

Senate Bill No. 481–Committee on Judiciary

CHAPTER.....

AN ACT relating to controlled substances; prohibiting a person from driving or operating a vehicle or vessel if the person has a detectable amount of certain prohibited substances in his blood or urine; making various other changes concerning controlled substances and impaired operation of vehicles and vessels; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Chapter 50 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in NRS 50.265 to 50.345, inclusive, unless the context otherwise requires, “prohibited substance” has the meaning ascribed to it in section 20 of this act.

Sec. 2. NRS 50.315 is hereby amended to read as follows:

50.315 1. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person is admissible in evidence in any criminal or administrative proceeding to prove:

(a) That the affiant or declarant has been certified by the director of the department of motor vehicles and public safety as being competent to operate devices of a type certified by the committee on testing for intoxication as accurate and reliable for testing a person’s breath to determine the amount by weight of alcohol in his breath;

(b) The identity of a person from whom the affiant or declarant obtained a sample of breath; and

(c) That the affiant or declarant tested the sample using a device of a type so certified and that the device was functioning properly.

2. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who prepared a chemical solution or gas that has been used in calibrating a device for testing another’s breath to determine the amount of alcohol in his breath is admissible in evidence in any criminal or administrative proceeding to prove:

(a) The occupation of the affiant or declarant; and

(b) That the solution or gas has the chemical composition necessary for accurately calibrating it.

3. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who calibrates a device for testing another’s breath to determine the amount of alcohol in his breath is admissible in evidence in any criminal or administrative proceeding to prove:

(a) The occupation of the affiant or declarant;

(b) That on a specified date the affiant or declarant calibrated the device at a named law enforcement agency by using the procedures and equipment prescribed in the regulations of the committee on testing for intoxication;

(c) That the calibration was performed within the period required by the committee's regulations; and

(d) Upon completing the calibration of the device, it was operating properly.

4. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration made under the penalty of perjury of a person who withdraws a sample of blood from another for analysis by an expert as set forth in NRS 50.320 is admissible in any criminal or administrative proceeding to prove:

(a) The occupation of the affiant or declarant;

(b) The identity of the person from whom the affiant or declarant withdrew the sample;

(c) The fact that the affiant or declarant kept the sample in his sole custody or control and in substantially the same condition as when he first obtained it until delivering it to another; and

(d) The identity of the person to whom the affiant or declarant delivered it.

5. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who receives from another a sample of blood or urine or other tangible evidence that is alleged to contain alcohol or a controlled substance, chemical, poison, ~~for~~ organic solvent **or another prohibited substance** may be admitted in any criminal, civil or administrative proceeding to prove:

(a) The occupation of the affiant or declarant;

(b) The fact that the affiant or declarant received a sample or other evidence from another person and kept it in his sole custody or control in substantially the same condition as when he first received it until delivering it to another; and

(c) The identity of the person to whom the affiant or declarant delivered it.

6. If, at or before the time of the trial, the defendant establishes that:

(a) There is a substantial and bona fide dispute regarding the facts in the affidavit or declaration; and

(b) It is in the best interests of justice that the witness who signed the affidavit or declaration be cross-examined,

the court may order the prosecution to produce the witness and may continue the trial for any time the court deems reasonably necessary to receive such testimony. The time within which a trial is required is extended by the time of the continuance.

7. During any trial in which the defendant has been accused of committing a felony, the defendant may object in writing to admitting into evidence an affidavit or declaration described in this section. If the defendant makes such an objection, the court shall not admit the affidavit or declaration into evidence and the prosecution may cause the person to testify in court to any information contained in the affidavit or declaration.

8. The committee on testing for intoxication shall adopt regulations prescribing the form of the affidavits and declarations described in this section.

Sec. 3. NRS 50.320 is hereby amended to read as follows:

50.320 1. The affidavit or declaration of a chemist and any other person who has qualified in the district court of any county to testify as an expert witness regarding the presence in the breath, blood or urine of a person of alcohol, a controlled substance, or a chemical, poison, ~~or~~ organic solvent ~~or~~ **or another prohibited substance**, or the identity or quantity of a controlled substance alleged to have been in the possession of a person, which is submitted to prove:

(a) The quantity of the purported controlled substance; or

(b) The amount of alcohol or the presence or absence of a controlled substance, chemical, poison, ~~or~~ organic solvent ~~or~~ **or another prohibited substance**, as the case may be,
is admissible in the manner provided in this section.

2. An affidavit or declaration which is submitted to prove any fact set forth in subsection 1 must be admitted into evidence when submitted during any administrative proceeding, preliminary hearing or hearing before a grand jury. The court shall not sustain any objection to the admission of such an affidavit or declaration.

3. The defendant may object in writing to admitting into evidence an affidavit or declaration submitted to prove any fact set forth in subsection 1 during his trial. If the defendant makes such an objection, the court shall not admit the affidavit or declaration into evidence and the prosecution may cause the person to testify in court to any information contained in the affidavit or declaration.

4. The committee on testing for intoxication shall adopt regulations prescribing the form of the affidavits and declarations described in this section.

Sec. 4. NRS 50.325 is hereby amended to read as follows:

50.325 1. If a person is charged with an offense ~~[punishable pursuant to chapter 453, 484 or 488 of NRS or homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor, a controlled substance or a chemical, poison or organic solvent,]~~ **listed in subsection 4**, and it is necessary to prove:

(a) The existence of any alcohol;

(b) The quantity of a controlled substance; or

(c) The existence or identity of a controlled substance, chemical, poison, ~~or~~ organic solvent ~~or~~ **or another prohibited substance**,
the prosecuting attorney may request that the affidavit or declaration of an expert or other person described in NRS 50.315 and 50.320 be admitted into evidence at the trial or preliminary hearing concerning the offense. Except as otherwise provided in NRS 50.315 and 50.320, the affidavit or declaration must be admitted into evidence.

2. If the request is to have the affidavit or declaration admitted into evidence at a preliminary hearing or hearing before a grand jury, the affidavit or declaration must be admitted into evidence upon submission. If the request is to have the affidavit or declaration admitted into evidence at trial, the request must be:

- (a) Made at least 10 days before the date set for the trial;
- (b) Sent to the defendant's counsel and to the defendant, by registered or certified mail by the prosecuting attorney; and
- (c) Accompanied by a copy of the affidavit or declaration and the name, address and telephone number of the affiant or declarant.

3. The provisions of this section do not prohibit either party from producing any witness to offer testimony at trial.

4. The provisions of this section apply to any of the following offenses:

(a) An offense punishable pursuant to NRS 202.257, 455A.170, 455B.080, 493.130 or 639.283.

(b) An offense punishable pursuant to chapter 453, 484 or 488 of NRS.

(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420.

(d) Any other offense for which it is necessary to prove, as an element of the offense:

- (1) The existence of any alcohol;***
- (2) The quantity of a controlled substance; or***
- (3) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance.***

Sec. 5. NRS 62.020 is hereby amended to read as follows:

62.020 As used in this chapter, unless the context otherwise requires:

1. Except as otherwise provided in this subsection, "child" means a person who is:

- (a) Less than 18 years of age; or
- (b) Less than 21 years of age and subject to the jurisdiction of the juvenile court for an act of delinquency that was committed before the person reached 18 years of age.

The term does not include a person who is excluded from the jurisdiction of the juvenile court pursuant to NRS 62.040 or a person who is certified for criminal proceedings as an adult pursuant to NRS 62.080 or 62.081.

2. "Court" means the juvenile division of the district court.

3. "Indian child" has the meaning ascribed to it in 25 U.S.C. § 1903.

4. "Indian Child Welfare Act" means the Indian Child Welfare Act of 1978, ~~19~~ 25 U.S.C. §§ 1901 et seq. ~~19~~

5. "Judge" means the judge of the juvenile division of the district court.

6. "Juvenile court" or "juvenile division" means

:

(a) In any judicial district that includes a county whose population is 100,000 or more, the family division of the district court; or

(b) In any other judicial district, the juvenile division of the district court.

7. "Minor traffic offense" means a violation of any state or local law, ordinance or resolution governing the operation of a motor vehicle upon any street, alley or highway within this state other than:

(a) A violation of chapter 484 or 706 of NRS that causes the death of a person;

(b) ~~{Driving a motor vehicle while under the influence of intoxicating liquor, a controlled substance or a drug in}~~ A violation of NRS 484.379; or

(c) Any traffic offense declared to be a felony.

Sec. 6. NRS 62.227 is hereby amended to read as follows:

62.227 1. If a child who is less than 18 years of age is found by the juvenile court to have committed ~~{the}~~ **an** unlawful act ~~{of driving under the influence of intoxicating liquor or a controlled substance}~~ in violation of NRS 484.379 or 484.3795, the judge, or his authorized representative, shall, if the child possesses a driver's license, issue an order revoking the driver's license of that child for 90 days. If such an order is issued, the judge shall require the child to surrender to the court all driver's licenses then held by the child. The court shall, within 5 days after issuing the order, forward to the department of motor vehicles and public safety the licenses and a copy of the order.

2. The judge shall require the child to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement of the driver's license of the child.

3. If the child is found to have committed a subsequent unlawful act as set forth in subsection 1, the court shall order an additional period of revocation to apply consecutively with the previous order.

4. The judge may authorize the department to issue a restricted driver's license pursuant to NRS 483.490 to a child whose driver's license is revoked pursuant to this section.

Sec. 7. NRS 62.2275 is hereby amended to read as follows:

62.2275 1. If a child within the jurisdiction of the juvenile court is found by the juvenile court to have committed ~~{the}~~ :

(a) **An** unlawful act ~~{of:~~

~~—(a) Driving under the influence of intoxicating liquor or a controlled substance}~~ in violation of NRS 484.379 or 484.3795;

(b) ~~{Using,}~~ **The unlawful act of using**, possessing, selling or distributing a controlled substance; or

(c) ~~{Purchasing,}~~ **The unlawful act of purchasing**, consuming or possessing an alcoholic beverage in violation of NRS 202.020, the judge, or his authorized representative, shall require the child to undergo an evaluation to determine if the child is an abuser of alcohol or other drugs.

2. The evaluation of a child pursuant to this section:

(a) Must be conducted by:

(1) A counselor certified to make that classification by the bureau of alcohol and drug abuse;

(2) A physician certified to make that classification by the board of medical examiners; or

(3) A person who is approved to make that classification by the bureau of alcohol and drug abuse, who shall report to the judge the results of the evaluation and make a recommendation to the judge concerning the length and type of treatment required by the child.

(b) May be conducted at an evaluation center.

3. The judge shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducted the evaluation pursuant to subsection 2.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child, if he is at least 18 years of age or an emancipated minor, or the parent or legal guardian of the child, to the extent of the financial resources of the child or his parent or legal guardian, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child, or his parent or legal guardian, does not have the financial resources to pay all ~~of~~ those charges:

(1) The judge shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and

(2) The judge may order the child to perform supervised work for the benefit of the community in lieu of paying the charges relating to his evaluation and treatment. The work must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents. The court may require the child or his parent or legal guardian to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the child performs the work, unless, in the case of industrial insurance, it is provided by the authority for which he performs the work.

4. A treatment facility is not liable for any damages to person or property caused by a child who ~~drives~~ :

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of ~~an~~ intoxicating liquor or a controlled substance ; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or

a law of any other jurisdiction that prohibits the same or similar conduct,

after the treatment facility has certified to his successful completion of a program of treatment ordered pursuant to this section.

5. The provisions of this section do not prohibit a judge from:

(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the bureau of alcohol and drug abuse. Such an evaluation may be conducted at an evaluation center pursuant to paragraph (b) of subsection 2.

(b) Ordering the child to attend a program of treatment which is administered by a private company.

6. All information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this chapter or the juvenile court, must not be disclosed to any person other than the juvenile court, the child and his attorney, if any, his parents or guardian, the prosecuting attorney and any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child. A record of any finding that a child has violated the provisions of NRS 484.379 or 484.3795 must be included in the driver's record of that child for 7 years after the date of the offense.

7. As used in this section:

(a) "Bureau of alcohol and drug abuse" means the bureau of alcohol and drug abuse in the rehabilitation division of the department of employment, training and rehabilitation.

(b) "Evaluation center" has the meaning ascribed to it in NRS 484.3793.

(c) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

Sec. 8. NRS 458.260 is hereby amended to read as follows:

458.260 1. Except as otherwise provided in subsection 2, the use of alcohol, the status of drunkard and the fact of being found in an intoxicated condition are not:

(a) Public offenses and shall not be so treated in any ordinance or resolution of a county, city or town.

(b) Elements of an offense giving rise to a criminal penalty or civil sanction.

2. The provisions of subsection 1 do not apply to:

(a) ~~{The provisions of NRS 483.460, 483.490, subsection 2 of NRS 483.560 and NRS 484.384;~~

~~—(b) An} *A civil or administrative violation for which intoxication is an element of the violation pursuant to the provisions of a specific statute or regulation;*~~

(b) A criminal offense for which intoxication is an element of the offense pursuant to the provisions of a specific statute { } or regulation;

(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance { } *or resulting*

from any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420; and

(d) Any offense *or violation which is* similar to an offense ~~[set forth]~~ *or violation described* in paragraph (a), (b) or (c) ~~[that]~~ *and which* is set forth in an ordinance or resolution of a county, city or town.

3. This section does not make intoxication an excuse or defense for any criminal act.

Sec. 9. NRS 458.270 is hereby amended to read as follows:

458.270 1. Except as otherwise provided in subsection 7, a person who is found in any public place under the influence of alcohol, in such a condition that he is unable to exercise care for his own health or safety or the health or safety of others, must be placed under civil protective custody by a peace officer.

2. A peace officer may use upon such a person that kind and degree of force which would be lawful if he were effecting an arrest for a misdemeanor with a warrant.

3. If a licensed facility for the treatment of persons who abuse alcohol exists in the community where the person is found, he must be delivered to the facility for observation and care. If no such facility exists in the community, the person so found may be placed in a county or city jail or detention facility for shelter or supervision for his own health and safety until he is no longer under the influence of alcohol. He may not be required against his will to remain in either a licensed facility, jail or detention facility longer than 48 hours.

4. An intoxicated person taken into custody by a peace officer for a public offense must immediately be taken to a secure detoxification unit or other appropriate medical facility if his condition appears to require emergency medical treatment. Upon release from the detoxification unit or medical facility, the person must immediately be remanded to the custody of the apprehending peace officer and the criminal proceedings proceed as prescribed by law.

5. The placement of a person found under the influence of alcohol in civil protective custody must be:

(a) Recorded at the facility, jail or detention facility to which he is delivered; and

(b) Communicated at the earliest practical time to his family or next of kin if they can be located and to the division or to a local alcohol abuse authority designated by the division.

6. Every peace officer and other public employee or agency acting pursuant to this section is performing a discretionary function or duty.

7. The provisions of this section do not apply to a person who is apprehended or arrested for:

(a) ~~[An]~~ *A civil or administrative violation for which intoxication is an element of the violation pursuant to the provisions of a specific statute or regulation;*

(b) *A criminal* offense for which intoxication is an element of the offense pursuant to the provisions of a specific statute ~~;~~

~~—(b)] or regulation;~~

(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ~~;~~ and

~~—(c)] or resulting from any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420; and~~

(d) Any offense *or violation which is* similar to an offense ~~[set forth]~~ *or violation described* in paragraph (a) ~~[or (b) of this subsection that]~~, (b) *or (c) and which* is set forth in an ordinance or resolution of a county, city or town.

Sec. 10. NRS 458.300 is hereby amended to read as follows:

458.300 Subject to the provisions of NRS 458.290 to 458.350, inclusive, an alcoholic or a drug addict who has been convicted of a crime is eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 before he is sentenced unless:

1. The crime is a crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS or the crime is an act which constitutes domestic violence as set forth in NRS 33.018;

2. The crime is that of trafficking of a controlled substance;

3. The crime is ~~[that of driving under the influence of intoxicating liquor or while a habitual user or under the influence of a controlled substance or while incapable of safely driving because of the use of any chemical, poison or organic solvent as provided for in]~~ *a violation of* NRS 484.379 ~~;~~ *or such driving which causes the death of or substantial bodily harm to another person as provided in NRS] *or* 484.3795;*

4. The alcoholic or drug addict has a record of two or more convictions of a crime described in subsection 1 or 2, a similar crime in violation of the laws of another state, or of three or more convictions of any felony;

5. Other criminal proceedings alleging commission of a felony are pending against the alcoholic or drug addict;

6. The alcoholic or drug addict is on probation or parole and the appropriate parole or probation authority does not consent to the election;
or

7. The alcoholic or drug addict elected and was admitted, pursuant to NRS 458.290 to 458.350, inclusive, to a program of treatment not more than twice within the preceding 5 years.

Sec. 11. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

“Premises to which the public has access” has the meaning ascribed to it in NRS 484.122.

Sec. 12. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, unless the context otherwise requires, the words and terms defined in NRS 483.025 to

483.190, inclusive, *and section 11 of this act* have the meanings ascribed to them in those sections.

Sec. 13. NRS 483.080 is hereby amended to read as follows:

483.080 "Highway" ~~means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.~~ *has the meaning ascribed to it in NRS 484.065.*

Sec. 14. NRS 483.330 is hereby amended to read as follows:

483.330 1. The department may require every applicant for a driver's license, including a commercial driver's license issued pursuant to NRS 483.900 to 483.940, inclusive, to submit to an examination. The examination may include:

(a) A test of the applicant's ability to understand official devices used to control traffic;

(b) A test of his knowledge of practices for safe driving and the traffic laws of this state;

(c) Except as otherwise provided in subsection 2, a test of his eyesight; and

(d) Except as otherwise provided in subsection 3, an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type or class of vehicle for which he is to be licensed.

The examination may also include such further physical and mental examination as the department finds necessary to determine the applicant's fitness to drive a motor vehicle safely upon the highways.

2. The department may provide by regulation for the acceptance of a report from an ophthalmologist, optician or optometrist in lieu of an eye test by a driver's license examiner.

3. If the department establishes a type or classification of driver's license to operate a motor vehicle of a type which is not normally available to examine an applicant's ability to exercise ordinary and reasonable control of such a vehicle, the department may, by regulation, provide for the acceptance of an affidavit from a:

(a) Past, present or prospective employer of the applicant; or

(b) Local joint apprenticeship committee which had jurisdiction over the training or testing, or both, of the applicant, in lieu of an actual demonstration.

4. The department may waive an examination pursuant to subsection 1 for a person applying for a Nevada driver's license who possesses a valid driver's license of the same type or class issued by another jurisdiction unless that person:

(a) Has not attained 25 years of age;

(b) Has had his license or privilege to drive a motor vehicle suspended, revoked or canceled or has been otherwise disqualified from driving during the immediately preceding 4 years;

(c) Has been convicted, ~~[of the offense of driving a motor vehicle while under the influence of an intoxicating liquor, a controlled substance, a chemical poison or an organic solvent]~~ during the immediately preceding 7 years, ~~[or the]~~ of a violation of **NRS 484.379 or 484.3795** or a law ~~[which]~~ **of any other jurisdiction that** prohibits the same or similar conduct;

(d) Has restrictions to his driver's license which the department must reevaluate to ensure the safe driving of a motor vehicle by that person;

(e) Has had three or more convictions of moving traffic violations on his driving record during the immediately preceding 4 years; or

(f) Has been convicted of any of the offenses related to the use or operation of a motor vehicle which must be reported pursuant to the provisions of Parts 1325 and 1327 of Title 23 of the Code of Federal Regulations relating to the National Driver Register Problem Driver Pointer System during the immediately preceding 4 years.

Sec. 15. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by statute, the department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 2 of NRS 484.377.

(2) A third or subsequent violation within 7 years of NRS 484.379.

(3) A violation of NRS 484.3795 or **a** homicide resulting from driving **or being in actual physical control of** a vehicle while under the influence of intoxicating liquor or a controlled substance ~~[or]~~ **or resulting from any other conduct prohibited by NRS 484.379 or 484.3795.**

The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume upon completion of the period of imprisonment or when the person is placed on residential confinement.

(b) For a period of 1 year if the offense is:

(1) Any other manslaughter resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.

(2) Failure to stop and render aid as required pursuant to the laws of this state in the event of a motor vehicle accident resulting in the death or bodily injury of another.

(3) Perjury or the making of a false affidavit or statement under oath to the department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.

(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

(5) A second violation within 7 years of NRS 484.379 and, except as otherwise provided in subsection 2 of NRS 483.490, the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484.379.

2. The department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the department is notified by a court that a person who has been convicted of violating NRS 484.379 has been permitted to enter a program of treatment pursuant to NRS 484.37937 or 484.3794, the department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:

(a) For 3 years, if it is his first such offense during the period of required use of the device.

(b) For 5 years, if it is his second such offense during the period of required use of the device.

5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever is applicable.

6. ~~When~~ ***In addition to any other requirements set forth by specific statute, if*** the department is notified that a court has ~~the~~ ***ordered the revocation, suspension or delay in the issuance of a child's license;***
~~—(a) Pursuant to paragraph (h) of subsection 1 of NRS 62.211, NRS 62.224, 62.2255, 62.226 or 62.228,]~~
~~—(b) Pursuant]~~ ***license pursuant to chapter 62 of NRS, NRS 176.064 or 206.330, [ordered the suspension or delay in the issuance of a person's license; or***
~~—(c) Pursuant to NRS 62.227, ordered the revocation of a child's license,]~~ ***chapter 484 of NRS or any other provision of law,*** the department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 16. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a second violation within 7 years of NRS 484.379 and one-half of the period during which the driver is not eligible for a license has expired, the

department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

- (a) To and from work or in the course of his work, or both; or
- (b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.

Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if he is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle which he owns or operates pursuant to NRS 484.3943:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 180 days of the period during which he is not eligible for a license, if he was convicted of ~~1a~~ :

(I) A violation of subsection 2 of NRS 484.377 ~~1a~~ ;

(II) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or ~~if he was convicted of a~~ resulting from any other conduct prohibited by NRS 484.379 or 484.3795; or

(III) A third violation within 7 years of NRS 484.379;

(2) After at least 90 days of the period during which he is not eligible for a license, if he was convicted of a second violation within 7 years of NRS 484.379; or

(3) After at least 45 days of the period during which he is not eligible for a license, if he was convicted of a first violation within 7 years of NRS 484.379.

3. If the department has received a copy of an order requiring a person to install a device in a motor vehicle which he owns or operates pursuant to NRS 484.3943, the department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked pursuant to subsection 1 of NRS 62.227 or suspended pursuant to paragraph (h) of subsection 1 of NRS 62.211, NRS 62.224, 62.2255, 62.226 or 62.228, the department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

- (a) If applicable, to and from work or in the course of his work, or both; and
 - (b) If applicable, to and from school
- .

5. After a driver's license has been suspended pursuant to NRS 483.443, the department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

- (a) If applicable, to and from work or in the course of his work, or both;
- (b) To receive regularly scheduled medical care for himself or a member of his immediate family; and
- (c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor ~~[,]~~ and, if ~~[his]~~ **the** license **of the driver** was suspended or revoked for ~~[a]~~ :

- (a) A violation of NRS 484.379, 484.3795, **or** 484.384 ~~[or a]~~ ;
- (b) A homicide resulting from driving **or being in actual physical control of** a vehicle while under the influence of intoxicating liquor or a controlled substance ~~[, or the]~~ **or resulting from any other conduct prohibited by NRS 484.379 or 484.3795; or**
- (c) A violation of a law of any other jurisdiction ~~[which]~~ **that** prohibits the same **or similar** conduct ~~[, he]~~ **as set forth in paragraph (a) or (b),**
the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484.384 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 17. NRS 483.560 is hereby amended to read as follows:

483.560 1. Except as otherwise provided in subsection 2, any person who drives a motor vehicle on a highway or on premises to which the public has access at a time when his driver's license has been canceled, revoked or suspended is guilty of a misdemeanor.

2. Except as otherwise provided in this subsection, if the license **of the person** was suspended, revoked or restricted because of ~~[a]~~ :

- (a) A violation of NRS 484.379, 484.3795 or 484.384 ~~[or a]~~ ;
- (b) A homicide resulting from driving **or being in actual physical control of** a vehicle while under the influence of intoxicating liquor or a controlled substance ~~[, or the]~~ **or resulting from any other conduct prohibited by NRS 484.379 or 484.3795; or**
- (c) A violation of a law of any other jurisdiction ~~[which]~~ **that** prohibits the same **or similar** conduct ~~[, he shall be:~~
~~—(a) Punished]~~ **as set forth in paragraph (a) or (b)**

,

the person shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months ~~[- or~~
~~-(b) Sentenced to]~~ *or by serving* a term of *residential confinement for* not less than 60 days ~~[in residential confinement]~~ nor more than 6 months, and *shall be further punished* by a fine of not less than \$500 nor more than \$1,000. A person who is punished ~~[under]~~ *pursuant to* this subsection may not be granted probation, and a sentence imposed for such a violation may not be suspended. A prosecutor may not dismiss a charge of such a violation in exchange for a plea of guilty, of guilty but mentally ill or of nolo contendere to a lesser charge or for any other reason, unless in his judgment the charge is not supported by probable cause or cannot be proved at trial. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated his license.

3. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 484.3792, 484.37937 or 484.3794 must run consecutively.

5. ~~[The department upon receiving]~~ *If the department receives* a record of the conviction or punishment of any person pursuant to this section upon a charge of driving a vehicle while his license was:

(a) Suspended, *the department* shall extend the period of the suspension for an additional like period.

(b) Revoked, *the department* shall extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(c) Restricted, *the department* shall revoke his restricted license and extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(d) Suspended or canceled for an indefinite period, *the department* shall suspend his license for an additional 6 months for the first violation and an additional 1 year for each subsequent violation.

6. Suspensions and revocations *imposed* pursuant to this section must run consecutively.

Sec. 18. NRS 483.908 is hereby amended to read as follows:

483.908 The department shall adopt regulations:

1. Providing for the issuance, expiration, renewal, suspension, revocation and reinstatement of commercial drivers' licenses;

2. Providing the same exemptions allowed pursuant to federal regulations for farmers, fire fighters, military personnel or any other class of operators or vehicles for which exemptions are authorized by federal law or regulations;

3. Specifying the violations which constitute grounds for disqualification from driving a commercial motor vehicle and the penalties associated with each violation;

4. Setting forth a schedule of various alcohol concentrations and the penalties which must be imposed if those concentrations are detected in the breath, blood, urine or other bodily substances of a person who is driving, operating or is in **actual** physical control of a commercial motor vehicle; and

5. Necessary to enable it to carry out the provisions of NRS 483.900 to 483.940, inclusive.

The department shall not adopt regulations which are more restrictive than the federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. §§ 2701-2716.

Sec. 19. NRS 483.922 is hereby amended to read as follows:

483.922 1. Except as otherwise provided in NRS 484.383, a person who drives, **operates** or is in actual physical control of a commercial motor vehicle within this state shall be deemed to have given consent to an evidentiary test of his blood, urine, breath or other bodily substance for the purpose of determining the alcoholic content of his blood or breath or to detect the presence of a controlled substance ~~[in his system.]~~, **chemical, poison, organic solvent or another prohibited substance.**

2. The tests must be administered pursuant to NRS 484.383 at the direction of a police officer who, after stopping or detaining ~~[the driver of a commercial motor vehicle.]~~ **such a person**, has reasonable grounds to believe that the ~~[driver was driving]~~ **person was:**

(a) Driving, operating or in actual physical control of a commercial motor vehicle while under the influence of intoxicating liquor or a controlled substance ~~[.]~~; **or**

(b) Engaging in any other conduct prohibited by NRS 484.379 or 484.3795.

3. As used in this section, "prohibited substance" has the meaning ascribed to it in section 20 of this act.

Sec. 20. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

"Prohibited substance" means any of the following substances if the person who uses the substance has not been issued a valid prescription to use the substance and the substance is classified in schedule I or II pursuant to NRS 453.166 or 453.176 when it is used:

- 1. Amphetamine.**
- 2. Cocaine or cocaine metabolite.**
- 3. Heroin or heroin metabolite (morphine or 6-monoacetyl morphine).**
- 4. Lysergic acid diethylamide.**
- 5. Marihuana or marihuana metabolite.**

6. Methamphetamine.

7. Phencyclidine.

Sec. 21. NRS 484.013 is hereby amended to read as follows:

484.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 484.0135 to 484.217, inclusive, **and section 20 of this act** have the meanings ascribed to them in those sections.

Sec. 22. NRS 484.259 is hereby amended to read as follows:

484.259 ~~{Unless specifically}~~

1. Except for the provisions of NRS 484.379 to 484.3947, inclusive, and any provisions made applicable ~~{}~~ **by specific statute,** the provisions of this chapter ~~{, except those relating to driving under the influence of controlled substances or intoxicating liquor as provided in NRS 484.379, 484.3795 and 484.384,}~~ do not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway. ~~{But apply to such persons and}~~

2. The provisions of this chapter apply to the persons, teams, motor vehicles and other equipment described in subsection 1 when traveling to or from such work.

Sec. 23. NRS 484.379 is hereby amended to read as follows:

484.379 1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;

(b) Has 0.10 percent or more by weight of alcohol in his blood; or

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have 0.10 percent or more by weight of alcohol in his blood,

to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who ~~{is an habitual user of or}~~ :

(a) Is under the influence of ~~{any}~~ **a** controlled substance ~~{, or is}~~ ;

(b) Is under the combined influence of intoxicating liquor and a controlled substance ~~{, or any person who inhales,}~~ ; **or**

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle ,

to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this state is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of a prohibited substance in his blood or urine that is equal to or greater than:

<i>Prohibited substance</i>	<i>Urine Nanograms per milliliter</i>	<i>Blood Nanograms per milliliter</i>
(a) <i>Amphetamine</i>	500	100
(b) <i>Cocaine</i>	150	50
(c) <i>Cocaine metabolite</i>	150	50
(d) <i>Heroin</i>	2,000	50
(e) <i>Heroin metabolite:</i>		
(1) <i>Morphine</i>	2,000	50
(2) <i>6-monoacetyl morphine</i>	10	10
(f) <i>Lysergic acid diethylamide</i>	25	10
(g) <i>Marihuana</i>	10	2
(h) <i>Marihuana metabolite</i>	15	5
(i) <i>Methamphetamine</i>	500	100
(j) <i>Phencyclidine</i>	25	10

4. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood was tested, to cause the alcohol in his blood to equal or exceed 0.10 percent. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

Sec. 24. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. A person who violates the provisions of NRS 484.379:

(a) For the first offense within 7 years, is guilty of a misdemeanor.

Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

(1) Except as otherwise provided in subsection 6, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the department and complete the course within the time specified in the order, and the court shall notify the department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform 96 hours of work for the community while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

(3) Fine him not less than \$200 nor more than \$1,000.

(b) For a second offense within 7 years, is guilty of a misdemeanor.

Unless the sentence is reduced pursuant to NRS 484.3794, the court:

(1) Shall sentence him to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3768, inclusive, or 5.0755 to 5.078, inclusive;

(2) Shall fine him not less than \$500 nor more than \$1,000;

(3) Shall order him to perform not less than 100 hours, but not more than 200 hours, of work for the community while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379, unless the court finds that extenuating circumstances exist; and

(4) May order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

(c) For a third or subsequent offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

3. A person convicted of violating the provisions of NRS 484.379 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that exceeds the mandatory minimum. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

4. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less

must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and the suspension of his sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

5. Jail sentences simultaneously imposed pursuant to this section and NRS 483.560 or 485.330 must run consecutively.

6. If the person who violated the provisions of NRS 484.379 possesses a driver's license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) or (b) of subsection 1, the court shall:

(a) Order the person to pay tuition for and submit evidence of completion of an educational course on the abuse of alcohol and controlled substances approved by a governmental agency of the state of his residence within the time specified in the order; or

(b) Order him to complete an educational course by correspondence on the abuse of alcohol and controlled substances approved by the department within the time specified in the order, and the court shall notify the department if the person fails to complete the assigned course within the specified time.

7. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

8. As used in this section, unless the context otherwise requires, "offense" means ~~the~~ :

(a) A violation of NRS 484.379 or 484.3795 ~~for a~~ ;

(b) A homicide resulting from ~~the~~ driving *or being in actual physical control* of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~[-or the]~~ *or resulting from any other conduct prohibited by NRS 484.379 or 484.3795; or*

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct ~~[-]~~ *as set forth in paragraph (a) or (b).*

Sec. 25. NRS 484.37937 is hereby amended to read as follows:

484.37937 1. Except as otherwise provided in subsection 2, a person who is found guilty of a first violation of NRS 484.379 may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation for at least 6 months. The court shall authorize such treatment if:

(a) The person is diagnosed as an alcoholic or abuser of drugs by a:

(1) Counselor or other person certified to make that diagnosis by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation; or

(2) Physician certified to make that diagnosis by the board of medical examiners;

(b) He agrees to pay the cost of the treatment to the extent of his financial resources; and

(c) He has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 48 hours of work for the community.

2. A person may not apply to the court to undergo a program of treatment pursuant to subsection 1 if, within the immediately preceding 7 years, he has been found guilty of:

(a) A violation of NRS 484.3795;

(b) A homicide resulting from driving *or being in actual physical control of* a vehicle while under the influence of intoxicating liquor or a controlled substance ~~is~~ *or resulting from any other conduct prohibited by NRS 484.379 or 484.3795; or*

(c) A violation of ~~the~~ *a* law of any other jurisdiction ~~which~~ *that* prohibits the same or similar conduct as set forth in paragraph (a) or (b).

3. For the purposes of subsection 1, a violation of ~~the~~ *a* law of any other jurisdiction ~~which~~ *that* prohibits the same or similar conduct as NRS 484.379 constitutes a violation of NRS 484.379.

4. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the question of whether the offender is eligible to undergo a program of treatment for alcoholism or drug abuse. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion. The hearing must be limited to the question of whether the offender is eligible to undergo such a program of treatment.

5. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

6. If the court grants an application for treatment, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum fine provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.

7. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as *otherwise* provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of any condition of the suspension.

8. The court shall notify the department, on a form approved by the department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.

Sec. 26. NRS 484.3794 is hereby amended to read as follows:

484.3794 1. Except as otherwise provided in subsection 2, a person who is found guilty of a second violation of NRS 484.379 within 7 years may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation for at least 1 year if:

(a) He is diagnosed as an alcoholic or abuser of drugs by a:

(1) Counselor or other person certified to make that diagnosis by the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and rehabilitation; or

(2) Physician certified to make that diagnosis by the board of medical examiners;

(b) He agrees to pay the costs of the treatment to the extent of his financial resources; and

(c) He has served or will serve a term of imprisonment in jail of 5 days, and if required pursuant to NRS 484.3792, has performed or will perform not less than 50 hours, but not more than 100 hours, of work for the community.

2. A person may not apply to the court to undergo a program of treatment pursuant to subsection 1 if, within the immediately preceding 7 years, he has been found guilty of:

(a) A violation of NRS 484.3795;

(b) A homicide resulting from driving *or being in actual physical control of* a vehicle while under the influence of intoxicating liquor or a controlled substance ~~or~~ *or resulting from any other conduct prohibited by NRS 484.379 or 484.3795; or*

(c) A violation of ~~the~~ *a* law of any other jurisdiction ~~which~~ *that* prohibits the same or similar conduct as set forth in paragraph (a) or (b).

3. For the purposes of subsection 1, a violation of ~~the~~ **a** law of any other jurisdiction ~~which~~ **that** prohibits the same or similar conduct as NRS 484.379 constitutes a violation of NRS 484.379.

4. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

5. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

6. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.

7. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as **otherwise** provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of a condition of the suspension.

8. The court shall notify the department, on a form approved by the department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.

Sec. 27. NRS 484.37945 is hereby amended to read as follows:

484.37945 1. When a program of treatment is ordered pursuant to paragraph (b) of subsection 1 of NRS 484.3792, the court shall place the

offender under the clinical supervision of a treatment facility for treatment for not less than 30 days nor more than 6 months, in accordance with the report submitted to the court pursuant to subsection 3, 4 or 5 of NRS 484.37943. The court may:

- (a) Order the offender confined in a treatment facility, then release the offender for supervised aftercare in the community; or
- (b) Release the offender for treatment in the community, for the period of supervision ordered by the court.

2. The court shall:

- (a) Require the treatment facility to submit monthly progress reports on the treatment of an offender pursuant to this section; and
- (b) Order the offender, to the extent of his financial resources, to pay any charges for his treatment pursuant to this section. If the offender does not have the financial resources to pay all ~~of~~ those charges, the court shall, to the extent possible, arrange for the offender to obtain his treatment from a treatment facility that receives a sufficient amount of federal or state money to offset the remainder of the charges.

3. A treatment facility is not liable for any damages to person or property caused by a person who ~~drives~~ :

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or a law of any other jurisdiction that prohibits the same or similar conduct,

after the treatment facility has certified to his successful completion of a program of treatment ordered pursuant to paragraph (b) of subsection 1 of NRS 484.3792.

Sec. 28. NRS 484.3795 is hereby amended to read as follows:

484.3795 1. A person who:

- (a) Is under the influence of intoxicating liquor;
- (b) Has 0.10 percent or more by weight of alcohol in his blood;
- (c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have 0.10 percent or more by weight of alcohol in his blood;
- (d) Is under the influence of a controlled substance ~~and~~ or *is* under the combined influence of intoxicating liquor and a controlled substance; ~~or~~
- (e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle ~~and~~ ; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this state, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood was tested, to cause the alcohol in his blood to equal or exceed 0.10 percent. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 29. NRS 484.3797 is hereby amended to read as follows:

484.3797 1. The judge or judges in each judicial district shall cause the preparation and maintenance of a list of the panels of persons who:

(a) Have been injured or had members of their families or close friends injured or killed by ~~persons~~ *a person who was* driving *or in actual physical control of a vehicle while* under the influence of ~~an~~ intoxicating liquor or a controlled substance ~~or~~ *or who was engaging in any other conduct prohibited by NRS 484.379 or 484.3795 or a law of any other jurisdiction that prohibits the same or similar conduct;* and

(b) Have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes.

The list must include the name and telephone number of the person to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with representatives of the members of the panels, a fee, if any,

to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fee, if any, must be reasonable. The panel may not be operated for profit.

2. Except as otherwise provided in this subsection, if a defendant pleads guilty or guilty but mentally ill to, or is found guilty of, any violation of NRS 484.379 or 484.3795, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend, at the defendant's expense, a meeting of a panel of persons who have been injured or had members of their families or close friends injured or killed by ~~{persons}~~ *a person who was driving or in actual physical control of a vehicle while* under the influence of ~~{an}~~ intoxicating liquor or a controlled substance ~~{}~~ *or who was engaging in any other conduct prohibited by NRS 484.379 or 484.3795 or a law of any other jurisdiction that prohibits the same or similar conduct*, in order to *have the defendant* understand the effect such a crime has on other persons; and

(b) Pay the fee, if any, established by the court pursuant to subsection 1.

The court may, but is not required to, order the defendant to attend such a meeting if one is not available within 60 miles of the defendant's residence.

3. A person ordered to attend a meeting pursuant to subsection 2 shall, after attending the meeting, present evidence or other documentation satisfactory to the court that he attended the meeting and remained for its entirety.

Sec. 30. NRS 484.382 is hereby amended to read as follows:

484.382 1. Any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his consent to a preliminary test of his breath ~~{for the purpose of determining}~~ *to determine* the alcoholic content of his breath when the test is administered at the direction of a police officer at the scene of a vehicle accident or collision or where he stops a vehicle, if the officer has reasonable grounds to believe that the person to be tested was ~~{driving}~~

:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~{}~~ ; *or*

(b) Engaging in any other conduct prohibited by NRS 484.379 or 484.3795.

2. If the person fails to submit to the test, the officer shall seize his license or permit to drive as provided in NRS 484.385 and arrest him and take him to a convenient place for the administration of a reasonably available evidentiary test under NRS 484.383.

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

Sec. 31. NRS 484.383 is hereby amended to read as follows:

484.383 1. Except as otherwise provided in subsections 3 and 4, any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have

given his consent to an evidentiary test of his blood, urine, breath or other bodily substance ~~{for the purpose of determining}~~ **to determine** the alcoholic content of his blood or breath or ~~{the presence of}~~ **to determine whether** a controlled substance ~~{when}~~, **chemical, poison, organic solvent or another prohibited substance is present, if** such a test is administered at the direction of a police officer having reasonable grounds to believe that the person to be tested was ~~{driving}~~ :

(a) **Driving** or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~{}~~ ; **or**

(b) **Engaging in any other conduct prohibited by NRS 484.379 or 484.3795.**

2. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

3. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

4. If the alcoholic content of the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, he must pay for the cost of the blood test, including the fees and expenses of witnesses in court.

(c) A police officer may direct the person to submit to a blood test ~~{as set forth in subsection 7}~~ if the officer has reasonable grounds to believe that the person:

(1) Caused death or substantial bodily harm to another person as a result of driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~{}~~ **or as a result of engaging in any other conduct prohibited by NRS 484.379 or 484.3795;** or

(2) Has been convicted within the previous 7 years of:

(I) A violation of NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or a law of another jurisdiction that prohibits the same or similar conduct; or

(II) Any other offense in this state or another jurisdiction in which death or substantial bodily harm to another person resulted from ~~{driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance.}~~ **conduct prohibited by a law set forth in subparagraph (I).**

5. If the presence of a controlled substance, **chemical, poison, organic solvent or another prohibited substance** in the blood **or urine** of the person is in issue, the officer may direct him to submit to a blood or urine test, or both, in addition to the breath test.

6. Except as otherwise provided in subsections 3 and 5, a police officer shall not direct a person to submit to a urine test.

7. If a person to be tested fails to submit to a required test as directed by a police officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was **driving** :

(a) **Driving** or in actual physical control of a **motor** vehicle while under the influence of intoxicating liquor or a controlled substance **;** or

(b) **Engaging in any other conduct prohibited by NRS 484.379 or 484.3795,**

the officer may direct that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested. Not more than three such samples may be taken during the 5-hour period immediately following the time of the initial arrest. In such a circumstance, the officer is not required to provide the person with a choice of tests for determining the alcoholic content or presence of a controlled substance **or another prohibited substance** in his blood.

8. If a person who is less than 18 years of age is directed to submit to an evidentiary test pursuant to this section, the officer shall, before testing the person, make a reasonable attempt to notify the parent, guardian or custodian of the person, if known.

Sec. 32. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has 0.10 percent or more by weight of alcohol in his blood or has a detectable amount of a **controlled prohibited** substance in his **system, blood or urine,** if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation and to have a temporary license, and shall issue him a temporary license on a form approved by the department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had 0.10 percent or more by weight of alcohol in his blood or had a detectable amount of a **controlled prohibited** substance in his **system, blood or urine,** the officer shall immediately prepare and transmit to the department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to

believe that the person had been driving or in actual physical control of a vehicle with 0.10 percent or more by weight of alcohol in his blood or with a detectable amount of a ~~controlled~~ **prohibited** substance in his ~~system,~~ **blood or urine**, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

~~{5. As used in this section, "controlled substance" means any of the following substances for which a valid prescription has not been issued to the consumer:~~

- ~~—(a) Amphetamine;~~
- ~~—(b) Benzoyllecgonine;~~
- ~~—(c) Cocaine;~~
- ~~—(d) Heroin;~~
- ~~—(e) Lysergic acid diethylamide;~~
- ~~—(f) Mecloqualone;~~
- ~~—(g) Mescaline;~~
- ~~—(h) Methamphetamine;~~
- ~~—(i) Methaqualone;~~
- ~~—(j) Monoacetylmorphine;~~
- ~~—(k) Phencyclidine;~~
- ~~—(l) N-ethylamphetamine;~~
- ~~—(m) N, N-dimethylamphetamine;~~
- ~~—(n) 2, 5-dimethoxyamphetamine;~~
- ~~—(o) 3, 4-methylenedioxyamphetamine;~~
- ~~—(p) 3, 4, 5-trimethoxyamphetamine;~~
- ~~—(q) 4-bromo-2, 5-dimethoxyamphetamine;~~
- ~~—(r) 4-methoxyamphetamine;~~
- ~~—(s) 4-methyl-2, 5-dimethoxyamphetamine~~

~~—(t) 5 dimethoxy alpha methylphenethylamine; or~~
~~—(u) 5 methoxy 3, 4 methylenedioxyamphetamine,~~
~~if the substance is classified in schedule I or II pursuant to NRS 453.166 or~~
~~453.176 at the time the substance is consumed.]~~

Sec. 33. NRS 484.387 is hereby amended to read as follows:

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

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

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

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

Sec. 34. NRS 484.3888 is hereby amended to read as follows:

484.3888 1. The committee on testing for intoxication may adopt regulations that require:

(a) The calibration of devices which are used to test a person's blood or urine to determine the amount of alcohol or the presence of a controlled substance **or another prohibited substance** in the person's blood or urine;

(b) The certification of persons who make those calibrations;

(c) The certification of persons who operate devices for testing a person's blood or urine to determine the amount of alcohol or presence of a controlled substance **or another prohibited substance** in the person's blood or urine; and

(d) The certification of persons who examine those operators

.

2. The committee may adopt regulations that prescribe the essential procedures for the proper operation of the various types of devices used to test a person's blood or urine to determine the amount of alcohol or the presence of a controlled substance *or another prohibited substance* in the person's blood or urine.

Sec. 35. NRS 484.389 is hereby amended to read as follows:

484.389 1. If a person refuses to submit to a required chemical test provided for in NRS 484.382 or 484.383, evidence of that refusal is admissible in any criminal or administrative action arising out of acts alleged to have been committed while ~~he was driving~~ *the person was:*

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~;~~ *; or*

(b) Engaging in any other conduct prohibited by NRS 484.379 or 484.3795.

2. Except as otherwise provided in subsection 3 of NRS 484.382, a court or hearing officer may not exclude evidence of a required test or failure to submit to such a test if the police officer or other person substantially complied with the provisions of NRS 484.382 to 484.393, inclusive.

3. If a person submits to a chemical test provided for in NRS 484.382 or 484.383, full information concerning that test must be made available, upon his request, to him or his attorney.

4. Evidence of a required test is not admissible in a criminal or administrative proceeding unless it is shown by documentary or other evidence that the law enforcement agency calibrated the breath-testing device and otherwise maintained it as required by the regulations of the committee on testing for intoxication.

Sec. 36. NRS 484.391 is hereby amended to read as follows:

484.391 1. A person *who is* arrested for driving *or being in actual physical control of* a vehicle while under the influence of intoxicating liquor or a controlled substance ~~shall~~ *or for engaging in any other conduct prohibited by NRS 484.379 or 484.3795 must* be permitted, upon his request and at his expense, reasonable opportunity to have a qualified person of his own choosing administer a chemical test or tests ~~for the purpose of determining the~~ *to determine:*

(a) The alcoholic content of his blood *;* ~~or the presence of~~

(b) Whether a controlled substance, *chemical, poison, organic solvent or another prohibited substance is present* in his blood ~~;~~ *or urine.*

2. The failure or inability to obtain such a test or tests by such *a* person ~~shall~~ *does* not preclude the admission of evidence relating to the refusal to submit to a test or relating to a test taken upon the request of a police officer.

3. A test obtained under the provisions of this section may not be substituted for or stand in lieu of the test required by NRS 484.383.

Sec. 37. NRS 484.393 is hereby amended to read as follows:

484.393 1. The results of any blood test administered under the provisions of NRS 484.383 or 484.391 are not admissible in any hearing or criminal action arising out of ~~the~~ acts alleged to have been committed ~~while~~ by a person *who* was *driving or in actual physical control of a vehicle while* under the influence of intoxicating liquor or a controlled substance *or who was engaging in any other conduct prohibited by NRS 484.379 or 484.3795* unless:

(a) The blood tested was withdrawn by a physician, physician's assistant, registered nurse, licensed practical nurse, emergency medical technician or a technician, technologist or assistant employed in a medical laboratory;

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma; and

(c) The person who withdrew the blood was authorized to do so by the appropriate medical licensing or certifying agency.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a police officer or the person to be tested to administer the test.

Sec. 38. NRS 484.791 is hereby amended to read as follows:

484.791 1. Any peace officer may, without a warrant, arrest a person if the officer has reasonable cause for believing that the person has committed any of the following offenses:

(a) Homicide by vehicle;

(b) ~~Driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or with 0.10 percent or more by weight of alcohol in his blood;~~

~~—(c) Driving or being in actual physical control of a vehicle while under the influence of any controlled substance, under the combined influence of intoxicating liquor and a controlled substance, or after ingesting, applying or otherwise using any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle;]~~ *A violation of NRS 484.379;*

(c) A violation of NRS 484.3795;

(d) Failure to stop, give information or render reasonable assistance in the event of an accident resulting in death or personal injuries ~~as prescribed~~ in *violation of* NRS 484.219 ~~and~~ *or* 484.223;

(e) Failure to stop or give information in the event of an accident resulting in damage to a vehicle or to other property legally upon or adjacent to a highway ~~[-as prescribed]~~ in **violation of** NRS 484.221 ~~[and]~~ **or** 484.225;

(f) Reckless driving;

(g) Driving a motor vehicle on a highway or on premises to which the public has access at a time when his driver's license has been canceled, revoked or suspended; or

(h) Driving a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him pursuant to NRS 483.490.

2. Whenever any person is arrested as authorized in this section, he must be taken without unnecessary delay before the proper magistrate as specified in NRS 484.803, except that in the case of either of the offenses designated in paragraphs (e) and (f) a peace officer has the same discretion as is provided in other cases in NRS 484.795.

Sec. 39. NRS 488.035 is hereby amended to read as follows:

488.035 As used in this chapter, unless the context otherwise requires:

1. "Commission" means the board of wildlife commissioners.

2. "Flat wake" means the condition of the water close astern a moving vessel that results in a flat wave disturbance.

3. "Legal owner" means a secured party under a security agreement relating to a vessel or a renter or lessor of a vessel to the state or any political subdivision of the state under a lease or an agreement to lease and sell or to rent and purchase which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

4. "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

5. "Operate" means to navigate or otherwise use a motorboat or a vessel.

6. "Owner" means:

(a) A person having all the incidents of ownership, including the legal title of a vessel, whether or not he lends, rents or pledges the vessel; and

(b) A debtor under a security agreement relating to a vessel.

"Owner" does not include a person defined as a "legal owner" under subsection 3.

7. ***"Prohibited substance" has the meaning ascribed to it in section 20 of this act.***

8. "Registered owner" means the person registered by the commission as the owner of a vessel.

~~[8-]~~ 9. A vessel is "under way" if it is adrift, making way, or being propelled, and is not aground, made fast to the shore, or tied or made fast to a dock or mooring.

~~[9-]~~ 10. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~110.~~ **11.** “Waters of this state” means any waters within the territorial limits of this state.

Sec. 40. NRS 488.410 is hereby amended to read as follows:

488.410 1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;
(b) Has 0.10 percent or more by weight of alcohol in his blood; or
(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel to have 0.10 percent or more by weight of alcohol in his blood,
to operate or be in actual physical control of a vessel under power or sail on the waters of this state.

2. It is unlawful for any person who:

(a) Is under the influence of ~~any~~ **a** controlled substance;
(b) Is under the combined influence of intoxicating liquor and a controlled substance; or
(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail,
to operate or ~~exercise~~ **be in** actual physical control of a vessel under power or sail on the waters of this state.

3. ***It is unlawful for any person to operate or be in actual physical control of a vessel under power or sail on the waters of this state with an amount of a prohibited substance in his blood or urine that is equal to or greater than:***

<i>Prohibited substance</i>	<i>Urine Nanograms per milliliter</i>	<i>Blood Nanograms per milliliter</i>
<i>(a) Amphetamine</i>	<i>500</i>	<i>100</i>
<i>(b) Cocaine</i>	<i>150</i>	<i>50</i>
<i>(c) Cocaine metabolite</i>	<i>150</i>	<i>50</i>
<i>(d) Heroin</i>	<i>2,000</i>	<i>50</i>
<i>(e) Heroin metabolite:</i>		
<i>(1) Morphine</i>	<i>2,000</i>	<i>50</i>
<i>(2) 6-monoacetyl morphine</i>	<i>10</i>	<i>10</i>
<i>(f) Lysergic acid diethylamide</i>	<i>25</i>	<i>10</i>
<i>(g) Marihuana</i>	<i>10</i>	<i>2</i>
<i>(h) Marihuana metabolite</i>	<i>15</i>	<i>5</i>
<i>(i) Methamphetamine</i>	<i>500</i>	<i>100</i>
<i>(j) Phencyclidine</i>	<i>25</i>	<i>10</i>

4. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood was

tested, to cause the alcohol in his blood to equal or exceed 0.10 percent. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

Sec. 41. NRS 488.420 is hereby amended to read as follows:

488.420 1. A person who:

(a) Is under the influence of intoxicating liquor;
(b) Has 0.10 percent or more by weight of alcohol in his blood;
(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have 0.10 percent or more by weight of alcohol in his blood;

(d) Is under the influence of a controlled substance ~~or~~ or **is** under the combined influence of intoxicating liquor and a controlled substance; ~~for~~

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a vessel under power or sail ~~or~~ ; **or**

(f) *Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410,*

and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under power or sail, and before his blood was tested, to cause the alcohol in his blood to equal or exceed 0.10 percent. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or

hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 42. NRS 488.450 is hereby amended to read as follows:

488.450 1. Any person who operates or is in actual physical control of a vessel under power or sail on the waters of this state shall be deemed to have given his consent to a preliminary test of his breath to determine the alcoholic content of his breath when the test is administered at the direction of a peace officer after a vessel accident or collision or where an officer stops a vessel, if the officer has reasonable grounds to believe that the person to be tested was ~~operating~~ :

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ~~H~~ ; or

(b) Engaging in any other conduct prohibited by NRS 488.410 or 488.420.

2. If the person fails to submit to the test, the officer shall arrest him and take him to a convenient place for the administration of a reasonably available evidentiary test under NRS 488.460.

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

Sec. 43. NRS 488.460 is hereby amended to read as follows:

488.460 1. Except as otherwise provided in subsections 3 and 4, a person who operates or is in actual physical control of a vessel under power or sail on the waters of this state shall be deemed to have given his consent to an evidentiary test of his blood, urine, breath or other bodily substance ~~for the purpose of determining~~ *to determine* the alcoholic content of his blood or breath or ~~the presence of~~ *to determine whether* a controlled substance ~~when~~ , *chemical, poison, organic solvent or another prohibited substance is present, if* such a test is administered at the direction of a peace officer having reasonable grounds to believe that the person to be tested was ~~operating~~ :

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ~~H~~ ; or

(b) Engaging in any other conduct prohibited by NRS 488.410 or 488.420.

2. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

3. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to

this section, but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

4. If the alcoholic content of the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, he must pay for the cost of the blood test, including the fees and expenses of witnesses in court.

(c) A peace officer may direct the person to submit to a blood test ~~as set forth in subsection 7)~~ if the officer has reasonable grounds to believe that the person:

(1) Caused death or substantial bodily harm to another person as a result of operating or being in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ~~;~~ *or as a result of engaging in any other conduct prohibited by NRS 488.410 or 488.420;* or

(2) Has been convicted within the previous 7 years of:

(I) A violation of NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or a law of another jurisdiction that prohibits the same or similar conduct; or

(II) Any other offense in this state or another jurisdiction in which death or substantial bodily harm to another person resulted from ~~driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance.~~ *conduct prohibited by a law set forth in subparagraph (I).*

5. If the presence of a controlled substance, *chemical, poison, organic solvent or another prohibited substance* in the blood *or urine* of the person is in issue, the officer may direct him to submit to a blood or urine test, or both, in addition to the breath test.

6. Except as otherwise provided in subsections 3 and 5, a peace officer shall not direct a person to submit to a urine test.

7. If a person to be tested fails to submit to a required test as directed by a peace officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was ~~operating~~ :

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ~~;~~ *or*

(b) Engaging in any other conduct prohibited by NRS 488.410 or 488.420,

the officer may direct that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested. Not more than three such samples may be taken during the 5-hour period immediately

following the time of the initial arrest. In such a circumstance, the officer is not required to provide the person with a choice of tests for determining the alcoholic content or presence of a controlled substance *or another prohibited substance* in his blood.

Sec. 44. NRS 488.480 is hereby amended to read as follows:

488.480 1. If a person refuses to submit to a required chemical test provided for in NRS *488.450 or* 488.460, evidence of that refusal is admissible in any criminal action arising out of acts alleged to have been committed while the person was ~~operating~~ :

(a) *Operating* or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ~~+~~

~~2. A~~ ; or

(b) *Engaging in any other conduct prohibited by NRS 488.410 or 488.420.*

2. *Except as otherwise provided in subsection 3 of NRS 488.450, a* court may not exclude evidence of a required test or failure to submit to such a test if the peace officer or other person substantially complied with the provisions of NRS ~~488.460.~~ *488.450 to 488.500, inclusive.*

3. If a person submits to a chemical test provided for in NRS *488.450 or* 488.460, full information concerning that test must be made available, upon his request, to him or his attorney.

4. Evidence of a required test is not admissible in a criminal proceeding unless it is shown by documentary or other evidence that the device for testing breath was certified, calibrated, maintained and operated as provided by the regulations of the committee on testing for intoxication adopted pursuant to NRS 484.3882, 484.3884, 484.3886 or 484.3888.

5. If the device for testing breath has been certified by the committee on testing for intoxication to be accurate and reliable pursuant to subsection 1 of NRS 484.3882, it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath to determine the percent by weight of alcohol in the person's breath.

6. A court shall take judicial notice of the certification by the director of a person to operate testing devices of one of the certified types. If a test to determine the amount of alcohol in a person's breath has been performed with a certified type of device by a person who is certified pursuant to NRS 484.3886 or 484.3888, it is presumed that the person operated the device properly.

7. This section does not preclude the admission of evidence of a test of a person's breath where the:

(a) Information is obtained through the use of a device other than one of a type certified by the committee on testing for intoxication.

(b) Test has been performed by a person other than one who is certified by the director.

Sec. 45. NRS 488.490 is hereby amended to read as follows:

488.490 1. A person **who is** arrested for operating or ~~exercising~~ **being in** actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance **or for engaging in any other conduct prohibited by NRS 488.410 or 488.420** must be permitted, upon his request and at his expense, reasonable opportunity to have a qualified person of his own choosing administer a chemical test ~~for the purpose of determining the~~ **to determine:**

(a) **The** alcoholic content of his blood ; or ~~the presence of~~

(b) **Whether** a controlled substance , **chemical, poison, organic solvent or another prohibited substance is present** in his blood ~~or~~ **or urine.**

2. The failure or inability to obtain such a test does not preclude the admission of evidence relating to the refusal to submit to a test or relating to a test taken upon the request of a peace officer.

3. A test obtained under the provisions of this section may not be substituted for or stand in lieu of the test required by NRS 488.460.

Sec. 46. NRS 488.500 is hereby amended to read as follows:

488.500 1. The results of any blood test administered under the provisions of NRS 488.460 **or 488.490** are not admissible in any criminal action arising out of ~~the~~ acts alleged to have been committed ~~while~~ **by** a person **who** was **operating or in actual physical control of a vessel under power or sail while** under the influence of intoxicating liquor or a controlled substance **or who was engaging in any other conduct prohibited by NRS 488.410 or 488.420** unless:

(a) The blood tested was withdrawn by a physician, registered nurse, licensed practical nurse, emergency medical technician or a technician, technologist or assistant employed in a medical laboratory;

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma; and

(c) The person who withdrew the blood was authorized to do so by the appropriate licensing or certifying agency.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a peace officer or the person to be tested to administer the test.

Sec. 47. NRS 629.065 is hereby amended to read as follows:

629.065 1. Each provider of health care shall, upon request, make available to a law enforcement agent or district attorney the health care records of a patient which relate to a test of his blood, breath or urine if:

(a) The patient is suspected of ~~driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance in violation of~~

having violated NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420; and

(b) The records would aid in the related investigation. To the extent possible, the provider of health care shall limit the inspection to the portions of the records which pertain to the presence of alcohol or a controlled substance, *chemical, poison, organic solvent or another prohibited substance* in the blood, breath or urine of the patient.

2. The records must be made available at a place within the depository convenient for physical inspection. Inspection must be permitted at all reasonable office hours and for a reasonable length of time. The provider of health care shall also furnish a copy of the records to ~~the~~ *each* law enforcement agent or district attorney *described in subsection 1* who requests ~~it~~ *the copy* and pays the costs of reproducing the copy.

3. Records made available pursuant to this section may be presented as evidence during a related *administrative or* criminal proceeding against the patient.

4. A provider of health care ~~is~~ *and* his agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

5. As used in this section, "prohibited substance" has the meaning ascribed to it in section 20 of this act.

Sec. 48. NRS 690B.029 is hereby amended to read as follows:

690B.029 1. A policy of insurance against liability arising out of the ownership, maintenance or use of a motor vehicle delivered or issued for delivery in this state to a person who is 55 years of age or older must contain a provision for the reduction in the premiums for 3-year periods if the insured:

(a) Successfully completes, after attaining 55 years of age and every 3 years thereafter, a course of traffic safety approved by the department of motor vehicles and public safety; and

(b) For the 3-year period before completing the course of traffic safety and each 3-year period thereafter:

(1) Is not involved in an accident involving a motor vehicle for which the insured is at fault;

(2) Maintains a driving record free of violations; and

(3) Has not been convicted of or entered a plea of guilty, guilty but mentally ill or nolo contendere to a moving traffic violation or an offense involving ~~the~~ :

(I) The operation of a motor vehicle while under the influence of intoxicating liquor or a controlled ~~substances.~~ substance; or

(II) Any other conduct prohibited by NRS 484.379 or 484.3795 or a law of any other jurisdiction that prohibits the same or similar conduct.

2. The reduction in the premiums provided for in subsection 1 must be based on the actuarial and loss experience data available to each insurer and must be approved by the commissioner. Each reduction must be calculated based on the amount of the premium before any reduction in that

premium is made pursuant to this section, and not on the amount of the premium once it has been reduced.

3. A course of traffic safety that an insured is required to complete as the result of moving traffic violations must not be used as the basis for a reduction in premiums pursuant to this section.

4. The organization that offers a course of traffic safety approved by the department of motor vehicles and public safety shall issue a certificate to each person who successfully completes the course. A person must use the certificate to qualify for the reduction in the premiums pursuant to this section.

5. The commissioner shall review and approve or disapprove a policy of insurance that offers a reduction in the premiums pursuant to subsection 1. An insurer must receive written approval from the commissioner before delivering or issuing a policy with a provision containing such a reduction.

Sec. 49. NRS 706.8841 is hereby amended to read as follows:

706.8841 1. The administrator shall issue a driver's permit to qualified persons who wish to be employed by certificate holders as taxicab drivers. Before issuing a driver's permit, the administrator shall:

(a) Require the applicant to submit a set of his fingerprints, which must be forwarded to the Federal Bureau of Investigation to ascertain whether the applicant has a criminal record and the nature of any such record, and shall further investigate the applicant's background; and

(b) Require proof that the applicant:

(1) Has been a resident of the state for 30 days before his application for a permit;

(2) Can read and orally communicate in the English language; and

(3) Has a valid license issued under NRS 483.325 which authorizes him to drive a taxicab in this state.

2. The administrator may refuse to issue a driver's permit if the applicant has been convicted of:

(a) A felony, other than a felony ~~{for a}~~ **involving any** sexual offense, in ~~{the State of Nevada}~~ **this state** or any other ~~{state, territory or nation}~~ **jurisdiction** within 5 years before the date of the application ~~{, or a}~~ ;

(b) A felony involving any sexual offense **in this state or any other jurisdiction** at any time ~~{, or~~

~~—(b) Driving under the influence of intoxicating beverages, dangerous drugs or controlled substances}~~ **before the date of the application; or**

(c) A violation of NRS 484.379 or 484.3795 or a law of any other **jurisdiction that prohibits the same or similar conduct** within 3 years before the date of the application.

3. The administrator may refuse to issue a driver's permit if the administrator, after the background investigation of the applicant, determines that the applicant is morally unfit or if the issuance of the driver's permit would be detrimental to public health, welfare or safety.

4. A taxicab driver shall pay to the administrator, in advance, \$20 for an original driver's permit and \$5 for a renewal.

Sec. 50. Section 1 of Assembly Bill No. 23 of this session is hereby amended to read as follows:

Section 1. NRS 484.3792 is hereby amended to read as follows:

484.3792 1. A person who violates the provisions of NRS 484.379:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

(1) Except as otherwise provided in subsection 6, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the department and complete the course within the time specified in the order, and the court shall notify the department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform 96 hours of work for the community while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

(3) Fine him not less than ~~[\$200]~~ \$400 nor more than \$1,000.

(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484.3794, the court:

(1) Shall sentence him to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3768, inclusive, or 5.0755 to 5.078, inclusive;

(2) Shall fine him not less than ~~[\$500]~~ \$750 nor more than \$1,000;

(3) Shall order him to perform not less than 100 hours, but not more than 200 hours, of work for the community while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379, unless the court finds that extenuating circumstances exist; and

(4) May order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

(c) For a third or subsequent offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a

maximum term of not more than 6 years, and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

3. A person convicted of violating the provisions of NRS 484.379 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that exceeds the mandatory minimum. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

4. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and the suspension of his sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

5. Jail sentences simultaneously imposed pursuant to this section and NRS 483.560 or 485.330 must run consecutively.

6. If the person who violated the provisions of NRS 484.379 possesses a driver's license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out

the provisions of subparagraph (1) of paragraph (a) or (b) of subsection 1, the court shall:

(a) Order the person to pay tuition for and submit evidence of completion of an educational course on the abuse of alcohol and controlled substances approved by a governmental agency of the state of his residence within the time specified in the order; or

(b) Order him to complete an educational course by correspondence on the abuse of alcohol and controlled substances approved by the department within the time specified in the order, and the court shall notify the department if the person fails to complete the assigned course within the specified time.

7. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

8. As used in this section, unless the context otherwise requires, "offense" means:

(a) A violation of NRS 484.379 or 484.3795;

(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379 or 484.3795; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).

Sec. 51. Section 2 of Assembly Bill No. 620 of this session is hereby amended to read as follows:

Sec. 2. NRS 488.480 is hereby amended to read as follows:

488.480 1. If a person refuses to submit to a required chemical test provided for in NRS 488.450 or 488.460, evidence of that refusal is admissible in any criminal action arising out of acts alleged to have been committed while the person was:

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 488.410 or 488.420.

2. Except as otherwise provided in subsection 3 of NRS 488.450, a court may not exclude evidence of a required test or failure to submit to such a test if the peace officer or other person substantially complied with the provisions of NRS 488.450 to 488.500, inclusive.

3. If a person submits to a chemical test provided for in NRS 488.450 or 488.460, full information concerning that test must be made available, upon his request, to him or his attorney.

4. Evidence of a required test is not admissible in a criminal proceeding unless it is shown by documentary or other evidence

that the device for testing breath was certified ~~and~~ *pursuant to NRS 484.3882 and was* calibrated, maintained and operated as provided by the regulations of the committee on testing for intoxication adopted pursuant to NRS ~~[484.3882,]~~ 484.3884, 484.3886 or 484.3888.

5. If the device for testing breath has been certified by the committee on testing for intoxication to be accurate and reliable pursuant to ~~[subsection 1 of]~~ NRS 484.3882, it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath to determine the percent by weight of alcohol in the person's breath.

6. A court shall take judicial notice of the certification by the director of a person to operate testing devices of one of the certified types. If a test to determine the amount of alcohol in a person's breath has been performed with a certified type of device by a person who is certified pursuant to NRS 484.3886 or 484.3888, it is presumed that the person operated the device properly.

7. This section does not preclude the admission of evidence of a test of a person's breath where the:

(a) Information is obtained through the use of a device other than one of a type certified by the committee on testing for intoxication.

(b) Test has been performed by a person other than one who is certified by the director.

Sec. 52. Section 2 of Assembly Bill No. 678 of this session is hereby amended to read as follows:

Sec. 2. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 483.025 to 483.190, inclusive, *section 1 of this act* and section 11 of ~~[this act]~~ *Senate Bill No. 481 of this session* have the meanings ascribed to them in those sections.

Sec. 53. The amendatory provisions of this act do not apply to offenses committed before the effective date of this act.

Sec. 54. This act becomes effective upon passage and approval.