

SENATE BILL NO. 481—COMMITTEE ON JUDICIARY

MARCH 18, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning controlled substances and impaired operation of vehicles and vessels. (BDR 4-1622)

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

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

AN ACT relating to 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, urine or other bodily substance; 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:

- 1 **Section 1.** NRS 50.315 is hereby amended to read as follows:
2 50.315 1. Except as otherwise provided in subsections 6 and 7, the
3 affidavit or declaration of a person is admissible in evidence in any
4 criminal or administrative proceeding to prove:
5 (a) That the affiant or declarant has been certified by the director of the
6 department of motor vehicles and public safety as being competent to
7 operate devices of a type certified by the committee on testing for
8 intoxication as accurate and reliable for testing a person's breath to
9 determine the amount by weight of alcohol in his breath;
10 (b) The identity of a person from whom the affiant or declarant obtained
11 a sample of breath; and
12 (c) That the affiant or declarant tested the sample using a device of a
13 type so certified and that the device was functioning properly.
14 2. Except as otherwise provided in subsections 6 and 7, the affidavit or
15 declaration of a person who prepared a chemical solution or gas that has
16 been used in calibrating a device for testing another's breath to determine

1 the amount of alcohol in his breath is admissible in evidence in any
2 criminal or administrative proceeding to prove:

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

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

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

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

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

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

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

18 4. Except as otherwise provided in subsections 6 and 7, the affidavit or
19 declaration made under the penalty of perjury of a person who withdraws a
20 sample of blood from another for analysis by an expert as set forth in NRS
21 50.320 is admissible in any criminal or administrative proceeding to prove:

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

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

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

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

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

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

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

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

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

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

3 (b) It is in the best interests of justice that the witness who signed the
4 affidavit or declaration be cross-examined,
5 the court may order the prosecution to produce the witness and may
6 continue the trial for any time the court deems reasonably necessary to
7 receive such testimony. The time within which a trial is required is
8 extended by the time of the continuance.

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

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

18 **Sec. 2.** NRS 50.320 is hereby amended to read as follows:

19 50.320 1. The affidavit or declaration of a chemist and any other
20 person who has qualified in the district court of any county to testify as an
21 expert witness regarding the presence in the breath, blood, ~~for~~ urine **or**
22 **other bodily substance** of a person of alcohol, a controlled substance, or a
23 chemical, poison or organic solvent, or the identity or quantity of a
24 controlled substance alleged to have been in the possession of a person,
25 which is submitted to prove:

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

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

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

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

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

Sec. 3. 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,

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

1 ***(3) The existence or identity of a controlled substance, chemical,***
2 ***poison or organic solvent.***

3 **Sec. 4.** NRS 62.020 is hereby amended to read as follows:

4 62.020 As used in this chapter, unless the context otherwise requires:

5 1. Except as otherwise provided in this subsection, “child” means a
6 person who is:

7 (a) Less than 18 years of age; or

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

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

14 2. “Court” means the juvenile division of the district court.

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

16 4. “Indian Child Welfare Act” means the Indian Child Welfare Act of
17 1978, ~~42~~ 25 U.S.C. §§ 1901 et seq. ~~D-1~~

18 5. “Judge” means the judge of the juvenile division of the district court.

19 6. “Juvenile court” or “juvenile division” means:

20 (a) In any judicial district that includes a county whose population is
21 100,000 or more, the family division of the district court; or

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

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

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

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

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

32 **Sec. 5.** NRS 62.227 is hereby amended to read as follows:

33 62.227 1. If a child who is less than 18 years of age is found by the
34 juvenile court to have committed ~~the~~ **an** unlawful act ~~of driving under the~~
35 ~~influence of intoxicating liquor or a controlled substance~~ in violation of
36 NRS 484.379 or 484.3795, the judge, or his authorized representative,
37 shall, if the child possesses a driver’s license, issue an order revoking the
38 driver’s license of that child for 90 days. If such an order is issued, the
39 judge shall require the child to surrender to the court all driver’s licenses
40 then held by the child. The court shall, within 5 days after issuing the order,
41 forward to the department of motor vehicles and public safety the licenses
42 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. 6. 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

1 charges relating to the evaluation and treatment of the child pursuant to this
2 section. If the child, or his parent or legal guardian, does not have the
3 financial resources to pay all ~~to~~ those charges:

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

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

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

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

24 *(b) Engages in any other conduct prohibited by NRS 484.379,*
25 *484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or*
26 *a law of any other jurisdiction that prohibits the same or similar*
27 *conduct,*

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

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

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

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

37 6. All information relating to the evaluation or treatment of a child
38 pursuant to this section is confidential and, except as otherwise authorized
39 by the provisions of this chapter or the juvenile court, must not be disclosed
40 to any person other than the juvenile court, the child and his attorney, if
41 any, his parents or guardian, the prosecuting attorney and any other person
42 for whom the communication of that information is necessary to effectuate
43 the evaluation or treatment of the child. A record of any finding that a child

1 has violated the provisions of NRS 484.379 or 484.3795 must be included
2 in the driver's record of that child for 7 years after the date of the offense.

3 7. As used in this section:

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

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

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

9 **Sec. 7.** NRS 458.260 is hereby amended to read as follows:

10 458.260 1. Except as otherwise provided in subsection 2, the use of
11 alcohol, the status of drunkard and the fact of being found in an intoxicated
12 condition are not:

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

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

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

18 (a) ~~The provisions of NRS 483.460, 483.490, subsection 2 of NRS~~
19 ~~483.560 and NRS 484.384;~~

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

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

25 (c) A homicide resulting from driving, operating or being in actual
26 physical control of a vehicle or a vessel under power or sail while under the
27 influence of intoxicating liquor or a controlled substance ~~;~~ *or resulting*
28 *from any other conduct prohibited by NRS 484.379, 484.3795, subsection*
29 *2 of NRS 488.400, NRS 488.410 or 488.420;* and

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

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

35 **Sec. 8.** NRS 458.270 is hereby amended to read as follows:

36 458.270 1. Except as otherwise provided in subsection 7, a person
37 who is found in any public place under the influence of alcohol, in such a
38 condition that he is unable to exercise care for his own health or safety or
39 the health or safety of others, must be placed under civil protective custody
40 by a peace officer.

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

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

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

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

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

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

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

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

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

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

32 ~~-(b)-~~ *or regulation;*

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

36 ~~-(c)-~~ *or resulting from any other conduct prohibited by NRS 484.379,*
37 *484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420; and*

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

1 **Sec. 9.** NRS 458.300 is hereby amended to read as follows:

2 458.300 Subject to the provisions of NRS 458.290 to 458.350,
3 inclusive, an alcoholic or a drug addict who has been convicted of a crime
4 is eligible to elect to be assigned by the court to a program of treatment for
5 the abuse of alcohol or drugs pursuant to NRS 453.580 before he is
6 sentenced unless:

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

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

11 3. The crime is ~~[that of driving under the influence of intoxicating~~
12 ~~liquor or while a habitual user or under the influence of a controlled~~
13 ~~substance or while incapable of safely driving because of the use of any~~
14 ~~chemical, poison or organic solvent as provided for in]~~ **a violation of** NRS
15 484.379 ~~[, or such driving which causes the death of or substantial bodily~~
16 ~~harm to another person as provided in NRS]~~ **or** 484.3795;

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

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

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

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

28 **Sec. 10.** Chapter 483 of NRS is hereby amended by adding thereto a
29 new section to read as follows:

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

32 **Sec. 11.** NRS 483.020 is hereby amended to read as follows:

33 483.020 As used in NRS 483.010 to 483.630, inclusive, unless the
34 context otherwise requires, the words and terms defined in NRS 483.025 to
35 483.190, inclusive, ***and section 10 of this act*** have the meanings ascribed
36 to them in those sections.

37 **Sec. 12.** NRS 483.080 is hereby amended to read as follows:

38 483.080 “Highway” ~~[means the entire width between the boundary~~
39 ~~lines of every way publicly maintained when any part thereof is open to the~~
40 ~~use of the public for purposes of vehicular travel.]~~ ***has the meaning***
41 ***ascribed to it in NRS 484.065.***

Sec. 13. 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. 14. 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 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.

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

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

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

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

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

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

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

25 6. ~~{When}~~ *In addition to any other requirements set forth by specific*
26 *statute, if* the department is notified that a court has ~~1:~~

27 ~~—(a) Pursuant to paragraph (h) of subsection 1 of NRS 62.211, NRS~~
28 ~~62.224, 62.2255, 62.226 or 62.228,}~~ ordered the *revocation*, suspension or
29 delay in the issuance of a ~~{child's license;~~

30 ~~—(b) Pursuant}~~ *license pursuant to chapter 62 of NRS, NRS 176.064 or*
31 *206.330, {ordered the suspension or delay in the issuance of a person's*
32 *license; or*

33 ~~—(c) Pursuant to NRS 62.227, ordered the revocation of a child's license,}~~
34 *chapter 484 of NRS or any other provision of law,* the department shall
35 take such actions as are necessary to carry out the court's order.

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

38 **Sec. 15.** NRS 483.490 is hereby amended to read as follows:

39 483.490 1. Except as otherwise provided in this section, after a
40 driver's license has been suspended or revoked for an offense other than a
41 second violation within 7 years of NRS 484.379 and one-half of the period
42 during which the driver is not eligible for a license has expired, the
43 department may, unless the statute authorizing the suspension prohibits the

1 issuance of a restricted license, issue a restricted driver's license to an
2 applicant permitting the applicant to drive a motor vehicle:

3 (a) To and from work or in the course of his work, or both; or

4 (b) To acquire supplies of medicine or food or receive regularly
5 scheduled medical care for himself or a member of his immediate
6 family.

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

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

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

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

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

19 (I) A violation of subsection 2 of NRS 484.377 ~~fel~~;

20 (II) A violation of NRS 484.3795 or a homicide resulting from
21 driving *or being in actual physical control of* a vehicle while under the
22 influence of intoxicating liquor or a controlled substance or ~~if he was~~
23 ~~convicted of a~~ *resulting from any other conduct prohibited by NRS*
24 *484.379 or 484.3795; or*

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

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

29 (3) After at least 45 days of the period during which he is not eligible
30 for a license, if he was convicted of a first violation within 7 years of NRS
31 484.379.

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

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

42 (a) If applicable, to and from work or in the course of his work, or both;
43 and

1 (b) If applicable, to and from school.

2 5. After a driver's license has been suspended pursuant to NRS
3 483.443, the department may issue a restricted driver's license to an
4 applicant permitting the applicant to drive a motor vehicle:

5 (a) If applicable, to and from work or in the course of his work, or both;

6 (b) To receive regularly scheduled medical care for himself or a member
7 of his immediate family; and

8 (c) If applicable, as necessary to exercise a court-ordered right to visit a
9 child.

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

14 (a) A violation of NRS 484.379, 484.3795, *or* 484.384 ~~for a~~ ;

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

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

22 *the driver* shall be punished in the manner provided pursuant to subsection
23 2 of NRS 483.560.

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

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

32 **Sec. 16.** NRS 483.560 is hereby amended to read as follows:

33 483.560 1. Except as otherwise provided in subsection 2, any person
34 who drives a motor vehicle on a highway or on premises to which the
35 public has access at a time when his driver's license has been canceled,
36 revoked or suspended is guilty of a misdemeanor.

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

39 (a) A violation of NRS 484.379, 484.3795 or 484.384 ~~for a~~ ;

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

1 (c) A violation of a law of any other jurisdiction ~~{which}~~ **that** prohibits
2 the same **or similar** conduct ~~{, he shall be:~~
3 ~~—(a) Punished}~~ **as set forth in paragraph (a) or (b),**
4 **the person shall be punished** by imprisonment in jail for not less than 30
5 days nor more than 6 months ~~{; or~~
6 ~~—(b) Sentenced to}~~ **or by serving** a term of **residential confinement for**
7 not less than 60 days ~~{in residential confinement}~~ nor more than 6 months,
8 and **shall be further punished** by a fine of not less than \$500 nor more than
9 \$1,000. A person who is punished ~~{under}~~ **pursuant to** this subsection may
10 not be granted probation, and a sentence imposed for such a violation may
11 not be suspended. A prosecutor may not dismiss a charge of such a
12 violation in exchange for a plea of guilty, of guilty but mentally ill or of
13 nolo contendere to a lesser charge or for any other reason, unless in his
14 judgment the charge is not supported by probable cause or cannot be
15 proved at trial. The provisions of this subsection do not apply if the period
16 of revocation has expired but the person has not reinstated his license.
17 3. A term of imprisonment imposed pursuant to the provisions of this
18 section may be served intermittently at the discretion of the judge or justice
19 of the peace. This discretion must be exercised after considering all the
20 circumstances surrounding the offense, and the family and employment of
21 the person convicted. However, the full term of imprisonment must be
22 served within 6 months after the date of conviction, and any segment of
23 time the person is imprisoned must not consist of less than 24 hours.
24 4. Jail sentences simultaneously imposed pursuant to this section and
25 NRS 484.3792, 484.37937 or 484.3794 must run consecutively.
26 5. ~~{The department upon receiving}~~ **If the department receives** a
27 record of the conviction or punishment of any person pursuant to this
28 section upon a charge of driving a vehicle while his license was:
29 (a) Suspended, **the department** shall extend the period of the suspension
30 for an additional like period.
31 (b) Revoked, **the department** shall extend the period of ineligibility for
32 a license, permit or privilege to drive for an additional 1 year.
33 (c) Restricted, **the department** shall revoke his restricted license and
34 extend the period of ineligibility for a license, permit or privilege to drive
35 for an additional 1 year.
36 (d) Suspended or canceled for an indefinite period, **the department** shall
37 suspend his license for an additional 6 months for the first violation and an
38 additional 1 year for each subsequent violation.
39 6. Suspensions and revocations **imposed** pursuant to this section must
40 run consecutively.

1 **Sec. 17.** NRS 483.908 is hereby amended to read as follows:

2 483.908 The department shall adopt regulations:

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

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

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

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

17 5. Necessary to enable it to carry out the provisions of NRS 483.900 to
18 483.940, inclusive.

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

22 **Sec. 18.** NRS 483.922 is hereby amended to read as follows:

23 483.922 1. Except as otherwise provided in NRS 484.383, a person
24 who drives , *operates* or is in actual physical control of a commercial motor
25 vehicle within this state shall be deemed to have given consent to an
26 evidentiary test of his blood, urine, breath or other bodily substance for the
27 purpose of determining the alcoholic content of his blood or breath or to
28 detect the presence of a controlled substance ~~[in his system.]~~ , *chemical,*
29 *poison or organic solvent.*

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

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

37 *(b) Engaging in any other conduct prohibited by NRS 484.379 or*
38 *484.3795.*

39 **Sec. 19.** Chapter 484 of NRS is hereby amended by adding thereto a
40 new section to read as follows:

41 *"Prohibited substance" means any of the following substances if the*
42 *person who uses the substance has not been issued a valid prescription to*

1 *use the substance and the substance is classified in schedule I or II*
2 *pursuant to NRS 453.166 or 453.176 when it is used:*

- 3 1. *Amphetamine.*
- 4 2. *Cocaine.*
- 5 3. *Heroin.*
- 6 4. *Lysergic acid diethylamide.*
- 7 5. *Marihuana.*
- 8 6. *Mecloqualone.*
- 9 7. *Methamphetamine.*
- 10 8. *Methaqualone.*
- 11 9. *Phencyclidine.*

12 **Sec. 20.** NRS 484.013 is hereby amended to read as follows:

13 484.013 As used in this chapter, unless the context otherwise requires,
14 the words and terms defined in NRS 484.0135 to 484.217, inclusive, *and*
15 *section 19 of this act* have the meanings ascribed to them in those sections.

16 **Sec. 21.** NRS 484.259 is hereby amended to read as follows:

17 484.259 ~~Unless specifically~~

18 1. *Except for the provisions of NRS 484.379 to 484.3947, inclusive,*
19 *and any provisions* made applicable ~~by specific statute,~~ the provisions
20 of this chapter ~~except those relating to driving under the influence of~~
21 ~~controlled substances or intoxicating liquor as provided in NRS 484.379,~~
22 ~~484.3795 and 484.384,~~ do not apply to persons, teams, motor vehicles and
23 other equipment while actually engaged in work upon the surface of a
24 highway . ~~but apply to such persons and~~

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

28 **Sec. 22.** NRS 484.379 is hereby amended to read as follows:

29 484.379 1. It is unlawful for any person who:

30 (a) Is under the influence of intoxicating liquor;

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

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

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

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

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

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

41 (c) *Inhales,* ingests, applies or otherwise uses any chemical, poison or
42 organic solvent, or any compound or combination of any of these, to a

1 degree which renders him incapable of safely driving or exercising actual
2 physical control of a vehicle ,
3 to drive or be in actual physical control of a vehicle on a highway or on
4 premises to which the public has access. The fact that any person charged
5 with a violation of this subsection is or has been entitled to use that drug
6 under the laws of this state is not a defense against any charge of violating
7 this subsection.

8 3. *It is unlawful for any person who has a detectable amount of a*
9 *prohibited substance in his blood, urine or other bodily substance to drive*
10 *or be in actual physical control of a vehicle on a highway or on premises*
11 *to which the public has access.*

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

21 **Sec. 23.** NRS 484.3792 is hereby amended to read as follows:

22 484.3792 1. A person who violates the provisions of NRS 484.379:

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

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

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

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

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

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

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

39 (1) Shall sentence him to:

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

or

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

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

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

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

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

14 (c) For a third or subsequent offense within 7 years, is guilty of a
15 category B felony and shall be punished by imprisonment in the state prison
16 for a minimum term of not less than 1 year and a maximum term of not
17 more than 6 years, and shall be further punished by a fine of not less than
18 \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as
19 practicable, be segregated from offenders whose crimes were violent and,
20 insofar as practicable, be assigned to an institution or facility of minimum
21 security.

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

31 3. A person convicted of violating the provisions of NRS 484.379 must
32 not be released on probation, and a sentence imposed for violating those
33 provisions must not be suspended except, as provided in NRS 4.373, 5.055,
34 484.37937 and 484.3794, that portion of the sentence imposed that exceeds
35 the mandatory minimum. A prosecuting attorney shall not dismiss a charge
36 of violating the provisions of NRS 484.379 in exchange for a plea of guilty,
37 guilty but mentally ill or nolo contendere to a lesser charge or for any other
38 reason unless he knows or it is obvious that the charge is not supported by
39 probable cause or cannot be proved at the time of trial.

40 4. A term of confinement imposed pursuant to the provisions of this
41 section may be served intermittently at the discretion of the judge or justice
42 of the peace, except that a person who is convicted of a second or
43 subsequent offense within 7 years must be confined for at least one segment

1 of not less than 48 consecutive hours. This discretion must be exercised
2 after considering all the circumstances surrounding the offense, and the
3 family and employment of the offender, but any sentence of 30 days or less
4 must be served within 6 months after the date of conviction or, if the
5 offender was sentenced pursuant to NRS 484.37937 or 484.3794 and the
6 suspension of his sentence was revoked, within 6 months after the date of
7 revocation. Any time for which the offender is confined must consist of not
8 less than 24 consecutive hours.

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

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

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

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

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

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

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

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

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

37 **Sec. 24.** NRS 484.37937 is hereby amended to read as follows:

38 484.37937 1. Except as otherwise provided in subsection 2, a person
39 who is found guilty of a first violation of NRS 484.379 may, at that time or
40 any time before he is sentenced, apply to the court to undergo a program of
41 treatment for alcoholism or drug abuse which is certified by the bureau of

1 alcohol and drug abuse of the rehabilitation division of the department of
2 employment, training and rehabilitation for at least 6 months. The court
3 shall authorize such treatment if:

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

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

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

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

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

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

17 (a) A violation of NRS 484.3795;

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

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

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

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

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

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

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

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

1 (c) Advise the offender that:

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

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

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

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

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

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

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

25 **Sec. 25.** NRS 484.3794 is hereby amended to read as follows:

26 484.3794 1. Except as otherwise provided in subsection 2, a person
27 who is found guilty of a second violation of NRS 484.379 within 7 years
28 may, at that time or any time before he is sentenced, apply to the court to
29 undergo a program of treatment for alcoholism or drug abuse which is
30 certified by the bureau of alcohol and drug abuse of the rehabilitation
31 division of the department of employment, training and rehabilitation for at
32 least 1 year if:

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

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

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

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

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

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

8 (a) A violation of NRS 484.3795;

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

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

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

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

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

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

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

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

34 (c) Advise the offender that:

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

39 (2) If he is not accepted for treatment by such a facility or he fails to
40 complete the treatment satisfactorily, he shall serve the sentence imposed
41 by the court. Any sentence of imprisonment must be reduced by a time

42 equal to that which he served before beginning treatment.

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

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

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

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

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

16 **Sec. 26.** NRS 484.37945 is hereby amended to read as follows:

17 484.37945 1. When a program of treatment is ordered pursuant to
18 paragraph (b) of subsection 1 of NRS 484.3792, the court shall place the
19 offender under the clinical supervision of a treatment facility for treatment
20 for not less than 30 days nor more than 6 months, in accordance with the
21 report submitted to the court pursuant to subsection 3, 4 or 5 of NRS
22 484.37943. The court may:

23 (a) Order the offender confined in a treatment facility, then release the
24 offender for supervised aftercare in the community; or

25 (b) Release the offender for treatment in the community,
26 for the period of supervision ordered by the court.

27 2. The court shall:

28 (a) Require the treatment facility to submit monthly progress reports on
29 the treatment of an offender pursuant to this section; and

30 (b) Order the offender, to the extent of his financial resources, to pay
31 any charges for his treatment pursuant to this section. If the offender does
32 not have the financial resources to pay all ~~of~~ those charges, the court
33 shall, to the extent possible, arrange for the offender to obtain his treatment
34 from a treatment facility that receives a sufficient amount of federal or state
35 money to offset the remainder of the charges.

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

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

41 (b) *Engages in any other conduct prohibited by NRS 484.379,*
42 *484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or a*

1 *law of any other jurisdiction that prohibits the same or similar*
2 *conduct,*

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

6 **Sec. 27.** NRS 484.3795 is hereby amended to read as follows:

7 484.3795 1. A person who:

8 (a) Is under the influence of intoxicating liquor;

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

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

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

15 (e) Inhales, ingests, applies or otherwise uses any chemical, poison or
16 organic solvent, or any compound or combination of any of these, to a
17 degree which renders him incapable of safely driving or exercising actual
18 physical control of a vehicle ~~or~~ ; *or*

19 *(f) Has a detectable amount of a prohibited substance in his blood,*
20 *urine or other bodily substance,*

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

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

38 3. If consumption is proven by a preponderance of the evidence, it is
39 an affirmative defense under paragraph (c) of subsection 1 that the
40 defendant consumed a sufficient quantity of alcohol after driving or being
41 in actual physical control of the vehicle, and before his blood was tested, to
42 cause the alcohol in his blood to equal or exceed 0.10 percent. A defendant
43 who intends to offer this defense at a trial or preliminary hearing must, not

1 less than 14 days before the trial or hearing or at such other time as the
2 court may direct, file and serve on the prosecuting attorney a written notice
3 of that intent.

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

8 **Sec. 28.** NRS 484.3797 is hereby amended to read as follows:

9 484.3797 1. The judge or judges in each judicial district shall cause
10 the preparation and maintenance of a list of the panels of persons who:

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

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

20 The list must include the name and telephone number of the person to be
21 contacted regarding each such panel and a schedule of times and locations
22 of the meetings of each such panel. The judge or judges shall establish, in
23 cooperation with representatives of the members of the panels, a fee, if any,
24 to be paid by defendants who are ordered to attend a meeting of the panel.
25 The amount of the fee, if any, must be reasonable. The panel may not be
26 operated for profit.

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

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

39 (b) Pay the fee, if any, established by the court pursuant to subsection
40 1.

41 The court may, but is not required to, order the defendant to attend such a
42 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. 29. 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~~ ; 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. 30. 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 or organic solvent 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~~ ; 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

1 physician is exempt from any blood test which may be required pursuant to
2 this section but must, when appropriate pursuant to the provisions of this
3 section, be required to submit to a breath or urine test.

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

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

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

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

16 (1) Caused death or substantial bodily harm to another person as a
17 result of driving or being in actual physical control of a vehicle while under
18 the influence of intoxicating liquor or a controlled substance ~~;~~ **or as a**
19 **result of engaging in any other conduct prohibited by NRS 484.379 or**
20 **484.3795; or**

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

22 (I) A violation of NRS 484.379, 484.3795, subsection 2 of NRS
23 488.400, NRS 488.410 or 488.420 or a law of another jurisdiction that
24 prohibits the same or similar conduct; or

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

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

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

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

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

42 (b) **Engaging in any other conduct prohibited by NRS 484.379 or**
43 **484.3795,**

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

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

11 **Sec. 31.** NRS 484.385 is hereby amended to read as follows:

12 484.385 1. As agent for the department, the officer who obtained the
13 result of a test given pursuant to NRS 484.382 or 484.383 shall
14 immediately serve an order of revocation of the license, permit or privilege
15 to drive on a person who has 0.10 percent or more by weight of alcohol in
16 his blood or has a detectable amount of a controlled substance in his
17 ~~{system,}~~ **blood, urine or other bodily substance**, if that person is present,
18 and shall seize his license or permit to drive. The officer shall then advise
19 him of his right to administrative and judicial review of the revocation and
20 to have a temporary license, and shall issue him a temporary license on a
21 form approved by the department if he requests one, which is effective for
22 only 7 days including the date of issuance. The officer shall immediately
23 transmit the person's license or permit to the department along with the
24 written certificate required by subsection 2.

25 2. When a police officer has served an order of revocation of a driver's
26 license, permit or privilege on a person pursuant to subsection 1, or later
27 receives the result of an evidentiary test which indicates that a person, not
28 then present, had 0.10 percent or more by weight of alcohol in his blood or
29 had a detectable amount of a controlled substance in his ~~{system,}~~ **blood,**
30 **urine or other bodily substance**, the officer shall immediately prepare and
31 transmit to the department, together with the seized license or permit and a
32 copy of the result of the test, a written certificate that he had reasonable
33 grounds to believe that the person had been driving or in actual physical
34 control of a vehicle with 0.10 percent or more by weight of alcohol in his
35 blood or with a detectable amount of a controlled substance in his ~~{system,}~~
36 **blood, urine or other bodily substance**, as determined by a chemical test.
37 The certificate must also indicate whether the officer served an order of
38 revocation on the person and whether he issued the person a temporary
39 license.

40 3. The department, upon receipt of such a certificate for which an order
41 of revocation has not been served, after examining the certificate and copy
42 of the result of the chemical test, if any, and finding that revocation is
43 proper, shall issue an order revoking the person's license, permit or

1 privilege to drive by mailing the order to the person at his last known
2 address. The order must indicate the grounds for the revocation and the
3 period during which the person is not eligible for a license, permit or
4 privilege to drive and state that the person has a right to administrative and
5 judicial review of the revocation and to have a temporary license. The order
6 of revocation becomes effective 5 days after mailing.

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

15 5. As used in this section, "controlled substance" means any of the
16 following substances ~~[for which]~~ *if the person who uses the substance has*
17 *not been issued* a valid prescription ~~[has not been issued to the consumer:]~~
18 *to use the substance and the substance is classified in schedule I or II*
19 *pursuant to NRS 453.166 or 453.176 when it is used:*

20 (a) Amphetamine;

21 (b) Benzoylecgonine;

22 (c) Cocaine;

23 (d) Heroin;

24 (e) Lysergic acid diethylamide;

25 (f) *Marihuana*;

26 (g) Mecloqualone;

27 ~~(g)~~ (h) Mescaline;

28 ~~(h)~~ (i) Methamphetamine;

29 ~~(i)~~ (j) Methaqualone;

30 ~~(j)~~ (k) Monoacetylmorphine;

31 ~~(k)~~ (l) Phencyclidine;

32 ~~(l)~~ (m) N-ethylamphetamine;

33 ~~(m)~~ (n) N, N-dimethylamphetamine;

34 ~~(n)~~ (o) 2, 5-dimethoxyamphetamine;

35 ~~(o)~~ (p) 3, 4-methylenedioxyamphetamine;

36 ~~(p)~~ (q) 3, 4, 5-trimethoxyamphetamine;

37 ~~(q)~~ (r) 4-bromo-2, 5-dimethoxyamphetamine;

38 ~~(r)~~ (s) 4-methoxyamphetamine;

39 ~~(s)~~ (t) 4-methyl-2, 5-dimethoxyamphetamine;

40 ~~(t)~~ (u) 5-dimethoxy-alpha-methylphenethylamine; or

41 ~~(u)~~ (v) 5-methoxy-3, 4-methylenedioxyamphetamine . ~~f~~

42 ~~if the substance is classified in schedule I or II pursuant to NRS 453.166 or~~

43 ~~453.176 at the time the substance is consumed.]~~

1 **Sec. 32.** NRS 484.387 is hereby amended to read as follows:

2 484.387 1. At any time while a person is not eligible for a license,
3 permit or privilege to drive following an order of revocation issued
4 pursuant to NRS 484.385, he may request in writing a hearing by the
5 department to review the order of revocation, but he is only entitled to one
6 hearing. The hearing must be conducted within 15 days after receipt of the
7 request, or as soon thereafter as is practicable, in the county where the
8 requester resides unless the parties agree otherwise. The director or his
9 agent may issue subpoenas for the attendance of witnesses and the
10 production of relevant books and papers and may require a reexamination
11 of the requester. The department shall issue an additional temporary license
12 for a period which is sufficient to complete the administrative review.

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

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

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

30 **Sec. 33.** NRS 484.389 is hereby amended to read as follows:

31 484.389 1. If a person refuses to submit to a required chemical test
32 provided for in NRS 484.382 or 484.383, evidence of that refusal is
33 admissible in any criminal or administrative action arising out of acts
34 alleged to have been committed while ~~he was driving~~ **the person was:**

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

37 **(b) Engaging in any other conduct prohibited by NRS 484.379 or**
38 **484.3795.**

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

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

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

9 **Sec. 34.** NRS 484.391 is hereby amended to read as follows:

10 484.391 1. A person *who is* arrested for driving *or being in actual*
11 *physical control of* a vehicle while under the influence of intoxicating
12 liquor or a controlled substance ~~[shall]~~ *or for engaging in any other*
13 *conduct prohibited by NRS 484.379 or 484.3795 must* be permitted, upon
14 his request and at his expense, reasonable opportunity to have a qualified
15 person of his own choosing administer a chemical test or tests ~~[for the~~
16 ~~purpose of determining the]~~ *to determine:*

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

18 (b) *Whether* a controlled substance , *chemical, poison or organic*
19 *solvent is present* in his blood ~~[]~~ , *urine or other bodily substance.*

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

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

26 **Sec. 35.** NRS 484.393 is hereby amended to read as follows:

27 484.393 1. The results of any blood test administered under the
28 provisions of NRS 484.383 or 484.391 are not admissible in any hearing or
29 criminal action arising out of ~~[the]~~ acts alleged to have been committed
30 ~~[while]~~ *by* a person *who* was *driving or in actual physical control of a*
31 *vehicle while* under the influence of intoxicating liquor or a controlled
32 substance *or who was engaging in any other conduct prohibited by NRS*
33 *484.379 or 484.3795* unless:

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

38 (b) The test was performed on whole blood, except if the sample was
39 clotted when it was received by the laboratory, the test may be performed
40 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. 36. 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.

1 **Sec. 37.** NRS 488.035 is hereby amended to read as follows:

2 488.035 As used in this chapter, unless the context otherwise requires:

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

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

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

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

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

15 6. "Owner" means:

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

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

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

21 7. *"Prohibited substance" has the meaning ascribed to it in section*
22 *19 of this act.*

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

25 ~~18.1~~ 9. A vessel is "under way" if it is adrift, making way, or being
26 propelled, and is not aground, made fast to the shore, or tied or made fast to
27 a dock or mooring.

28 ~~19.1~~ 10. "Vessel" means every description of watercraft, other than a
29 seaplane on the water, used or capable of being used as a means of
30 transportation on water.

31 ~~110.1~~ 11. "Waters of this state" means any waters within the territorial
32 limits of this state.

33 **Sec. 38.** NRS 488.410 is hereby amended to read as follows:

34 488.410 1. It is unlawful for any person who:

35 (a) Is under the influence of intoxicating liquor;

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

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

40 to operate or be in actual physical control of a vessel under power or sail on
41 the waters of this state.

42 2. It is unlawful for any person who:

43 (a) Is under the influence of ~~any~~ *a* controlled substance;

1 (b) Is under the combined influence of intoxicating liquor and a
2 controlled substance; or

3 (c) Inhales, ingests, applies or otherwise uses any chemical, poison or
4 organic solvent, or any compound or combination of any of these, to a
5 degree which renders him incapable of safely operating or exercising actual
6 physical control of a vessel under power or sail,
7 to operate or ~~exercise~~ *be in* actual physical control of a vessel under
8 power or sail on the waters of this state.

9 3. *It is unlawful for any person who has a detectable amount of a*
10 *prohibited substance in his blood, urine or other bodily substance to*
11 *operate or be in actual physical control of a vessel under power or sail on*
12 *the waters of this state.*

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

22 **Sec. 39.** NRS 488.420 is hereby amended to read as follows:

23 488.420 1. A person who:

24 (a) Is under the influence of intoxicating liquor;

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

26 (c) Is found by measurement within 2 hours after operating or being in
27 actual physical control of a vessel under power or sail to have 0.10 percent
28 or more by weight of alcohol in his blood;

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

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

35 *(f) Has a detectable amount of a prohibited substance in his blood,*
36 *urine or other bodily substance,*

37 and does any act or neglects any duty imposed by law while operating or
38 being in actual physical control of any vessel under power or sail, if the act
39 or neglect of duty proximately causes the death of, or substantial bodily
40 harm to, a person other than himself, is guilty of a category B felony and
41 shall be punished by imprisonment in the state prison for a minimum term
42 of not less than 2 years and a maximum term of not more than 20 years and

1 shall be further punished by a fine of not less than \$2,000 nor more than
2 \$5,000. A person so imprisoned must, insofar as practicable, be segregated
3 from offenders whose crimes were violent and, insofar as practicable, be
4 assigned to an institution or facility of minimum security.

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

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

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

24 **Sec. 40.** NRS 488.450 is hereby amended to read as follows:

25 488.450 1. Any person who operates or is in actual physical control
26 of a vessel under power or sail on the waters of this state shall be deemed to
27 have given his consent to a preliminary test of his breath to determine the
28 alcoholic content of his breath when the test is administered at the direction
29 of a peace officer after a vessel accident or collision or where an officer
30 stops a vessel, if the officer has reasonable grounds to believe that the
31 person to be tested was ~~operating~~ :

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

35 *(b) Engaging in any other conduct prohibited by NRS 488.410 or*
36 *488.420.*

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

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

Sec. 41. 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 or organic solvent 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 ~~;~~ ; 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 or organic solvent* in the blood, *urine or other bodily substance* 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 in his blood.

Sec. 42. 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.*

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

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

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

13 5. If the device for testing breath has been certified by the committee
14 on testing for intoxication to be accurate and reliable pursuant to subsection
15 1 of NRS 484.3882, it is presumed that, as designed and manufactured, the
16 device is accurate and reliable for the purpose of testing a person's breath
17 to determine the percent by weight of alcohol in the person's breath.

18 6. A court shall take judicial notice of the certification by the director
19 of a person to operate testing devices of one of the certified types. If a test
20 to determine the amount of alcohol in a person's breath has been performed
21 with a certified type of device by a person who is certified pursuant to NRS
22 484.3886 or 484.3888, it is presumed that the person operated the device
23 properly.

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

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

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

30 **Sec. 43.** NRS 488.490 is hereby amended to read as follows:

31 488.490 1. A person **who is** arrested for operating or ~~exercising~~
32 **being in** actual physical control of a vessel under power or sail while under
33 the influence of intoxicating liquor or a controlled substance **or for**
34 **engaging in any other conduct prohibited by NRS 488.410 or 488.420**
35 must be permitted, upon his request and at his expense, reasonable
36 opportunity to have a qualified person of his own choosing administer a
37 chemical test ~~for the purpose of determining the~~ **to determine:**

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

39 **(b) Whether** a controlled substance , **chemical, poison or organic**
40 **solvent is present** in his blood ~~;~~ **, urine or other bodily substance.**

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

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

3 **Sec. 44.** NRS 488.500 is hereby amended to read as follows:

4 488.500 1. The results of any blood test administered under the
5 provisions of NRS 488.460 *or 488.490* are not admissible in any criminal
6 action arising out of ~~the~~ acts alleged to have been committed ~~while~~ *by* a
7 person *who* was *operating or in actual physical control of a vessel under*
8 *power or sail while* under the influence of intoxicating liquor or a
9 controlled substance *or who was engaging in any other conduct*
10 *prohibited by NRS 488.410 or 488.420* unless:

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

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

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

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

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

26 **Sec. 45.** NRS 629.065 is hereby amended to read as follows:

27 629.065 1. Each provider of health care shall, upon request, make
28 available to a law enforcement agent or district attorney the health care
29 records of a patient which relate to a test of his blood, breath , ~~or~~ urine *or*
30 *other bodily substance* if:

31 (a) The patient is suspected of ~~driving, operating or being in actual~~
32 ~~physical control of a vehicle or a vessel under power or sail while under the~~
33 ~~influence of intoxicating liquor or a controlled substance in violation of~~
34 *having violated* NRS 484.379, 484.3795, subsection 2 of NRS 488.400,
35 NRS 488.410 or 488.420; and

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

41 2. The records must be made available at a place within the depository
42 convenient for physical inspection. Inspection must be permitted at all
43 reasonable office hours and for a reasonable length of time. The provider of

1 health care shall also furnish a copy of the records to ~~the~~ *each* law
2 enforcement agent or district attorney *described in subsection 1* who
3 requests ~~it~~ *the copy* and pays the costs of reproducing the copy.

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

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

10 **Sec. 46.** NRS 690B.029 is hereby amended to read as follows:

11 690B.029 1. A policy of insurance against liability arising out of the
12 ownership, maintenance or use of a motor vehicle delivered or issued for
13 delivery in this state to a person who is 55 years of age or older must
14 contain a provision for the reduction in the premiums for 3-year periods if
15 the insured:

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

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

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

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

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

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

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

31 2. The reduction in the premiums provided for in subsection 1 must be
32 based on the actuarial and loss experience data available to each insurer
33 and must be approved by the commissioner. Each reduction must be
34 calculated based on the amount of the premium before any reduction in that
35 premium is made pursuant to this section, and not on the amount of the
36 premium once it has been reduced.

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

40 4. The organization that offers a course of traffic safety approved by
41 the department of motor vehicles and public safety shall issue a certificate

1 to each person who successfully completes the course. A person must use
2 the certificate to qualify for the reduction in the premiums pursuant to this
3 section.

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

8 **Sec. 47.** NRS 706.8841 is hereby amended to read as follows:

9 706.8841 1. The administrator shall issue a driver's permit to
10 qualified persons who wish to be employed by certificate holders as taxicab
11 drivers. Before issuing a driver's permit, the administrator shall:

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

16 (b) Require proof that the applicant:

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

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

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

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

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

27 (b) A felony involving any sexual offense *in this state or any other*
28 *jurisdiction* at any time ~~[or~~

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

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

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

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

40 **Sec. 48.** Section 1 of Assembly Bill No. 23 of this session is hereby
41 amended to read as follows:

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

43 484.3792 1. A person who violates the provisions of NRS 484.379:

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

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

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

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

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

17 (1) Shall sentence him to:

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

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

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

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

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

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

33 (c) For a third or subsequent offense within 7 years, is guilty of a
34 category B felony and shall be punished by imprisonment in the state prison
35 for a minimum term of not less than 1 year and a maximum term of not
36 more than 6 years, and shall be further punished by a fine of not less than
37 \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as
38 practicable, be segregated from offenders whose crimes were violent and,
39 insofar as practicable, be assigned to an institution or facility of minimum
40 security.

41 2. An offense that occurred within 7 years immediately preceding the
42 date of the principal offense or after the principal offense constitutes a prior
43 offense for the purposes of this section when evidenced by a conviction,

1 without regard to the sequence of the offenses and convictions. The facts
2 concerning a prior offense must be alleged in the complaint, indictment or
3 information, must not be read to the jury or proved at trial but must be
4 proved at the time of sentencing and, if the principal offense is alleged to
5 be a felony, must also be shown at the preliminary examination or
6 presented to the grand jury.

7 3. A person convicted of violating the provisions of NRS 484.379 must
8 not be released on probation, and a sentence imposed for violating those
9 provisions must not be suspended except, as provided in NRS 4.373, 5.055,
10 484.37937 and 484.3794, that portion of the sentence imposed that exceeds
11 the mandatory minimum. A prosecuting attorney shall not dismiss a charge
12 of violating the provisions of NRS 484.379 in exchange for a plea of guilty,
13 guilty but mentally ill or nolo contendere to a lesser charge or for any other
14 reason unless he knows or it is obvious that the charge is not supported by
15 probable cause or cannot be proved at the time of trial.

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

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

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

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

38 (b) Order him to complete an educational course by correspondence on
39 the abuse of alcohol and controlled substances approved by the department
40 within the time specified in the order,

41 and the court shall notify the department if the person fails to complete the
42 assigned course within the specified time.

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

5 8. As used in this section, unless the context otherwise requires,
6 “offense” means:

7 (a) A violation of NRS 484.379 or 484.3795;

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

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

14 **Sec. 49.** The amendatory provisions of this act do not apply to
15 offenses committed before the effective date of this act.

16 **Sec. 50.** This act becomes effective upon passage and approval.