

ASSEMBLY BILL NO. 464—ASSEMBLYMEN WILLIAMS, CEGAVSKE, LESLIE,
MANENDO, PARKS, ANDERSON, ARBERRY, BROWER, FREEMAN,
GIBBONS, GIUNCHIGLIANI, GOLDWATER, HETTRICK, KOIVISTO,
LEE, MCCLAIN, NOLAN, OCEGUERA, PARNELL, SMITH AND
VON TOBEL

MARCH 19, 2001

Referred to Committee on Judiciary

SUMMARY—Provides increased penalties for fourth or subsequent offense for operating vehicle while under influence of intoxicating liquor or controlled substance. (BDR 43-205)

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 ~~for omitted material~~ is material to be omitted.

AN ACT relating to substances causing impairment; providing an increased penalty for a conviction of a fourth or subsequent offense within 14 years for operating a vehicle while under the influence of an intoxicating liquor or controlled substance; providing that any subsequent violation after 14 years is treated as a felony; providing penalties; and providing other matters properly relating thereto.

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

Section 1. NRS 483.460 is hereby amended to read as follows:

- 1 483.460 1. Except as otherwise provided by specific statute, the
2 department shall revoke the license, permit or privilege of any driver upon
3 receiving a record of his conviction of any of the following offenses, when
4 that conviction has become final, and the driver is not eligible for a license,
5 permit or privilege to drive for the period indicated:
6 (a) For a period of 3 years if the offense is:
7 (1) A violation of subsection 2 of NRS 484.377 ; ~~11~~
8 (2) A third ~~for subsequent~~ violation ***of NRS 484.379*** within 7 years ;
9 ~~for NRS 484.379 ;~~
10 (3) ***A fourth or subsequent violation of NRS 484.379 within 14***
11 ***years;***
12 (4) ***A violation of NRS 484.379 that is punishable pursuant to***
13 ***subsection 2 of NRS 484.3792; or***



- 1 (5) A violation of NRS 484.3795 or a homicide resulting from
2 driving or being in actual physical control of a vehicle while under the
3 influence of intoxicating liquor or a controlled substance or resulting from
4 any other conduct prohibited by NRS 484.379 or 484.3795.
5 The period during which such a driver is not eligible for a license, permit
6 or privilege to drive must be set aside during any period of imprisonment,
7 and the period of revocation must resume upon completion of the period of
8 imprisonment or when the person is placed on residential confinement.
9 (b) For a period of 1 year if the offense is:
10 (1) Any other manslaughter resulting from the driving of a motor
11 vehicle or felony in the commission of which a motor vehicle is used,
12 including the unlawful taking of a motor vehicle.
13 (2) Failure to stop and render aid as required pursuant to the laws of
14 this state in the event of a motor vehicle accident resulting in the death or
15 bodily injury of another.
16 (3) Perjury or the making of a false affidavit or statement under oath
17 to the department pursuant to NRS 483.010 to 483.630, inclusive, or
18 pursuant to any other law relating to the ownership or driving of motor
19 vehicles.
20 (4) Conviction, or forfeiture of bail not vacated, upon three charges
21 of reckless driving committed within a period of 12 months.
22 (5) A second violation *of NRS 484.379* within 7 years ~~for NRS~~
23 ~~484.3791~~, *unless the violation is punishable pursuant to subsection 2 of*
24 *NRS 484.3792* and the driver is not eligible for a restricted license during
25 any of that period.
26 (6) A violation of NRS 484.348.
27 (c) For a period of 90 days, if the offense is a first violation *of NRS*
28 *484.379* within 7 years ~~for NRS 484.3791~~, *unless the violation is*
29 *punishable pursuant to subsection 2 of NRS 484.3792*.
30 2. The department shall revoke the license, permit or privilege of a
31 driver convicted of violating NRS 484.379 who fails to complete the
32 educational course on the use of alcohol and controlled substances within
33 the time ordered by the court and shall add a period of 90 days during
34 which the driver is not eligible for a license, permit or privilege to drive.
35 3. When the department is notified by a court that a person who has
36 been convicted of a first violation *of NRS 484.379* within 7 years ~~for NRS~~
37 ~~484.3791~~ has been permitted to enter a program of treatment pursuant to
38 NRS 484.37937, the department shall reduce by one-half the period during
39 which he is not eligible for a license, permit or privilege to drive, but shall
40 restore that reduction in time if notified that he was not accepted for or
41 failed to complete the treatment.
42 4. The department shall revoke the license, permit or privilege to drive
43 of a person who is required to install a device pursuant to NRS 484.3943
44 but who operates a motor vehicle without such a device:
45 (a) For 3 years, if it is his first such offense during the period of
46 required use of the device.
47 (b) For 5 years, if it is his second such offense during the period of
48 required use of the device.



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

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

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

12 **Sec. 2.** NRS 483.490 is hereby amended to read as follows:

13 483.490 1. Except as otherwise provided in this section, after a
14 driver's license has been suspended or revoked for an offense other than a
15 second violation *of NRS 484.379* within 7 years ~~for NRS 484.379~~, *unless*
16 *the second violation is a violation that is punishable pursuant to*
17 *subsection 2 of NRS 484.3792*, and one-half of the period during which the
18 driver is not eligible for a license has expired, the department may, unless
19 the statute authorizing the suspension prohibits the issuance of a restricted
20 license, issue a restricted driver's license to an applicant permitting the
21 applicant to drive a motor vehicle:

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

23 (b) To acquire supplies of medicine or food or receive regularly
24 scheduled medical care for himself or a member of his immediate
25 family.

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

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

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

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

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

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

42 (II) A third ~~for subsequent~~ violation *of NRS 484.379* within 7
43 years ~~for NRS 484.379~~;

44 (III) *A fourth or subsequent violation of NRS 484.379 within 14*
45 *years; or*

46 (IV) *A violation of NRS 484.379 that is punishable pursuant to*
47 *subsection 2 of NRS 484.3792;*



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1 (2) After at least 180 days of the period during which he is not
2 eligible for a license, if he was convicted of a violation of subsection 2 of
3 NRS 484.377; or
4 (3) After at least 45 days of the period during which he is not eligible
5 for a license, if he was convicted of a first violation *of NRS 484.379* within
6 7 years. ~~of NRS 484.379.~~
7 3. If the department has received a copy of an order requiring a person
8 to install a device in a motor vehicle pursuant to NRS 484.3943, the
9 department shall not issue a restricted driver's license to such a person
10 pursuant to this section unless the applicant has submitted proof of
11 compliance with the order and subsection 2.
12 4. After a driver's license has been revoked pursuant to subsection 1 of
13 NRS 62.227 or suspended pursuant to paragraph (h) of subsection 1 of
14 NRS 62.211, NRS 62.224, 62.2255, 62.226 or 62.228, the department may
15 issue a restricted driver's license to an applicant permitting the applicant to
16 drive a motor vehicle:
17 (a) If applicable, to and from work or in the course of his work, or both;
18 and
19 (b) If applicable, to and from school.
20 5. After a driver's license has been suspended pursuant to NRS
21 483.443, the department may issue a restricted driver's license to an
22 applicant permitting the applicant to drive a motor vehicle:
23 (a) If applicable, to and from work or in the course of his work, or both;
24 (b) To receive regularly scheduled medical care for himself or a
25 member of his immediate family; and
26 (c) If applicable, as necessary to exercise a court-ordered right to visit a
27 child.
28 6. A driver who violates a condition of a restricted license issued
29 pursuant to subsection 1 or by another jurisdiction is guilty of a
30 misdemeanor and, if the license of the driver was suspended or revoked
31 for:
32 (a) A violation of NRS 484.379, 484.3795 or 484.384;
33 (b) 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 (c) A violation of a law of any other jurisdiction that prohibits the same
38 or similar conduct as set forth in paragraph (a) or (b),
39 the driver shall be punished in the manner provided pursuant to subsection
40 2 of NRS 483.560.
41 7. The periods of suspensions and revocations required pursuant to this
42 chapter and NRS 484.384 must run consecutively, except as otherwise
43 provided in NRS 483.465 and 483.475, when the suspensions must run
44 concurrently.
45 8. Whenever the department suspends or revokes a license, the period
46 of suspension, or of ineligibility for a license after the revocation, begins
47 upon the effective date of the revocation or suspension as contained in the
48 notice thereof.



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1 **Sec. 3.** NRS 484.3792 is hereby amended to read as follows:
2 484.3792 1. ~~1A~~ ***Except as otherwise provided in subsection 2, a***
3 person who violates the provisions of NRS 484.379:

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

7 (1) Except as otherwise provided in subsection ~~16~~ 7, order him to
8 pay tuition for an educational course on the abuse of alcohol and controlled
9 substances approved by the department and complete the course within the
10 time specified in the order, and the court shall notify the department if he
11 fails to complete the course within the specified time;

12 (2) Unless the sentence is reduced pursuant to NRS 484.37937,
13 sentence him to imprisonment for not less than 2 days nor more than 6
14 months in jail, or to perform not less than 48 hours, but not more than 96
15 hours, of work for the community while dressed in distinctive garb that
16 identifies him as having violated the provisions of NRS 484.379; and

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

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

20 (1) Shall sentence him to:

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

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

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

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

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

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

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

44 (d) ***For a fourth or subsequent offense within 14 years, is guilty of a***
45 ***category B felony and shall be punished by imprisonment in the state***
46 ***prison for a minimum term of not less than 2 years and a maximum term***
47 ***of not more than 10 years, and shall be further punished by a fine of not***
48 ***less than \$2,000 nor more than \$5,000. An offender so imprisoned must,***
49 ***insofar as practicable, be segregated from offenders whose crimes were***



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1 *violent and, insofar as practicable, be assigned to an institution or facility*
2 *of minimum security.*
3 2. *Unless a greater penalty is provided in paragraph (d) of subsection*
4 *1 or NRS 484.3795, a person who has previously been convicted of:*
5 *(a) A felony pursuant to this section;*
6 *(b) A violation of NRS 484.3795;*
7 *(c) A homicide resulting from driving or being in actual physical*
8 *control of a vehicle while under the influence of intoxicating liquor or a*
9 *controlled substance or resulting from any other conduct prohibited by*
10 *NRS 484.379 or 484.3795; or*
11 *(d) A violation of a law of any other jurisdiction that prohibits the*
12 *same or similar conduct as set forth in paragraph (a), (b) or (c),*
13 *and who violates the provisions of NRS 484.379 is guilty of a category B*
14 *felony and shall be punished by imprisonment in the state prison for a*
15 *minimum term of not less than 1 year and a maximum term of not more*
16 *than 6 years, and shall be further punished by a fine of not less than*
17 *\$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as*
18 *practicable, be segregated from offenders whose crimes were violent and,*
19 *insofar as practicable, be assigned to an institution or facility of*
20 *minimum security.*
21 3. An offense that occurred within 7 or 14 years , *as applicable,*
22 immediately preceding the date of the principal offense or after the
23 principal offense constitutes a prior offense for the purposes of this section
24 when evidenced by a conviction, without regard to the sequence of the
25 offenses and convictions. The facts concerning a prior offense must be
26 alleged in the complaint, indictment or information, must not be read to the
27 jury or proved at trial but must be proved at the time of sentencing and, if
28 the principal offense is alleged to be a felony, must also be shown at the
29 preliminary examination or presented to the grand jury.
30 ~~3-1~~ 4. A person convicted of violating the provisions of NRS 484.379
31 must not be released on probation, and a sentence imposed for violating
32 those provisions must not be suspended except, as provided in NRS 4.373,
33 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that
34 exceeds the mandatory minimum. A prosecuting attorney shall not dismiss
35 a charge of violating the provisions of NRS 484.379 in exchange for a plea
36 of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for
37 any other reason unless he knows or it is obvious that the charge is not
38 supported by probable cause or cannot be proved at the time of trial.
39 ~~4-1~~ 5. A term of confinement imposed pursuant to the provisions of
40 this section may be served intermittently at the discretion of the judge or
41 justice of the peace, except that a person who is convicted of a second or
42 subsequent offense within 7 years must be confined for at least one
43 segment of not less than 48 consecutive hours. This discretion must be
44 exercised after considering all the circumstances surrounding the offense,
45 and the family and employment of the offender, but any sentence of 30
46 days or less must be served within 6 months after the date of conviction or,
47 if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and
48 the suspension of his sentence was revoked, within 6 months after the date



1 of revocation. Any time for which the offender is confined must consist of
2 not less than 24 consecutive hours.

3 ~~15-1~~ 6. Jail sentences simultaneously imposed pursuant to this section
4 and NRS 482.456, 483.560 or 485.330 must run consecutively.

5 ~~16-1~~ 7. If the person who violated the provisions of NRS 484.379
6 possesses a driver's license issued by a state other than the State of Nevada
7 and does not reside in the State of Nevada, in carrying out the provisions of
8 subparagraph (1) of paragraph (a) or (b) of subsection 1, the court shall:

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

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

18 ~~17-1~~ 8. If the defendant was transporting a person who is less than 15
19 years of age in the motor vehicle at the time of the violation, the court shall
20 consider that fact as an aggravating factor in determining the sentence of
21 the defendant.

22 ~~18-1~~ 9. As used in this section, unless the context otherwise requires,
23 "offense" means:

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

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

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

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

32 484.37937 1. Except as otherwise provided in subsection 2, a person
33 who is found guilty of a first violation of NRS 484.379 may, at that time or
34 any time before he is sentenced, apply to the court to undergo a program of
35 treatment for alcoholism or drug abuse which is certified by the bureau of
36 alcohol and drug abuse in the department of human resources for at least 6
37 months. The court shall authorize such treatment if:

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

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

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

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

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

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



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

2 (b) A violation of NRS 484.3795;

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

7 ~~[(c)]~~ (d) A violation of a law of any other jurisdiction that prohibits the
8 same or similar conduct as set forth in paragraph (a) ~~for (b)-1~~, (b) or (c).

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

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

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

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

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

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

29 (c) Advise the offender that:

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

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

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

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

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



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

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

6 **Sec. 5.** NRS 484.3794 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

28 (b) A violation of NRS 484.3795;

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

33 ~~(c)~~ (d) A violation of a law of any other jurisdiction that prohibits the
34 same or similar conduct as set forth in paragraph (a) ~~for (b)-1, (b) or (c).~~

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

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

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

47 6. If the court determines that an application for treatment should be
48 granted, 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 provided for the offense in NRS 484.3792, but the conviction
19 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 a 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. 6.** NRS 484.37943 is hereby amended to read as follows:

31 484.37943 1. ~~HH~~ *Except as otherwise provided in subsection 3, if* a
32 person is found guilty of a first violation, if the concentration of alcohol in
33 the defendant's blood or breath at the time of the offense was 0.18 or more,
34 or any second violation of NRS 484.379 within 7 years, the court shall,
35 before sentencing the offender, require an evaluation of the offender
36 pursuant to subsection ~~3, 4 or 5~~ 4, 5 or 6 to determine whether he is an
37 abuser of alcohol or other drugs.

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

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

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

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



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1 *(c) 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*

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

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

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

11 (b) A physician who is certified to make that evaluation by the board of
12 medical examiners,
13 who shall report to the court the results of the evaluation and make a
14 recommendation to the court concerning the length and type of treatment
15 required for the offender.

16 ~~{4}~~ 5. The evaluation of an offender who resides more than 30 miles
17 from an evaluation center may be conducted outside an evaluation center
18 by a person who has the qualifications set forth in subsection ~~{3}~~ 4. The
19 person who conducts the evaluation shall report to the court the results of
20 the evaluation and make a recommendation to the court concerning the
21 length and type of treatment required for the offender.

22 ~~{5}~~ 6. The evaluation of an offender who resides in another state may,
23 upon approval of the court, be conducted in the state where the offender
24 resides by a physician or other person who is authorized by the appropriate
25 governmental agency in that state to conduct such an evaluation. The
26 offender shall ensure that the results of the evaluation and the
27 recommendation concerning the length and type of treatment for the
28 offender are reported to the court.

29 ~~{6}~~ 7. An offender who is evaluated pursuant to this section shall pay
30 the cost of the evaluation. An evaluation center or a person who conducts
31 an evaluation in this state outside an evaluation center shall not charge an
32 offender more than \$100 for the evaluation.

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

34 484.37945 1. When a program of treatment is ordered pursuant to
35 paragraph (b) of subsection 1 of NRS 484.3792, the court shall place the
36 offender under the clinical supervision of a treatment facility for treatment
37 for not less than 30 days nor more than 6 months, in accordance with the
38 report submitted to the court pursuant to subsection ~~{3, 4 or 5}~~ 4, 5 or 6 of
39 NRS 484.37943. The court may:

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

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

44 2. The court shall:

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

47 (b) Order the offender, to the extent of his financial resources, to pay
48 any charges for his treatment pursuant to this section. If the offender does
49 not have the financial resources to pay all those charges, the court shall, to



1 the extent possible, arrange for the offender to obtain his treatment from a
2 treatment facility that receives a sufficient amount of federal or state
3 money to offset the remainder of the charges.

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

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

9 (b) Engages in any other conduct prohibited by NRS 484.379,
10 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 or a law
11 of any other jurisdiction that prohibits the same or similar
12 conduct,

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

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

17 484.3796 1. Before sentencing an offender pursuant to NRS
18 484.3795, ~~for~~ paragraph (c) **or (d)** of subsection 1 of NRS 484.3792 ~~or~~
19 **subsection 2 of NRS 484.3792**, the court shall require that the offender be
20 evaluated to determine whether he is an abuser of alcohol or drugs and
21 whether he can be treated successfully for his condition.

22 2. The evaluation must be conducted by:

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

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

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

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

32 **Sec. 9.** NRS 484.37975 is hereby amended to read as follows:

33 484.37975 1. If a person is convicted of a second or subsequent
34 violation of NRS 484.379 or 484.3795 within 7 years, **or if a person has**
35 **previously been found guilty of a felony pursuant to NRS 484.3792**, the
36 court shall issue an order directing the department to suspend the
37 registration of each motor vehicle that is registered to or owned by the
38 person for 5 days.

39 2. If a court issues an order directing the department to suspend the
40 registration of a motor vehicle pursuant to subsection 1, the court shall
41 forward a copy of the order to the department within 5 days after issuing
42 the order. The order must include, without limitation, information
43 concerning each motor vehicle that is registered to or owned by the person,
44 including, without limitation, the registration number of the motor vehicle,
45 if such information is available.

46 3. A court shall provide for limited exceptions to the provisions of
47 subsection 1 on an individual basis to avoid undue hardship to a person
48 other than the person to whom that provision applies. Such an exception
49 must be provided if the court determines that:



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(a) A member of the immediate family of the person whose registration is suspended needs to use the motor vehicle:

(1) To travel to or from work or in the course and scope of his employment;

(2) To obtain medicine, food or other necessities or to obtain health care services for himself or another member of his immediate family; or

(3) To transport himself or another member of his immediate family to or from school; or

(b) An alternative means of transportation is not available to a member of the immediate family of the person whose registration is suspended.

Sec. 10. 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 to determine the concentration of alcohol in of his blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the direction of a police officer having reasonable grounds to believe that the person to be tested was:

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

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

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

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

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

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

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

(c) A police officer may direct the person to submit to a blood test if the officer has reasonable grounds to believe that the person:

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

~~for~~

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



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

4 (II) Any other offense in this state or another jurisdiction in which
5 death or substantial bodily harm to another person resulted from conduct
6 prohibited by a law set forth in sub-subparagraph (I) ~~††~~; *or*

7 *(3) Has previously been found guilty of a felony pursuant to NRS*
8 *484.3792 or a law of another jurisdiction that prohibits the same or*
9 *similar conduct.*

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

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

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

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

21 (b) Engaging in any other conduct prohibited by NRS 484.379 or
22 484.3795,

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

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

34 **Sec. 11.** NRS 484.3943 is hereby amended to read as follows:

35 484.3943 1. Except as otherwise provided in subsection 5, a court:

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

38 (b) Shall order a person convicted of a ~~third or subsequent violation of~~
39 ~~NRS 484.3791~~ *felony pursuant to NRS 484.3792* or a violation of NRS
40 484.3795, for a period of not less than 12 months nor more than
41 36 months,

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

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



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

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

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

13 4. A person whose driving privilege is restricted pursuant to this
14 section shall:

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

19 (b) If he was ordered to install a device pursuant to paragraph (b) of
20 subsection 1, have the device inspected by the manufacturer of the device
21 or its agent at least one time each 90 days,
22 to determine whether the device is operating properly. An inspection
23 required pursuant to this subsection must be conducted in accordance with
24 regulations adopted pursuant to NRS 484.3888. The manufacturer or its
25 agent shall submit a report to the director indicating whether the device is
26 operating properly and whether it has been tampered with. If the device has
27 been tampered with, the director shall notify the court that ordered the
28 installation of the device.

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

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

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

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

39 **Sec. 12.** NRS 488.460 is hereby amended to read as follows:

40 488.460 1. Except as otherwise provided in subsections 3 and 4, a
41 person who operates or is in actual physical control of a vessel under
42 power or sail on the waters of this state shall be deemed to have given his
43 consent to an evidentiary test of his blood, urine, breath or other bodily
44 substance to determine the concentration of alcohol in his blood or breath
45 or to determine whether a controlled substance, chemical, poison, organic
46 solvent or another prohibited substance is present, if such a test is
47 administered at the direction of a peace officer having reasonable grounds
48 to believe that the person to be tested was:



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

4 (b) Engaging in any other conduct prohibited by NRS 488.410 or
5 488.420.

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

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

14 4. If the concentration of alcohol of the blood or breath of the person
15 to be tested is in issue:

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

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

23 (c) A peace officer may direct the person to submit to a blood test if the
24 officer has reasonable grounds to believe that the person:

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

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

31 (I) A violation of NRS 484.379, 484.3795, subsection 2 of NRS
32 488.400, NRS 488.410 or 488.420 or a law of another jurisdiction that
33 prohibits the same or similar conduct; or

34 (II) Any other offense in this state or another jurisdiction in which
35 death or substantial bodily harm to another person resulted from conduct
36 prohibited by a law set forth in sub-subparagraph (I) ~~or~~ ; *or*

37 ***(3) Has previously been found guilty of a felony pursuant to NRS***
38 ***484.3792 or a law of another jurisdiction that prohibits the same or***
39 ***similar conduct.***

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

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

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



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

4 (b) Engaging in any other conduct prohibited by NRS 488.410 or
5 488.420,

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

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

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

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

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

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

32 **Sec. 14.** The amendatory provisions of this act do not apply to
33 offenses committed before October 1, 2001.

