

ASSEMBLY BILL NO. 316—ASSEMBLYMAN MANENDO (BY REQUEST)

MARCH 9, 2001

Referred to Concurrent Committees on Judiciary  
and Ways and Means

SUMMARY—Provides that once person has been convicted of felony for operating vehicle or vessel while under influence of alcohol or controlled substance any subsequent violation is treated as felony. (BDR 43-143)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: 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 substances causing impairment; providing that once a person has been convicted of a felony for operating a vehicle or vessel while under the influence of alcohol or a controlled substance any subsequent violation is treated as a felony; providing a penalty; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 483.460 is hereby amended to read as follows:  
2     483.460 1. Except as otherwise provided by specific statute, the  
3     department shall revoke the license, permit or privilege of any driver upon  
4     receiving a record of his conviction of any of the following offenses, when  
5     that conviction has become final, and the driver is not eligible for a license,  
6     permit or privilege to drive for the period indicated:  
7     (a) For a period of 3 years if the offense is:  
8         (1) A violation of subsection 2 of NRS 484.377.  
9         (2) A third or subsequent violation *of NRS 484.379* within 7 years .  
10    ~~of NRS 484.379.~~  
11         (3) *A violation of NRS 484.379 that is punishable pursuant to*  
12    *subsection 2 of NRS 484.3792.*  
13         (4) A violation of NRS 484.3795 or a homicide resulting from  
14     driving or being in actual physical control of a vehicle while under the  
15     influence of intoxicating liquor or a controlled substance or resulting from  
16     any other conduct prohibited by NRS 484.379 or 484.3795.  
17     The period during which such a driver is not eligible for a license, permit  
18     or privilege to drive must be set aside during any period of imprisonment  
19     and the period of revocation must resume upon completion of the period of  
20     imprisonment or when the person is placed on residential confinement.



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

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

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

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

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

14 (5) A second violation *of NRS 484.379* within 7 years ~~of NRS~~  
15 ~~484.379~~, *unless the violation is punishable pursuant to subsection 2 of*  
16 *NRS 484.3792* and the driver is not eligible for a restricted license during  
17 any of that period.

18 (6) A violation of NRS 484.348.

19 (c) For a period of 90 days, if the offense is a first violation *of NRS*  
20 *484.379* within 7 years ~~of NRS 484.379~~, *unless the violation is*  
21 *punishable pursuant to subsection 2 of NRS 484.3792*.

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

27 3. When the department is notified by a court that a person who has  
28 been convicted of a first violation within 7 years of NRS 484.379 has been  
29 permitted to enter a program of treatment pursuant to NRS 484.37937, the  
30 department shall reduce by one-half the period during which he is not  
31 eligible for a license, permit or privilege to drive, but shall restore that  
32 reduction in time if notified that he was not accepted for or failed to  
33 complete the treatment.

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

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

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

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

44 6. In addition to any other requirements set forth by specific statute, if  
45 the department is notified that a court has ordered the revocation,  
46 suspension or delay in the issuance of a license pursuant to chapter 62 of  
47 NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision  
48 of law, the department shall take such actions as are necessary to carry out  
49 the court's order.



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

3 **Sec. 2.** NRS 483.490 is hereby amended to read as follows:  
4 483.490 1. Except as otherwise provided in this section, after a  
5 driver's license has been suspended or revoked for an offense other than a  
6 second violation *of NRS 484.379* within 7 years ~~of NRS 484.379~~, *unless*  
7 *the second violation is a violation that is punishable pursuant to*  
8 *subsection 2 of NRS 484.3792*, and one-half of the period during which the  
9 driver is not eligible for a license has expired, the department may, unless  
10 the statute authorizing the suspension prohibits the issuance of a restricted  
11 license, issue a restricted driver's license to an applicant permitting the  
12 applicant to drive a motor vehicle:

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

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

22 2. A person who has been ordered to install a device in a motor vehicle  
23 pursuant to NRS 484.3943:

24 (a) Shall install the device not later than 21 days after the date on which  
25 the order was issued; and  
26 (b) May not receive a restricted license pursuant to this section until:

27 (1) After at least 1 year of the period during which he is not eligible  
28 for a license, if he was convicted of:

29 (I) A violation of NRS 484.3795 or a homicide resulting from  
30 driving or being in actual physical control of a vehicle while under the  
31 influence of intoxicating liquor or a controlled substance or resulting from  
32 any other conduct prohibited by NRS 484.379 or 484.3795; ~~or~~  
33 (II) A third or subsequent violation *of NRS 484.379* within 7 years  
34 ~~of NRS 484.379~~; *or*  
35 (III) *A violation of NRS 484.379 that is punishable pursuant to*  
36 *subsection 2 of NRS 484.3792*;

37 (2) After at least 180 days of the period during which he is not  
38 eligible for a license, if he was convicted of a violation of subsection 2 of  
39 NRS 484.377; or  
40 (3) After at least 45 days of the period during which he is not eligible  
41 for a license, if he was convicted of a first violation *of NRS 484.379* within  
42 7 years. ~~of NRS 484.379~~

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

48 4. After a driver's license has been revoked pursuant to subsection 1 of  
49 NRS 62.227 or suspended pursuant to paragraph (h) of subsection 1 of



1 NRS 62.211, NRS 62.224, 62.2255, 62.226 or 62.228, the department may  
2 issue a restricted driver's license to an applicant permitting the applicant to  
3 drive a motor vehicle:

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

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

7 5. After a driver's license has been suspended pursuant to NRS  
8 483.443, the department may issue a restricted driver's license to an  
9 applicant permitting the applicant to drive a motor vehicle:

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

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

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

15 6. A driver who violates a condition of a restricted license issued  
16 pursuant to subsection 1 or by another jurisdiction is guilty of a  
17 misdemeanor and, if the license of the driver was suspended or revoked  
18 for:

19 (a) A violation of NRS 484.379, 484.3795 or 484.384;

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

24 (c) A violation of a law of any other jurisdiction that prohibits the same  
25 or similar conduct as set forth in paragraph (a) or (b),  
26 the driver shall be punished in the manner provided pursuant to subsection  
27 2 of NRS 483.560.

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

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

36 **Sec. 3.** NRS 484.3792 is hereby amended to read as follows:

37 484.3792 1. ~~1A~~ *Except as otherwise provided in subsection 2, a*  
38 person who violates the provisions of NRS 484.379:

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

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

47 (2) Unless the sentence is reduced pursuant to NRS 484.37937,  
48 sentence him to imprisonment for not less than 2 days nor more than 6  
49 months in jail, or to perform not less than 48 hours, but not more than 96



1 hours, of work for the community while dressed in distinctive garb that  
2 identifies him as having violated the provisions of NRS 484.379; and

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

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

6 (1) Shall sentence him to:

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

9 (II) Residential confinement for not less than 10 days nor more  
10 than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive,  
11 or 5.0755 to 5.078, inclusive;

12 (2) Shall fine him not less than \$750 nor more than \$1,000;

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

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

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

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

30 2. *A person who has previously been convicted of:*

31 (a) *A felony pursuant to this section;*

32 (b) *A violation of NRS 484.3795;*

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

37 (d) *A violation of a law of any other jurisdiction that prohibits the*  
38 *same or similar conduct as set forth in paragraph (a), (b) or (c),*  
39 *and who violates the provisions of NRS 484.379 is guilty of a category B*  
40 *felony and shall be punished by imprisonment in the state prison for a*  
41 *minimum term of not less than 2 years and a maximum term of not more*  
42 *than 15 years, and shall be further punished by a fine of not less than*  
43 *\$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as*  
44 *practicable, be segregated from offenders whose crimes were violent and,*  
45 *insofar as practicable, be assigned to an institution or facility of*  
46 *minimum security.*

47 3. An offense that occurred within 7 years immediately preceding the  
48 date of the principal offense or after the principal offense constitutes a prior  
49 offense for the purposes of this section when evidenced by a conviction,



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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 ~~13-1~~ 4. A person convicted of violating the provisions of NRS 484.379  
8 must not be released on probation, and a sentence imposed for violating  
9 those provisions must not be suspended except, as provided in NRS 4.373,  
10 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that  
11 exceeds the mandatory minimum. A prosecuting attorney shall not dismiss  
12 a charge of violating the provisions of NRS 484.379 in exchange for a plea  
13 of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for  
14 any other reason unless he knows or it is obvious that the charge is not  
15 supported by probable cause or cannot be proved at the time of trial.

16 ~~14-1~~ 5. A term of confinement imposed pursuant to the provisions of  
17 this section may be served intermittently at the discretion of the judge or  
18 justice 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  
20 segment of not less than 48 consecutive hours. This discretion must be  
21 exercised after considering all the circumstances surrounding the offense,  
22 and the family and employment of the offender, but any sentence of 30  
23 days or less must be served within 6 months after the date of conviction or,  
24 if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and  
25 the suspension of his sentence was revoked, within 6 months after the date  
26 of revocation. Any time for which the offender is confined must consist of  
27 not less than 24 consecutive hours.

28 ~~15-1~~ 6. Jail sentences simultaneously imposed pursuant to this section  
29 and NRS 482.456, 483.560 or 485.330 must run consecutively.

30 ~~16-1~~ 7. If the person who violated the provisions of NRS 484.379  
31 possesses a driver's license issued by a state other than the State of Nevada  
32 and does 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.

43 ~~17-1~~ 8. If the defendant was transporting a person who is less than 15  
44 years of age in the motor vehicle at the time of the violation, the court shall  
45 consider that fact as an aggravating factor in determining the sentence of  
46 the defendant.

47 ~~18-1~~ 9. As used in this section, unless the context otherwise requires,  
48 "offense" means:

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



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

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

7 **Sec. 4.** NRS 484.37937 is hereby amended to read as follows:

8 484.37937 1. Except as otherwise provided in subsection 2, a person  
9 who is found guilty of a first violation of NRS 484.379 may, at that time or  
10 any time before he is sentenced, apply to the court to undergo a program of  
11 treatment for alcoholism or drug abuse which is certified by the bureau of  
12 alcohol and drug abuse in the department of human resources for at least 6  
13 months. The court shall authorize such treatment if:

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

15 (1) An alcohol and drug abuse counselor who is licensed or certified  
16 pursuant to chapter 641C of NRS to make that diagnosis; or

17 (2) A physician who is certified to make that diagnosis by the board  
18 of medical examiners;

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

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

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

26 (a) *A felony pursuant to NRS 484.3792;*

27 (b) A violation of NRS 484.3795;

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

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

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

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

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

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

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



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1 (b) Suspend the sentence of the offender for not more than 3 years upon  
2 the condition that the offender be accepted for treatment by a treatment  
3 facility, that he complete the treatment satisfactorily and that he comply  
4 with any other condition ordered by the court.  
5 (c) Advise the offender that:  
6 (1) If he is accepted for treatment by such a facility, he may be placed  
7 under the supervision of the facility for a period not to exceed 3 years and  
8 during treatment he may be confined in an institution or, at the discretion  
9 of the facility, released for treatment or supervised aftercare in the  
10 community.  
11 (2) If he is not accepted for treatment by such a facility or he fails to  
12 complete the treatment satisfactorily, he shall serve the sentence imposed  
13 by the court. Any sentence of imprisonment must be reduced by a time  
14 equal to that which he served before beginning treatment.  
15 (3) If he completes the treatment satisfactorily, his sentence will be  
16 reduced to a term of imprisonment which is no longer than that provided  
17 for the offense in paragraph (c) of subsection 1 and a fine of not more than  
18 the minimum fine provided for the offense in NRS 484.3792, but the  
19 conviction must remain on his record of criminal history.  
20 7. The court shall administer the program of treatment pursuant to the  
21 procedures provided in NRS 458.320 and 458.330, except that the court:  
22 (a) Shall not defer the sentence, set aside the conviction or impose  
23 conditions upon the election of treatment except as otherwise provided in  
24 this section.  
25 (b) May immediately revoke the suspension of sentence for a violation  
26 of any condition of the suspension.  
27 8. The court shall notify the department, on a form approved by the  
28 department, upon granting the application of the offender for treatment and  
29 his failure to be accepted for or complete treatment.  
30 **Sec. 5.** NRS 484.3794 is hereby amended to read as follows:  
31 484.3794 1. Except as otherwise provided in subsection 2, a person  
32 who is found guilty of a second violation of NRS 484.379 within 7 years  
33 may, at that time or any time before he is sentenced, apply to the court to  
34 undergo a program of treatment for alcoholism or drug abuse which is  
35 certified by the bureau of alcohol and drug abuse in the department of  
36 human resources for at least 1 year if:  
37 (a) He is diagnosed as an alcoholic or abuser of drugs by:  
38 (1) An alcohol and drug abuse counselor who is licensed or certified  
39 pursuant to chapter 641C of NRS to make that diagnosis; or  
40 (2) A physician who is certified to make that diagnosis by the board  
41 of medical examiners;  
42 (b) He agrees to pay the costs of the treatment to the extent of his  
43 financial resources; and  
44 (c) He has served or will serve a term of imprisonment in jail of 5 days,  
45 and if required pursuant to NRS 484.3792, has performed or will perform  
46 not less than 50 hours, but not more than 100 hours, of work for the  
47 community.



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- 1 2. A person may not apply to the court to undergo a program of  
2 treatment pursuant to subsection 1 if ~~1, within the immediately preceding 7~~  
3 ~~years,~~ he *previously* has been found guilty of:
- 4 (a) *A felony pursuant to NRS 484.3792;*  
5 (b) A violation of NRS 484.3795;  
6 ~~(b)~~ (c) A homicide resulting from driving or being in actual physical  
7 control of a vehicle while under the influence of intoxicating liquor or a  
8 controlled substance or resulting from any other conduct prohibited by  
9 NRS 484.379 or 484.3795; or  
10 ~~(c)~~ (d) A violation of a law of any other jurisdiction that prohibits the  
11 same or similar conduct as set forth in paragraph (a) ~~or (b),~~ (b) or (c).
- 12 3. For the purposes of subsection 1, a violation of a law of any other  
13 jurisdiction that prohibits the same or similar conduct as NRS 484.379  
14 constitutes a violation of NRS 484.379.
- 15 4. A prosecuting attorney may, within 10 days after receiving notice of  
16 an application for treatment pursuant to this section, request a hearing on  
17 the matter. The court shall order a hearing on the application upon the  
18 request of the prosecuting attorney or may order a hearing on its own  
19 motion.
- 20 5. At the hearing on the application for treatment, the prosecuting  
21 attorney may present the court with any relevant evidence on the matter. If  
22 a hearing is not held, the court shall decide the matter upon affidavits and  
23 other information before the court.
- 24 6. If the court determines that an application for treatment should be  
25 granted, the court shall:
- 26 (a) Immediately sentence the offender and enter judgment accordingly.  
27 (b) Suspend the sentence of the offender for not more than 3 years upon  
28 the condition that the offender be accepted for treatment by a treatment  
29 facility, that he complete the treatment satisfactorily and that he comply  
30 with any other condition ordered by the court.  
31 (c) Advise the offender that:
- 32 (1) If he is accepted for treatment by such a facility, he may be placed  
33 under the supervision of the facility for a period not to exceed 3 years and  
34 during treatment he may be confined in an institution or, at the discretion  
35 of the facility, released for treatment or supervised aftercare in the  
36 community.  
37 (2) If he is not accepted for treatment by such a facility or he fails to  
38 complete the treatment satisfactorily, he shall serve the sentence imposed  
39 by the court. Any sentence of imprisonment must be reduced by a time  
40 equal to that which he served before beginning treatment.  
41 (3) If he completes the treatment satisfactorily, his sentence will be  
42 reduced to a term of imprisonment which is no longer than that provided  
43 for the offense in paragraph (c) of subsection 1 and a fine of not more than  
44 the minimum provided for the offense in NRS 484.3792, but the conviction  
45 must remain on his record of criminal history.
- 46 7. The court shall administer the program of treatment pursuant to the  
47 procedures provided in NRS 458.320 and 458.330, except that the court:



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

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

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

9 **Sec. 6.** NRS 484.37943 is hereby amended to read as follows:

10 484.37943 1. ~~HH~~ *Except as otherwise provided in subsection 3, if*  
11 *a person is found guilty of a first violation, if the concentration of alcohol in*  
12 *the defendant's blood or breath at the time of the offense was 0.18 or more,*  
13 *or any second violation of NRS 484.379 within 7 years, the court shall,*  
14 *before sentencing the offender, require an evaluation of the offender*  
15 *pursuant to subsection ~~3, 4 or 5~~ 4, 5 or 6 to determine whether he is an*  
16 *abuser of alcohol or other drugs.*

17 2. ~~HH~~ *Except as otherwise provided in subsection 3, if* a person is  
18 convicted of a first violation of NRS 484.379 and he is under 21 years of  
19 age at the time of the violation, the court shall, before sentencing the  
20 offender, require an evaluation of the offender pursuant to subsection ~~3, 4~~  
21 ~~or 5~~ 4, 5 or 6 to determine whether he is an abuser of alcohol or other  
22 drugs.

23 3. *The court shall not require an evaluation of an offender pursuant*  
24 *to subsection 4, 5 or 6 if the offender has previously been found guilty of:*

25 *(a) A felony pursuant to NRS 484.3792;*

26 *(b) A violation of NRS 484.3795;*

27 *(c) A homicide resulting from driving or being in actual physical*  
28 *control of a vehicle while under the influence of intoxicating liquor or a*  
29 *controlled substance; or*

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

32 4. Except as otherwise provided in subsection ~~4 or 5~~ 5 or 6, the  
33 evaluation of an offender pursuant to this section must be conducted at an  
34 evaluation center by:

35 (a) An alcohol and drug abuse counselor who is licensed or certified  
36 pursuant to chapter 641C of NRS to make that evaluation; or

37 (b) A physician who is certified to make that evaluation by the board of  
38 medical examiners,

39 who shall report to the court the results of the evaluation and make a  
40 recommendation to the court concerning the length and type of treatment  
41 required for the offender.

42 ~~4~~ 5. The evaluation of an offender who resides more than 30 miles  
43 from an evaluation center may be conducted outside an evaluation center  
44 by a person who has the qualifications set forth in subsection ~~3~~ 4. The  
45 person who conducts the evaluation shall report to the court the results of  
46 the evaluation and make a recommendation to the court concerning the  
47 length and type of treatment required for the offender.

48 ~~5~~ 6. The evaluation of an offender who resides in another state may,  
49 upon approval of the court, be conducted in the state where the offender



1 resides by a physician or other person who is authorized by the appropriate  
2 governmental agency in that state to conduct such an evaluation. The  
3 offender shall ensure that the results of the evaluation and the  
4 recommendation concerning the length and type of treatment for the  
5 offender are reported to the court.

6 ~~16-1~~ 7. An offender who is evaluated pursuant to this section shall pay  
7 the cost of the evaluation. An evaluation center or a person who conducts  
8 an evaluation in this state outside an evaluation center shall not charge an  
9 offender more than \$100 for the evaluation.

10 **Sec. 7.** NRS 484.37945 is hereby amended to read as follows:

11 484.37945 1. When a program of treatment is ordered pursuant to  
12 paragraph (b) of subsection 1 of NRS 484.3792, the court shall place the  
13 offender under the clinical supervision of a treatment facility for treatment  
14 for not less than 30 days nor more than 6 months, in accordance with the  
15 report submitted to the court pursuant to subsection ~~13, 4 or 5~~ 4, 5 or 6 of  
16 NRS 484.37943. The court may:

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

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

21 2. The court shall:

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

24 (b) Order the offender, to the extent of his financial resources, to pay  
25 any charges for his treatment pursuant to this section. If the offender does  
26 not have the financial resources to pay all those charges, the court shall, to  
27 the extent possible, arrange for the offender to obtain his treatment from a  
28 treatment facility that receives a sufficient amount of federal or state  
29 money to offset the remainder of the charges.

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

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

35 (b) Engages in any other conduct prohibited by NRS 484.379,  
36 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or a law  
37 of any other jurisdiction that prohibits the same or similar conduct,  
38 after the treatment facility has certified to his successful completion of a  
39 program of treatment ordered pursuant to paragraph (b) of subsection 1 of  
40 NRS 484.3792.

41 **Sec. 8.** NRS 484.3796 is hereby amended to read as follows:

42 484.3796 1. Before sentencing an offender pursuant to NRS  
43 484.3795 or paragraph (c) of subsection 1 *or subsection 2* of NRS  
44 484.3792, the court shall require that the offender be evaluated to  
45 determine whether he is an abuser of alcohol or drugs and whether he can  
46 be treated successfully for his condition.

47 2. The evaluation must be conducted by:

48 (a) An alcohol and drug abuse counselor who is licensed or certified  
49 pursuant to chapter 641C of NRS to make such an evaluation;



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1 (b) A physician who is certified to make such an evaluation by the  
2 board of medical examiners; or

3 (c) A psychologist who is certified to make such an evaluation by the  
4 board of psychological examiners.

5 3. The alcohol and drug abuse counselor, physician or psychologist  
6 who conducts the evaluation shall immediately forward the results of the  
7 evaluation to the director of the department of prisons.

8 **Sec. 9.** NRS 484.3943 is hereby amended to read as follows:

9 484.3943 1. Except as otherwise provided in subsection 5, a court:

10 (a) May order a person convicted of a first violation of NRS 484.379,  
11 for a period of not less than 3 months nor more than 6 months; and

12 (b) Shall order a person convicted of a ~~third or subsequent violation of~~  
13 ~~NRS 484.3791~~ ***felony pursuant to NRS 484.3792*** or a violation of NRS  
14 484.3795, for a period of not less than 12 months nor more  
15 than 36 months,

16 to install at his own expense a device in any motor vehicle which he owns  
17 or operates as a condition to obtaining a restricted license pursuant to  
18 subsection 3 of NRS 483.490.

19 2. A court may order a person convicted of a violation of NRS 484.379  
20 or 484.3795, for a period determined by the court, to install at his own  
21 expense a device in any motor vehicle which he owns or operates as a  
22 condition of reinstatement of his driving privilege.

23 3. If the court orders a person to install a device pursuant to subsection  
24 1 or 2:

25 (a) The court shall immediately prepare and transmit a copy of its order  
26 to the director. The order must include a statement that a device is required  
27 and the specific period for which it is required. The director shall cause this  
28 information to be incorporated into the records of the department and noted  
29 as a restriction on the person's driver's license.

30 (b) The person who is required to install the device shall provide proof  
31 of compliance to the department before he may receive a restricted license  
32 or before his driving privilege may be reinstated, as applicable. Each model  
33 of a device installed pursuant to this section must have been certified by  
34 the committee on testing for intoxication.

35 4. A person whose driving privilege is restricted pursuant to this  
36 section shall:

37 (a) If he was ordered to install a device pursuant to paragraph (a) of  
38 subsection 1, have the device inspected by the manufacturer of the device  
39 or its agent at least one time during the period in which he is required to  
40 use the device; or

41 (b) If he was ordered to install a device pursuant to paragraph (b) of  
42 subsection 1, have the device inspected by the manufacturer of the device  
43 or its agent at least one time each 90 days,

44 to determine whether the device is operating properly. An inspection  
45 required pursuant to this subsection must be conducted in accordance with  
46 regulations adopted pursuant to NRS 484.3888. The manufacturer or its  
47 agent shall submit a report to the director indicating whether the device is  
48 operating properly and whether it has been tampered with. If the device has



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1 been tampered with, the director shall notify the court that ordered the  
2 installation of the device.

3 5. If a person is required to operate a motor vehicle in the course and  
4 scope of his employment and the motor vehicle is owned by his employer,  
5 the person may operate that vehicle without the installation of a device, if:

6 (a) The employee notifies his employer that the employee's driving  
7 privilege has been so restricted; and

8 (b) The employee has proof of that notification in his possession or the  
9 notice, or a facsimile copy thereof, is with the motor vehicle.

10 This exemption does not apply to a motor vehicle owned by a business  
11 which is all or partly owned or controlled by the person otherwise subject  
12 to this section.

13 **Sec. 10.** Chapter 488 of NRS is hereby amended by adding thereto a  
14 new section to read as follows:

15 *1. A person who violates the provisions of NRS 488.410 and who has*  
16 *previously been convicted of a violation of NRS 488.420 or a violation of*  
17 *the law of any other jurisdiction that prohibits the same or similar*  
18 *conduct as set forth in NRS 488.420 is guilty of a category B felony and*  
19 *shall be punished by imprisonment in the state prison for a minimum*  
20 *term of not less than 2 years and a maximum term of not more than 15*  
21 *years, and shall be further punished by a fine of not less than \$2,000 nor*  
22 *more than \$5,000. An offender so imprisoned must, insofar as*  
23 *practicable, be segregated from offenders whose crimes were violent and,*  
24 *insofar as practicable, be assigned to an institution or facility of*  
25 *minimum security.*

26 *2. The facts concerning a prior violation of NRS 488.420 must be*  
27 *alleged in the complaint, indictment or information, must not be read to*  
28 *the jury or proved at trial but must be proved at the time of sentencing.*

29 *3. A prosecuting attorney shall not dismiss a charge of violating the*  
30 *provisions of NRS 488.410 against a person previously convicted of*  
31 *violating NRS 488.420 in exchange for a plea of guilty, guilty but*  
32 *mentally ill or nolo contendere to a lesser charge or for any other reason*  
33 *unless he knows or it is obvious that the charge is not supported by*  
34 *probable cause or cannot be proved at the time of trial. A sentence*  
35 *imposed pursuant to subsection 1 must not be suspended, and probation*  
36 *must not be granted.*

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

40 **Sec. 11.** NRS 488.410 is hereby amended to read as follows:

41 488.410 1. It is unlawful for any person who:

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

43 (b) Has a concentration of alcohol of 0.10 or more in his blood or  
44 breath; or

45 (c) Is found by measurement within 2 hours after operating or being in  
46 actual physical control of a vessel to have a concentration of alcohol of  
47 0.10 or more in his blood or breath,

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



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- 1 2. It is unlawful for any person who:  
2 (a) Is under the influence of a controlled substance;  
3 (b) Is under the combined influence of intoxicating liquor and a  
4 controlled substance; or  
5 (c) Inhales, ingests, applies or otherwise uses any chemical, poison or  
6 organic solvent, or any compound or combination of any of these, to a  
7 degree which renders him incapable of safely operating or exercising actual  
8 physical control of a vessel under power or sail,  
9 to operate or be in actual physical control of a vessel under power or sail  
10 on the waters of this state.  
11 3. It is unlawful for any person to operate or be in actual physical  
12 control of a vessel under power or sail on the waters of this state with an  
13 amount of a prohibited substance in his blood or urine that is equal to or  
14 greater than:  
15

16 Prohibited substance	17 Urine Nanograms per 18 milliliter	Blood Nanograms per milliliter
19 (a) Amphetamine	500	100
20 (b) Cocaine	150	50
21 (c) Cocaine metabolite	150	50
22 (d) Heroin	2,000	50
23 (e) Heroin metabolite:		
24 (1) Morphine	2,000	50
25 (2) 6-monoacetyl morphine	10	10
26 (f) Lysergic acid diethylamide	25	10
27 (g) Marijuana	10	2
28 (h) Marijuana metabolite	15	5
29 (i) Methamphetamine	500	100
30 (j) Phencyclidine	25	10
31		

32 4. If consumption is proven by a preponderance of the evidence, it is  
33 an affirmative defense under paragraph (c) of subsection 1 that the  
34 defendant consumed a sufficient quantity of alcohol after operating or  
35 being in actual physical control of the vessel, and before his blood was  
36 tested, to cause him to have a concentration of 0.10 or more of alcohol in  
37 his blood or breath. A defendant who intends to offer this defense at a trial  
38 or preliminary hearing must, not less than 14 days before the trial or  
39 hearing or at such other time as the court may direct, file and serve on the  
40 prosecuting attorney a written notice of that intent.

41 *5. Except as otherwise provided in section 10 of this act, a person*  
42 *who violates the provisions of this section is guilty of a misdemeanor.*

43 **Sec. 12.** NRS 488.430 is hereby amended to read as follows:

44 488.430 1. Before sentencing a defendant pursuant to *section 10 of*  
45 *this act or* NRS 488.420, the court shall require that the defendant be  
46 evaluated to determine whether he is an abuser of alcohol or drugs and  
47 whether he can be treated successfully for his condition.

48 2. The evaluation must be conducted by:



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1 (a) An alcohol and drug abuse counselor who is licensed or certified  
2 pursuant to chapter 641C of NRS to make such an evaluation;

3 (b) A physician who is certified to make such an evaluation by the  
4 board of medical examiners; or

5 (c) A psychologist who is certified to make such an evaluation by the  
6 board of psychological examiners.

7 3. The alcohol and drug abuse counselor, physician or psychologist  
8 who conducts the evaluation shall immediately forward the results of the  
9 evaluation to the director of the department of prisons.

10 **Sec. 13.** NRS 209.425 is hereby amended to read as follows:

11 209.425 1. The director shall, with the approval of the board,  
12 establish a program for the treatment of an abuser of alcohol or drugs who  
13 is imprisoned pursuant to paragraph (c) of subsection 1 *or subsection 2* of  
14 NRS 484.3792 or NRS 484.3795. The program must include an initial  
15 period of intensive mental and physical rehabilitation in a facility of the  
16 department, followed by regular sessions of education, counseling and any  
17 other necessary or desirable treatment.

18 2. The director may, upon the request of the offender after the initial  
19 period of rehabilitation, allow the offender to earn wages under any other  
20 program established by the department if the offender assigns to the  
21 department any wages he earns under such a program. The director may  
22 deduct from the wages of the offender an amount determined by the  
23 director, with the approval of the board, to:

24 (a) Offset the costs, as reflected in the budget of the department, to  
25 maintain the offender in a facility or institution of the department and in  
26 the program of treatment established pursuant to this section; and

27 (b) Meet any existing obligation of the offender for the support of his  
28 family or restitution to any victim of his crime.

29 **Sec. 14.** NRS 209.481 is hereby amended to read as follows:

30 209.481 1. The director shall not assign any prisoner to an institution  
31 or facility of minimum security if the prisoner:

32 (a) Except as otherwise provided in NRS 484.3792 , ~~and~~ 484.3795 ,  
33 *488.420 and section 10 of this act*, is not eligible for parole or release from  
34 prison within a reasonable period;

35 (b) Has recently committed a serious infraction of the rules of an  
36 institution or facility of the department of prisons;

37 (c) Has not performed the duties assigned to him in a faithful and  
38 orderly manner;

39 (d) Has been convicted of a sexual offense;

40 (e) Has committed an act of serious violence during the previous year;  
41 or

42 (f) Has attempted to escape or has escaped from an institution of the  
43 department of prisons.

44 2. The director shall, by regulation, establish procedures for classifying  
45 and selecting qualified prisoners.

46 **Sec. 15.** 1. Except as otherwise provided in subsection 2, the  
47 amendatory provisions of this act do not apply to offenses committed  
48 before October 1, 2001.





1     2. The amendatory provisions of this act apply to offenses committed  
2 before October 1, 2001, for the purpose of determining whether a person is  
3 subject to the provisions of subsection 2 of NRS 484.3792, as amended by  
4 this act, or subsection 1 of section 10 of this act.

