-27-2(d)(5)(i) and an additional fee of \$86.

¹⁰⁵⁰ Note: Citations are to the Criminal Injuries Compensation Act of 1996.

¹⁰⁵¹ **School Bus Operator:** A person may have privileges to operate a school bus suspended for up to 5 years if convicted of a criminal "motor vehicle driving offense" while driving any vehicle {or of any alcohol or drug-related motor vehicle driving-related offense}. §31-10.3-31(j)

¹⁰⁵² A person convicted of driving while under the influence of a "controlled substance" shall have the license revoked for 1 year. §31-11-6(2)

EMS Special Assessment: In addition to any fine, an offender must be assessed \$1. §31-27-18.

Child Endangerment: An offender who is over 18 years old is subject to an imprisonment term of not more than 1 year if he/she was transporting a passenger under 13 years old at the time of the offense. §31-27-2(d)(4)

Administrative Licensing Actions:
Pre-DWI Conviction Licensing Action:
 Administrative Per Se Law:

None

A license may be suspended for not more than 1 year if a person has "committed" an offense that requires revocation/suspension (e.g., DWI). Such action may be taken without a preliminary hearing. **Comment:** Such action could occur prior to a conviction. §31-11-7(a)

Post DWI Conviction Licensing Action
 Type of Licensing Action
 (Susp/Rev):

Suspension for all non-injury DWI offenses. For DWI serious injury offenses – **Revocation** §§31-27-2(d) and 31-27-2.6

Term of License Withdrawal
 (Days, Months, Years)

Non-Injury DWI Offense: first offense (BAC ≥.08 but <.10) – Not more than **30 to 180 days**; first offense (BAC ≥.10 but <.15) – **3 to 12 months**; first offense (BAC ≥.15 - misdemeanor) – **3 to 18 months**; second offense (BAC ≥.08 but < .10 within any time period) or ANY second offense (within 5 years- misdemeanor) – **1 to 2 years**; second offense (within 5 years with BAC ≥.15) – **2 years**; third and subsequent offenses (within 5 years – felony) **2 to 3 years**; third and subsequent offenses (within 5 years with BAC ≥.15 - felony) – **3 years** after incarceration. §31-27-2(d) Third and subsequent offenders may have their vehicle seized and sold at the discretion of the judge. §31-27-2(d)(3)(iii)

DWI serious injury offenses: first offense – up to **2 years**; second and subsequent offense (within 5 years) – up to **4 years**. §31-27-2.6

Sanctions Following a Conviction for a DWI Offense:

Mandatory Minimum Term of
 Withdrawal:

Non-Injury DWI Offense: first offense (BAC ≥.08 but <.10) – **None**; first offense (BAC ≥.10 but <.15) – **3 months**; first offense (BAC ≥.15 - misdemeanor) – **3 months**; second offense (BAC ≥.08 but < .10 within any time period) or ANY second offense (within 5 years - misdemeanor) – **1 year**; second offense (within 5 years with BAC ≥.15) – **2 years**; third and subsequent offenses (within 5 years) – **2 years**; third and subsequent offenses (within 5 years w/ BAC ≥.15 -

misdemeanor) – 3 years after incarceration.
§31-27-2(d) and (i)
DWI serious injury offenses: **None**

Other:

Rehabilitation:

Alcohol Education:

A Non-Injury DWI Offense: first offense (BAC ≥.08 but <.10) – A course on driving while intoxicated or under the influence of controlled substances may be required; For ALL other first offenses, this course is REQUIRED §31-27-2(d) See **DWI Course Fees** below.

Alcohol Treatment:

Second offense – **Yes** (Required); third offense – **Yes** (Required) §31-27-2(d)

First or subsequent DWI Serious Injury Offenses: A court may order a person to successfully complete an alcohol or drug treatment program. §31-27-2.6(c) and (d)

Vehicle Confiscation:

Authorized by Specific

Statutory Authority:

Yes. Forfeiture (Discretionary) Third or subsequent DWI offense (within 5 years) – A person's vehicle may be forfeited (confiscated) by the State. §31-27-2(d)(3)(iii)

Terms Upon Which Vehicle

Will Be Released:

Other:

Vehicle Registration Suspension: A person whose license has been suspended or revoked for any reason may also have the registrations of any vehicles he/she owns suspended. However, such registrations are not suspended if financial responsibility is provided. §31-42-4(b)

Miscellaneous Sanctions

Not Included Elsewhere:

DWI Course Fees: A first offender must pay the following fees that are associated with attending an alcohol/drug education course: a reasonable tuition of not less than \$25 and a fee of \$175. §31-27-2(j)

Ignition Interlock: ANY second offender may be required to operate motor vehicles equipped with "ignition interlock" devices from one to two years. ANY third or subsequent offender may be required to use these devices for 2 years. These requirements begin following the completion of any incarceration period. §§31-27-2(d)(2) and (3) and 31-27-2.8

Shock Incarceration: Eighteen (18) to 28-year-old non-violent offenders who have never been incarcerated following a conviction are eligible to participate in a "shock incarceration" program. "The program shall include extensive physical regimentation, drug and alcohol abuse counseling, behavioral counseling and mandatory education

courses and community services." §12-19-2.2

Comment: This program does not appear to interfere with the mandatory jail sanctions that must be imposed on second and subsequent drunk-driving offenders. §12-19-23.2

Miscellaneous Sanctions
Not Included Elsewhere:

Special Drunk-Driving Offense Fee: All DWI offenders must pay a special fee of \$86 for fiscal years 2000 through 2010. §31-27-2(d)(5)(ii)

DWI Offenders Under 18 Years Old: In addition, the following sanctions apply to persons convicted of DWI who are under 18 years old: first offense – a highway assessment fine of not more than **\$500, 10 to 60 hours** of “public community restitution” (i.e., community service) and a **6 to 18-month license suspension** (6 months mand); second and subsequent offense – confinement in a training school for not more than **one year**, a fine of not more than **\$500** and license suspension until the person is 21 (mand).

§31-27-2(d)(6)

Persons Under 21 Years Old with a BAC $\geq .02$ but $< .10$: There are two separate provisions of law providing sanctions against young persons who drive while impaired who drive with a BAC $\geq .02$ but $< .10$ but are **not** criminal offenses. §§31-27-2.5 and 31-27-2.7

I. For persons under 18 years old who have been found to have been driving while impaired (BAC $\geq .02$ but $< .10$), the following sanctions apply: for first and subsequent offenses, **10-60 hours “public community restitution”** (i.e., community service) (§31-27-2.5(d)(1)), mandatory attendance at an alcohol or drug education or treatment program, the following licensing sanctions: first violation–**6-to 18-month suspension** (6 months mand) and a fine of no more than **\$500**. Second or subsequent violation–**suspension** until the person is 21 years old (appears mand) and may be sentenced to the Rhode Island training school for a period of not more than **1 year** and/or fine of not more than **\$500**; third and subsequent violations – **suspension** until the person is 21 years old plus an additional **2-year suspension** (appears mand). §§31-27-2.5(d)(2), (3) and (4) and 31-27-21

II. For persons under 21 but ≥ 18 years old who have been found to have been driving while impaired (BAC $\geq .02$ but $< .10$), the following sanctions apply: first violation: a fine of not more than **\$250** and **30 hours** of “public community restitution”; and, license suspension – **1- 3 months** (1 month mand). § 31-27-2.7(1)and (2)

Second violation: a fine of not more than **\$250**; a highway safety assessment fee of **\$300** (mand); **60 hours** of “public community restitution” (i.e., community service); and, license suspension **3 to 6 months** (3 months mand). § 31-27-2.7(3)

Third and subsequent violations: driving license suspended for an additional **2 years**.

§ 31-27-2.5 (d) (4)

For both first and subsequent violations, a person may be ordered by the court to participate in either and alcohol education or treatment program. §§31-27-2.7 and 31-27-21

Other Criminal Actions Related to DWI:

Homicide by Vehicle:

State Has Such a Law:

Criminal Sanction:

Imprisonment (Term):

Yes

I. Death-related DWI offenses – felony – first offense – **5 to 15 years**; second and subsequent offenses (within 5 years) – **10 to 20 years**. §§31-27-2.2 and 11-1-2

II. Non-DWI related driving causing death -felony – Not more than **10 years**. §§31-27-1 and 11-1-2

Mandatory Minimum Term:

None

Fine (\$ Range):

I. Death-related DWI offenses, first offense – **\$5,000 to \$10,000**; second and subsequent offense (within 5 years) – **\$10,000 to \$20,000**.

II. Non-DWI related deaths – **None**

Mandatory Minimum Fine:

Administrative Licensing

Action

None

Other Criminal Actions Related to DWI:

Licensing Authorized and

Type of Action:

I. Death-related DWI offenses, first offense – **Revocation**; second and subsequent offenses (within 5 years) – **Revocation**.

II. Non-DWI-related driving causing death-**Revocation** §31-11-6

Length of Term of

Licensing Withdrawal:

I. Death-related DWI offenses, first and subsequent offenses (within 5 years) – **5 years**

II. Non-DWI-related driving causing death-**3 years**

Mandatory Action--Minimum

Length of License

Withdrawal:

I. Death-related DWI offenses, first and subsequent offenses (within 5 years) – **5 years**

II. Non-DWI-related driving causing death-**3 years**

Other:	<u>First or subsequent offenses</u> : A court may order a person to complete an alcohol or drug treatment program. §31-27-2.2(b)(1) and (2)
<u>Driving While License Suspended or Revoked Where the Basis Was a DWI Offense:</u>	
Sanction:	
Criminal:	
Imprisonment (Term):	Where suspension or revocation is due to a DWI conviction, a refusal to submit to chemical test, reckless driving, motor vehicle manslaughter or 3 moving violations in one year: ¹⁰⁵³ <u>first offense</u> (misdemeanor) – 10 days to 1 year ; <u>second offense</u> (within 5 years - misdemeanor) – 6 months to 1 year ; <u>third and subsequent offenses</u> (within 5 years - felony) – 1 to 5 years . §§31-11-18.1, 31-27-13 and 31-27-14
Imprisonment (Term):	<u>First offense</u> – 10 days ; <u>second offense</u> (within 5 years) – 6 months ; <u>third and subsequent offenses</u> (within 5 years) – 1 year . §31-11-18.1(d)
Mandatory Minimum Term	<u>First offense</u> – 10 days ; <u>second offense</u> (within 5 years) – 6 months ; <u>third and subsequent offenses</u> (within 5 years) – 1 year . §31-11-18.1(d)
Fine (\$ Range):	<u>First offense</u> – \$500 ; <u>second offense</u> (within 5 years) – \$500 ; <u>third and subsequent offenses</u> (within 5 years) – not more than \$5,000 . §31-11-18.1, 31-27-13 and 31-27-14
Mandatory Minimum Fine:	<u>First offense</u> – \$500 ; <u>second offense</u> (within 5 years) – \$500 ; <u>third and subsequent offenses</u> (within 5 years) – \$1,000 . §31-11-18.1(d)
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Suspension/Revocation §31-11-18.1 See Vehicle Impoundment/Confiscation
Length of Term of License Withdrawal Action:	For Driving While Suspended: <u>first and second offense</u> – An additional suspension period as the licensing agency " deems proper "; <u>subsequent offense</u> – Revocation for an additional period of 1 year . For Driving While Revoked: <u>first and subsequent offense</u> –

¹⁰⁵³ See §31-11-18 for sanctions related to driving after either suspension or revocation for other traffic law violations.

Special Note: I. The above sanctions given appear to apply to the operation of a CMV during a CDL suspension or revocation for an alcohol- related offense conviction. §31-11-18.1. II. A person who does not "cease" to operate a CMV for 24 hours when required to do so commits a misdemeanor and is subject to a fine of \$150 and CDL revocation for 3 months. §31-10.3-31(h). III. Under separate provisions of law, a CMV operator who violates an out-of-service order issued by an authorized Federal or State official pursuant to Federal Regulations is subject to the following CDL disqualifications: first violation-disqualification for 90 days (mand); second violation (within 10 years) – disqualification for 1 year (mand); and, third or subsequent violation (within 10 years) – disqualification for 3 years (mand). A CMV operator who violates an out-of-service order either while transporting hazardous materials or while driving a CMV designed to transport 15 or more persons is subject to the following CDL disqualifications: first violation-disqualification for 180 days (mand);and, second or subsequent violation (within 10 years) – disqualification for 2 years (mand). In addition to the above disqualifications, the violator is subject to a "penalty" of \$1,000. §31-10.3-31(i)

Mandatory Term of License Withdrawal Action:	Revocation for an additional period of 1 year . §31-11-18.1
<u>Habitual Traffic Offender Law:</u> State Has Such a Law (Yes/No): Grounds for Being Declared an Habitual Offender:	For Driving While Suspended: <u>first offense</u> – an additional period of 3 months ; <u>second offense</u> – an additional period of 6 months ; <u>subsequent offense</u> – an additional period of 1 year . For Driving While Revoked: <u>first and subsequent offense</u> – an additional period of 1 year . §31-11-18.1 Yes §31-40-1 et seq. Three or more convictions within 3 years for any of the following: 1) Motor vehicle manslaughter; 2) DWI (alcohol or drugs); 3) Driving while license suspended or revoked; 4) Willfully operating a motor vehicle without a license; 5) any felony offense using a motor vehicle; 6) failure to stop and report death/injury after accident driver was involved in; 7) failure of driver to stop and report accident where damages equaled \$150 or more; <u>or</u> 8) a combination of six traffic offenses where any one conviction could result in license suspension or revocation for 30 days or more. §31-40-2
Term of License Revocation While Under Habitual Offender Status: Type of Criminal Offense if Convicted on Charges of Driving While on Habitual Offender Status	1 – 5 years §31-40-7 Felony §11-1-2
Sanctions Following a Conviction of Driving While on Habitual Offender Status: Imprisonment (Term):	Not more than 5 years §31-40-8
Mandatory Minimum Term of Imprisonment:	The 5-year sentence may not be suspended <u>except</u> in cases where the defendant operated a vehicle in order to save life or limb. §31-40-8
Fine (\$ Range): Mandatory Minimum Fine (\$): Licensing Actions (Specify):	None None None
<u>Other State Laws Related To Alcohol Use:</u>	
<u>Laws Requiring BAC Chemical Tests on Persons Killed in Traffic Accidents:</u> State Has Such a Law (Yes/No):	No

BAC Chemical Test Is Given to
the Following Persons:

- Driver:
- Vehicle Passengers:
- Pedestrian:

Laws Establishing the Minimum Ages
Concerning Alcoholic Beverages:

Minimum Age (Years) Sale/Purchase:	21 §§3-8-1, 3-8-5 and 3-8-6(a)(2)
Minimum Age (Years) Possession:	21 §3-8-10
Minimum Age (Years) Consumption:	21 Note: Applies only to licensed premises §3-8-6(a)(2)

Dram Shop Laws and Related Legal Actions:

State Has a Dram Shop Law (Yes/No):	Yes §3-14-1 et seq. ¹⁰⁵⁴
"Dram Shop Law" Concept Has Been Adopted Via a Change to the Common Law Rule by Action of the Highest Court of Record in the State (Case Citation):	No

Dram Shop Actions-Social Hosts:	No <i>Ferreira v. Strack</i> , 652 A.2d 965 (R.I. 1995) ¹⁰⁵⁵ and <i>Marty v. Garcia</i> , 667 A.2d 282 (R.I. 1995)
Other:	None

Criminal Action Against Owner or
Employees of Establishments that
Serve Alcoholic Beverages to
Intoxicated Patrons:

Type of Criminal Action:	<u>First offense – Petty Misdemeanor; second offense – Petty Misdemeanor; third and subsequent offenses – Misdemeanor.</u> §§ 3-8-1, 3-8-5 & 11-1-2
Term of Imprisonment:	<u>First offense – 3 months; second offense – 6 months; third and subsequent offenses</u> – Not more than 1 year .
Fine (\$ Range):	<u>First offense</u> – Not more than \$200 ; <u>second offense</u> – Not more than \$500 ; <u>third and subsequent offenses</u> – Not more than \$750 .

Administrative Actions Against
Owners of Establishments that
Serve Alcoholic Beverages to
Intoxicated Patrons:

License to Serve Alcoholic Beverages Withdrawn (Yes/No):	Yes Suspension/Revocation §3-5-23
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¹⁰⁵⁴ Rhode Island's Dram Shop Law is similar to the Model Alcoholic Beverage Retail Licensee Liability Act of 1985.

¹⁰⁵⁵ The court held that there was no duty of care in a typical social host dram shop situation; i.e., injured third parties did not have a common law cause of action for negligence against a social host for the injuries caused by an intoxicated guest.

Length of Term of License Withdrawal: **Suspension** – Length is not specified. §3-5-23;
Revocation – **5 years** (under §3-5-23)¹⁰⁵⁶

Criminal Actions Against Owners or Employees of Establishments that Serve Alcoholic Beverages or the Wrong Type of Alcoholic Beverage to Those Persons Under the Minimum Legal Drinking Age:
Type of Criminal Action: **Violations**¹⁰⁵⁷ §§3-8-5 and 11-1-2

Term of Imprisonment: **None**

Fine (\$ Range): First offense – **\$250**; second offense – **\$500**; third and subsequent offenses – **\$750**. If no offense in three successive years, next offense shall be treated as a first offense.

Administrative Actions Against Owners of Establishments That Serve Alcoholic Beverages to Those Persons Under the Minimum Legal Drinking Age:
License to Serve Alcoholic Beverages Withdrawn (Yes/No): **Yes Suspension/Revocation** §3-5-23

Length of Term License Withdrawal: **Suspension** – Length is not specified. §3-5-23;
Revocation – **5 years** (under §3-5-23)¹⁰⁵⁸

Anti-Happy Hour Laws/Regulations: **Yes** §3-7-26

Laws Prohibiting (1) the Possession of Open Containers of Alcoholic Beverages and (2) the Consumption of Alcoholic Beverages in the Passenger Compartment of a Vehicle:
Open Container Law (Yes/No): **Yes**¹⁰⁵⁹ §31-22-21.1

Anti-Consumption Law (Yes/No): **No**

¹⁰⁵⁶ If the revocation is under §3-5-22, the length would be 1 year.

¹⁰⁵⁷ A licensee who sells alcoholic beverages to one under the legal drinking age can also be charged with a violation of §3-8-1 (as well as §3-8-5). The sanctions for violating §3-8-1 are as follows: first offense (petty misdemeanor) – imprisonment for not more than 3 months; a fine of not more than \$200; second offense (petty misdemeanor) – imprisonment for not more than 6 months; a fine of not more than \$300; third and subsequent offenses. (misdemeanor) – imprisonment for not more than 1 year; a fine of not more than \$500. §§3-11-5 and 11-1-2.

¹⁰⁵⁸ If the revocation is under §3-5-22, the length would be 1 year.

¹⁰⁵⁹ The law makes it illegal for a person to “operate a motor vehicle upon the public highways with any unsealed alcoholic beverage container within the passenger section of said vehicle.” Note: This prohibition does not apply to rented limousines or buses; however, neither an operator nor a passenger under 21 years old shall possess an unsealed container of an alcoholic beverage in rented limousines or buses.