

SENATE BILL NO. 130—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF DEPARTMENT OF MOTOR VEHICLES AND
PUBLIC SAFETY—HIGHWAY PATROL)

FEBRUARY 14, 2001

Referred to Committee on Transportation

SUMMARY—Revises provisions governing suspension and revocation of driver's license under certain circumstances. (BDR 43-405)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to traffic laws; revising the provisions governing the suspension of a driver's license of a person less than 21 years of age who drives a vehicle with a concentration of alcohol of 0.02 or more but less than 0.10 in his blood or breath; revising the provisions governing the revocation of a driver's license of a person who drives a vehicle with a concentration of alcohol of 0.10 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine; 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 483.462 is hereby amended to read as follows:
- 2 483.462 1. A peace officer who has received the result of a test given
- 3 pursuant to NRS 484.382 or 484.383 which indicates that a person less
- 4 than 21 years of age to whom the test was given had a concentration of
- 5 alcohol of 0.02 or more but less than 0.10 in his blood or breath shall
- 6 prepare a written certificate indicating whether the peace officer:
- 7 (a) Had reasonable grounds to believe that the person was driving under
- 8 the influence of alcohol;
- 9 (b) Served an order of suspension on the person pursuant to subsection
- 10 2; and
- 11 (c) Issued the person a temporary license pursuant to subsection 2.
- 12 2. ~~HH~~ ***Except as otherwise provided in subsection 3, if*** a person less
- 13 than 21 years of age to whom a test is given pursuant to NRS 484.382 or
- 14 484.383 is present when a peace officer receives the result of the test and
- 15 the test indicates that the person has a concentration of alcohol of 0.02 or
- 16 more but less than 0.10 in his blood or breath, the peace officer shall:



- 1 (a) Serve an order of suspension of the license, permit or privilege;
2 (b) Seize any license or permit of the person;
3 (c) Advise the person of his right to:
4 (1) Administrative and judicial review of the suspension; and
5 (2) Have a temporary license;
6 (d) If the person requests a temporary license, issue the person a
7 temporary license on a form approved by the department which becomes
8 effective 24 hours after he receives the temporary license and expires 120
9 hours after it becomes effective; and
10 (e) Transmit to the department:
11 (1) Any license or permit seized pursuant to paragraph (b); and
12 (2) The written certificate which the peace officer is required to
13 prepare pursuant to subsection 1.
14 3. *If a person less than 21 years of age to whom a test is given*
15 *pursuant to NRS 484.382 or 484.383 is present when a peace officer*
16 *receives the result of the test and the test indicates that the person has a*
17 *concentration of alcohol of 0.02 or more but less than 0.10 in his blood*
18 *or breath, but extenuating circumstances prevent the peace officer from*
19 *performing the actions set forth in paragraphs (a) to (d), inclusive, of*
20 *subsection 2, the peace officer shall:*
21 (a) *Prepare a written statement describing in detail the extenuating*
22 *circumstances that prevent him from taking the actions set forth in*
23 *paragraphs (a) to (d), inclusive, of subsection 2; and*
24 (b) *Transmit to the department:*
25 (1) *A copy of the result of the test;*
26 (2) *The written certificate which the peace officer is required to*
27 *prepare pursuant to subsection 1; and*
28 (3) *The written statement which the peace officer is required to*
29 *prepare pursuant to paragraph (a).*
30 4. *Upon receiving a copy of the result of the test, the written*
31 *certificate and the written statement transmitted by a peace officer*
32 *pursuant to subsection 3, the department shall:*
33 (a) *Review the result of the test, the written certificate and the written*
34 *statement; and*
35 (b) *If the department determines that it is appropriate, issue an order*
36 *to suspend the license, permit or privilege to drive of the person by*
37 *mailing the order to the person at his last known address.*
38 5. *If a person less than 21 years of age to whom a test is given*
39 *pursuant to NRS 484.382 or 484.383 is not present when a peace officer*
40 *receives the result of the test and the test indicates that the person has a*
41 *concentration of alcohol of 0.02 or more but less than 0.10 in his blood or*
42 *breath, the peace officer shall transmit to the department a copy of the*
43 *result of the test and the written certificate which the peace officer is*
44 *required to prepare pursuant to subsection 1.*
45 ~~4. The department, upon~~ *Upon* receiving a copy of the result of the
46 test and the written certificate transmitted by the peace officer pursuant to
47 ~~subsection 3,~~ *this subsection, the department* shall:
48 (a) Review the result of the test and the written certificate; and



1 (b) If the department determines that it is appropriate, issue an order to
2 suspend the license, permit or privilege to drive of the person by mailing
3 the order to the person at his last known address.

4 ~~15-1~~ 6. An order for suspension issued by the department pursuant to
5 subsection 4 ~~or 5~~ must:

- 6 (a) Explain the grounds for the suspension;
7 (b) Indicate the period of the suspension;
8 (c) Require the person to transmit to the department any license or
9 permit held by the person; and
10 (d) Explain that the person has a right to administrative and judicial
11 review of the suspension.

12 ~~16-1~~ 7. An order for suspension issued by the department pursuant to
13 subsection 4 ~~or 5~~ is presumed to have been received by the person 5 days
14 after the order is deposited, postage prepaid, in the United States mail by
15 the department. The date of mailing of the order may be shown by a
16 certificate that is prepared by an officer or employee of the department
17 specifying the date of mailing.

18 **Sec. 2.** NRS 484.385 is hereby amended to read as follows:

19 484.385 1. ~~As agent for the department, the officer who obtained~~
20 ~~the result of a test given pursuant to NRS 484.382 or 484.383 shall~~
21 ~~immediately serve an order of revocation of the license, permit or privilege~~
22 ~~to drive on a person who has a concentration of alcohol of 0.10 or more in~~
23 ~~his blood or breath or has a detectable amount of a prohibited substance in~~
24 ~~his blood or urine, if that person is present, and shall seize his license or~~
25 ~~permit to drive. The officer shall then advise him of his right to~~
26 ~~administrative and judicial review of the revocation and to have a~~
27 ~~temporary license, and shall issue him a temporary license on a form~~
28 ~~approved by the department if he requests one, which is effective for only 7~~
29 ~~days including the date of issuance. The officer shall immediately transmit~~
30 ~~the person's license or permit to the department along with the written~~
31 ~~certificate required by subsection 2.~~

32 ~~— 2. When a police officer has served an order of revocation of a driver's~~
33 ~~license, permit or privilege on a person pursuant to subsection 1, or later~~
34 ~~receives the result of an evidentiary test which indicates that a person, not~~
35 ~~then present, had a concentration of alcohol of 0.10 or more in his blood or~~
36 ~~breath or had a detectable amount of a prohibited substance in his blood or~~
37 ~~urine, the officer shall immediately prepare and transmit to the department,~~
38 ~~together with the seized license or permit and a copy of the result of the~~
39 ~~test, a written certificate that he had reasonable grounds to believe that the~~
40 ~~person had been driving or in actual physical control of a vehicle with a~~
41 ~~concentration of alcohol of 0.10 or more in his blood or breath or with a~~
42 ~~detectable amount of a prohibited substance in his blood or urine, as~~
43 ~~determined by a chemical test. The certificate must also indicate whether~~
44 ~~the officer served an order of revocation on the person and whether he~~
45 ~~issued the person a temporary license.~~

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



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1 ~~privilege to drive by mailing the order to the person at his last known~~
2 ~~address. The order must indicate the grounds for the revocation and the~~
3 ~~period during which the person is not eligible for a license, permit or~~
4 ~~privilege to drive and state that the person has a right to administrative and~~
5 ~~judicial review of the revocation and to have a temporary license. The~~
6 ~~order of revocation becomes effective 5 days after mailing.~~
7 ~~4.~~ *A peace officer who has received the result of a test given pursuant*
8 *to NRS 484.382 or 484.383 which indicates that a person has a*
9 *concentration of alcohol of 0.10 or more in his blood or breath or a*
10 *detectable amount of a prohibited substance in his blood or urine shall*
11 *prepare a written certificate indicating whether the peace officer:*
12 *(a) Had reasonable grounds to believe that the person had been*
13 *driving or in actual physical control of a vehicle with a concentration of*
14 *alcohol of 0.10 or more in his blood or breath or a detectable amount of*
15 *a prohibited substance in his blood or urine, as determined by a chemical*
16 *test;*
17 *(b) Served an order of revocation on the person pursuant to*
18 *subsection 2; and*
19 *(c) Issued the person a temporary license pursuant to subsection 2.*
20 *2. Except as otherwise provided in subsection 3, if a person to whom*
21 *a test is given pursuant to NRS 484.382 or 484.383 is present when a*
22 *peace officer receives the result of the test and the test indicates that the*
23 *person has a concentration of alcohol of 0.10 or more in his blood or*
24 *breath or a detectable amount of a prohibited substance in his blood or*
25 *urine, the peace officer shall:*
26 *(a) Serve an order of revocation of the license, permit or privilege;*
27 *(b) Seize any license or permit of the person;*
28 *(c) Advise the person of his right to:*
29 *(1) Administrative and judicial review of the revocation; and*
30 *(2) Have a temporary license;*
31 *(d) If the person requests a temporary license, issue the person a*
32 *temporary license, which is effective for only 7 days including the date of*
33 *issuance, on a form approved by the department; and*
34 *(e) Transmit to the department:*
35 *(1) Any license or permit seized pursuant to paragraph (b); and*
36 *(2) The written certificate which the peace officer is required to*
37 *prepare pursuant to subsection 1.*
38 *3. If a person to whom a test is given pursuant to NRS 484.382 or*
39 *484.383 is present when a peace officer receives the result of the test and*
40 *the test indicates that the person has a concentration of alcohol of 0.10*
41 *or more in his blood or breath or a detectable amount of a prohibited*
42 *substance in his blood or urine, but extenuating circumstances prevent*
43 *the peace officer from performing the actions set forth in paragraphs (a)*
44 *to (d), inclusive, of subsection 2, the peace officer shall:*
45 *(a) Prepare a written statement describing in detail the extenuating*
46 *circumstances that prevent him from taking the actions set forth in*
47 *paragraphs (a) to (d), inclusive, of subsection 2; and*
48 *(b) Transmit to the department:*
49 *(1) A copy of the result of the test;*



1 (2) The written certificate which the peace officer is required to
2 prepare pursuant to subsection 1; and

3 (3) The written statement which the peace officer is required to
4 prepare pursuant to paragraph (a).

5 4. Upon receiving a copy of the result of the test, the written
6 certificate and the written statement transmitted by a peace officer
7 pursuant to subsection 3, the department shall:

8 (a) Review the result of the test, the written certificate and the written
9 statement; and

10 (b) If the department determines that it is appropriate, issue an order
11 to revoke the license, permit or privilege to drive of the person by mailing
12 the order to the person at his last known address.

13 5. If a person to whom a test is given pursuant to NRS 484.382 or
14 484.383 is not present when a peace officer receives the result of the test
15 and the test indicates that the person has a concentration of alcohol of
16 0.10 or more in his blood or breath or a detectable amount of a
17 prohibited substance in his blood or urine, the peace officer shall
18 transmit to the department a copy of the result of the test and the written
19 certificate which the peace officer is required to prepare pursuant to
20 subsection 1. Upon receiving a copy of the result of the test and the
21 written certificate transmitted by the peace officer pursuant to this
22 subsection, the department shall:

23 (a) Review the result of the test and the written certificate; and

24 (b) If the department determines that it is appropriate, issue an order
25 to revoke the license, permit or privilege to drive of the person by mailing
26 the order to the person at his last known address.

27 6. An order for revocation issued by the department pursuant to
28 subsection 4 or 5 must:

29 (a) Explain the grounds for the revocation;

30 (b) Indicate the period during which the person is not eligible for a
31 license, permit or privilege to drive;

32 (c) Require the person to transmit to the department any license or
33 permit held by the person; and

34 (d) Explain that the person has a right to administrative and judicial
35 review of the revocation.

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

