
SENATE BILL NO. 208—COMMITTEE ON TRANSPORTATION

FEBRUARY 17, 1999

Referred to Committee on Transportation

SUMMARY—Requires immobilization of vehicle of person driving under influence of intoxicating liquor or controlled substance under certain circumstances. (BDR 43-189)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to traffic laws; requiring the vehicle that a person is driving when he is found to have 0.10 percent or more by weight of alcohol in his blood or a detectable amount of a controlled substance in his system be immobilized for 30 days under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND
ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 484 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 7, inclusive, of this act.
- 3 **Sec. 2. “Immobilization device” means:**
- 4 1. ***A device that may be clamped or locked onto a wheel or the***
5 ***steering wheel of a vehicle to prevent the vehicle from being moved; or***
6 2. ***Any other device that may be used to prevent a vehicle from being***
7 ***moved.***
- 8 **Sec. 3. 1. Except as otherwise provided in subsection 3, the officer**
9 ***who obtained the result of a test given pursuant to NRS 484.382 or***
10 ***484.383 shall, as an agent for the department:***
- 11 ***(a) Immediately serve an order of immobilization upon a person who***
12 ***has 0.10 percent or more by weight of alcohol in his blood or has a***
13 ***detectable amount of a controlled substance in his system;***
14 ***(b) Seize the vehicle that the person was driving and have the vehicle***
15 ***immobilized pursuant to the procedure set forth in subsection 2; and***

1 (c) Advise the person of his right to administrative and judicial review
2 of the immobilization.

3 2. After seizing a vehicle pursuant to subsection 1, the officer shall
4 ensure that the vehicle is:

5 (a) Removed to and stored at the residence of the owner of the vehicle
6 or at another safe location; and

7 (b) Immobilized with an immobilization device.

8 3. The officer shall not seize the vehicle if the vehicle is:

9 (a) Stolen;

10 (b) Rented or leased;

11 (c) Owned by a foreign government, the Federal Government, a state
12 government or a political subdivision of a state government; or

13 (d) Owned by a business and was being driven for a business related
14 purpose.

15 4. After seizing and immobilizing a vehicle pursuant to this section,
16 the officer shall indicate on the certificate required pursuant to
17 subsection 2 of NRS 484.385 whether he served an order of
18 immobilization upon the person.

19 5. Except as otherwise provided in section 4 of this act, the person
20 who was driving a vehicle that was immobilized pursuant to this section
21 shall pay all reasonable costs associated with the immobilization of the
22 vehicle, including, without limitation, the cost of towing the vehicle,
23 storing the vehicle, and installing and removing the immobilization
24 device, before the immobilization device is removed.

25 Sec. 4. 1. If the owner of a vehicle was the driver of the vehicle at
26 the time the vehicle was seized pursuant to section 3 of this act, he may,
27 at any time during the period of immobilization, request a hearing by the
28 department to review the order of immobilization.

29 2. The hearing:

30 (a) Must be conducted within 15 days after receipt of the request, or as
31 soon thereafter as is practicable, in the county where the person resides,
32 unless the parties agree otherwise; and

33 (b) May be combined with a hearing to review an order of revocation
34 held pursuant to NRS 484.387.

35 3. The director or his agent may issue subpoenas for the attendance
36 of witnesses and the production of relevant books and papers.

37 4. The scope of the hearing must be limited to the issue of whether
38 the person, at the time of the test, had 0.10 percent or more by weight of
39 alcohol in his blood or a detectable amount of a controlled substance in
40 his system.

41 5. If the department finds that, at the time of the test, the person:

1 ***(a) Had 0.10 percent or more by weight of alcohol in his blood or a***
2 ***detectable amount of a controlled substance in his system, the***
3 ***department shall affirm the order of immobilization.***

4 ***(b) Did not have 0.10 percent or more by weight of alcohol in his***
5 ***blood or a detectable amount of a controlled substance in his system, the***
6 ***department shall rescind the order of immobilization, order the***
7 ***immobilization device removed from the vehicle and pay or reimburse***
8 ***the person for all costs that the person reasonably incurred as a result of***
9 ***the immobilization.***

10 ***6. If the department affirms the order of immobilization, the person***
11 ***may petition for judicial review pursuant to the procedures set forth in***
12 ***chapter 233B of NRS.***

13 ***7. If, at any time, the case against the person is dismissed or the***
14 ***person is acquitted of the charges, the department shall rescind the order***
15 ***of immobilization, order the immobilization device removed from the***
16 ***vehicle and pay or reimburse the person for all costs that the person***
17 ***reasonably incurred as a result of the immobilization.***

18 ***Sec. 5. 1. If the owner of a vehicle was not the driver at the time***
19 ***the vehicle was seized pursuant to section 3 of this act, the owner may, at***
20 ***any time during the subsequent period of immobilization, submit a***
21 ***written petition to the department to rescind the order of immobilization***
22 ***and remove the immobilization device from the vehicle.***

23 ***2. The department:***

24 ***(a) Shall rescind the order of immobilization and order the***
25 ***immobilization device removed from the vehicle if the owner proves by a***
26 ***preponderance of the evidence that he did not consent to the operation of***
27 ***the vehicle by the person who was driving the vehicle at the time the***
28 ***vehicle was seized.***

29 ***(b) May rescind the order of immobilization and order the***
30 ***immobilization device removed from the vehicle if the owner proves by a***
31 ***preponderance of the evidence that his immediate family owns only one***
32 ***vehicle and will suffer a substantial hardship if the vehicle is immobilized***
33 ***for 30 days.***

34 ***Sec. 6. 1. Nothing in sections 2 to 6, inclusive, of this act may be***
35 ***construed to impede or infringe upon the rights of a valid lienholder on***
36 ***the vehicle to cure a default pursuant to an existing security agreement.***

37 ***2. A lienholder is not liable for any costs related to an***
38 ***immobilization.***

39 ***3. If a lienholder repossesses and removes a vehicle that has been***
40 ***immobilized, the state shall pay all reasonable costs related to the***
41 ***immobilization to the extent that those costs have not been paid by the***
42 ***person who was driving the vehicle at the time it was seized.***

1 **4. If the state pays any expenses related to immobilization pursuant**
2 **to this section, the state may recover those expenses from the person who**
3 **was driving the vehicle at the time it was seized.**

4 **Sec. 7. An owner of a vehicle who authorizes the operation of the**
5 **vehicle by a person whom the owner knows has had his:**

6 **1. License, permit or privilege to drive revoked pursuant to NRS**
7 **484.385; or**

8 **2. Vehicle immobilized pursuant to section 3 of this act,**
9 **is guilty of a misdemeanor.**

10 **Sec. 8.** NRS 484.013 is hereby amended to read as follows:

11 484.013 As used in this chapter, unless the context otherwise requires,
12 the words and terms defined in NRS 484.0135 to 484.217, inclusive, **and**
13 **section 2 of this act** have the meanings ascribed to them in those sections.

14 **Sec. 9.** NRS 484.382 is hereby amended to read as follows:

15 484.382 1. Any person who drives or is in actual physical control of
16 a vehicle on a highway or on premises to which the public has access shall
17 be deemed to have given his consent to a preliminary test of his breath for
18 the purpose of determining the alcoholic content of his breath when the test
19 is administered at the direction of a police officer at the scene of a vehicle
20 accident or collision or where he stops a vehicle, if the officer has
21 reasonable grounds to believe that the person to be tested was driving or in
22 actual physical control of a vehicle while under the influence of
23 intoxicating liquor or a controlled substance.

24 2. If the person fails to submit to the test, the officer shall seize his
25 license or permit to drive as provided in NRS 484.385, **seize and**
26 **immobilize the vehicle as provided in section 3 of this act**, and arrest him
27 and take him to a convenient place for the administration of a reasonably
28 available evidentiary test under NRS 484.383.

29 3. The result of the preliminary test must not be used in any criminal
30 action, except to show there were reasonable grounds to make an arrest.

31 **Sec. 10.** NRS 484.384 is hereby amended to read as follows:

32 484.384 1. If the result of a test given under NRS 484.382 or
33 484.383 shows that a person had 0.10 percent or more by weight of alcohol
34 in his blood at the time of the test ~~[, his]~~ **or had a detectable amount of a**
35 **controlled substance in his system:**

36 **(a) His** license, permit or privilege to drive must be revoked as provided
37 in NRS 484.385 and he is not eligible for a license, permit or privilege for a
38 period of 90 days ~~[,]~~ **; and**

39 **(b) The vehicle that the person was driving must be immobilized for a**
40 **period of 30 days as set forth in sections 3 and 4 of this act.**

41 2. If a revocation of a person's license, permit or privilege to drive
42 under NRS 62.227 or 483.460 follows a revocation under subsection 1
43 which was based on his having 0.10 percent or more by weight of alcohol

1 in his blood, the department shall cancel the revocation under that
2 subsection and give the person credit for any period during which he was
3 not eligible for a license, permit or privilege.

4 3. Periods of ineligibility for a license, permit or privilege to drive
5 which are imposed pursuant to this section must run consecutively.

6 **Sec. 11.** NRS 484.387 is hereby amended to read as follows:

7 484.387 1. At any time while a person is not eligible for a license,
8 permit or privilege to drive following an order of revocation issued
9 pursuant to NRS 484.385, he may request in writing a hearing by the
10 department to review the order of revocation, but he is only entitled to one
11 hearing. The hearing must be conducted within 15 days after receipt of the
12 request, or as soon thereafter as is practicable, in the county where the
13 requester resides unless the parties agree otherwise. ***The hearing may be***
14 ***combined with a hearing to review an order of immobilization held***
15 ***pursuant to section 4 of this act.*** The director or his agent may issue
16 subpoenas for the attendance of witnesses and the production of relevant
17 books and papers and may require a reexamination of the requester. The
18 department shall issue an additional temporary license for a period which is
19 sufficient to complete the administrative review.

20 2. The scope of the hearing must be limited to the issue of whether the
21 person, at the time of the test, had 0.10 percent or more by weight of
22 alcohol in his blood or a detectable amount of a controlled substance in his
23 system. Upon an affirmative finding on this issue, the department shall
24 affirm the order of revocation. Otherwise, the order of revocation must be
25 rescinded.

26 3. If, after the hearing, the order of revocation is affirmed, the person
27 whose license, privilege or permit has been revoked is entitled to a review
28 of the same issues in district court in the same manner as provided by
29 chapter 233B of NRS. The court shall notify the department upon the
30 issuance of a stay and the department shall issue an additional temporary
31 license for a period which is sufficient to complete the review.

32 4. If a hearing officer grants a continuance of a hearing at the request
33 of the person whose license was revoked, or a court does so after issuing a
34 stay of the revocation, the officer or court shall notify the department, and
35 the department shall cancel the temporary license and notify the holder by
36 mailing the order of cancellation to his last known address.

37 **Sec. 12.** The amendatory provisions of this act do not apply to
38 offenses that were committed before October 1, 1999.