

ASSEMBLY BILL NO. 7—ASSEMBLYMAN MANENDO

PREFILED JANUARY 27, 2003

Referred to Concurrent Committees on Judiciary
and Ways and Means

SUMMARY—Reduces concentration of alcohol that may be present in blood or breath of person while operating vehicle or vessel. (BDR 43-17)

FISCAL NOTE: Effect on Local Government: Yes.
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 driving under the influence of alcohol or a controlled substance; reducing the concentration of alcohol that may be present in the blood or breath of a person while operating a vehicle or vessel; providing for the prospective expiration of such reduced concentration of alcohol upon the repeal of certain federal laws; 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 483.045 is hereby amended to read as follows:
2 483.045 The phrase “concentration of alcohol of 0.02 or more
3 but less than ~~{0.10}~~ ***0.08*** in his blood or breath” means 0.02 gram or
4 more but less than ~~{0.10}~~ ***0.08*** gram of alcohol per 100 milliliters of
5 the blood of a person or per 210 liters of his breath.
6 **Sec. 2.** NRS 483.461 is hereby amended to read as follows:
7 483.461 1. If the result of a test given pursuant to NRS
8 484.382 or 484.383 shows that a person less than 21 years of age
9 had a concentration of alcohol of 0.02 or more but less than ~~{0.10}~~
10 ***0.08*** in his blood or breath at the time of the test, his license, permit
11 or privilege to drive must be suspended for a period of 90 days.
12 2. If a revocation or suspension of a person’s license, permit or
13 privilege to drive for a violation of NRS 62.227, 484.379 or



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1 484.3795 follows a suspension ordered pursuant to subsection 1, the
2 Department shall:

- 3 (a) Cancel the suspension ordered pursuant to subsection 1; and
4 (b) Give the person credit toward the period of revocation or
5 suspension ordered pursuant to NRS 62.227, 484.379 or 484.3795,
6 whichever is applicable, for any period during which the person's
7 license, permit or privilege to drive was suspended pursuant to
8 subsection 1.

9 3. This section does not preclude:

10 (a) The prosecution of a person for a violation of any other
11 provision of law; or

12 (b) The suspension or revocation of a person's license, permit or
13 privilege to drive pursuant to any other provision of law.

14 **Sec. 3.** NRS 483.462 is hereby amended to read as follows:

15 483.462 1. A peace officer who has received the result of a
16 test given pursuant to NRS 484.382 or 484.383 which indicates that
17 a person less than 21 years of age to whom the test was given had a
18 concentration of alcohol of 0.02 or more but less than ~~0.10~~ 0.08 in
19 his blood or breath shall prepare a written certificate indicating
20 whether the peace officer:

21 (a) Had reasonable grounds to believe that the person was
22 driving under the influence of alcohol;

23 (b) Served an order of suspension on the person pursuant to
24 subsection 2; and

25 (c) Issued the person a temporary license pursuant to
26 subsection 2.

27 2. If a person less than 21 years of age to whom a test is given
28 pursuant to NRS 484.382 or 484.383 is present when a peace officer
29 receives the result of the test and the test indicates that the person
30 has a concentration of alcohol of 0.02 or more but less than ~~0.10~~
31 0.08 in his blood or breath, the peace officer shall:

32 (a) Serve an order of suspension of the license, permit or
33 privilege;

34 (b) Seize any license or permit of the person;

35 (c) Advise the person of his right to:

36 (1) Administrative and judicial review of the suspension; and

37 (2) Have a temporary license;

38 (d) If the person requests a temporary license, issue the person a
39 temporary license on a form approved by the Department which
40 becomes effective 24 hours after he receives the temporary license
41 and expires 120 hours after it becomes effective; and

42 (e) Transmit to the Department:

43 (1) Any license or permit seized pursuant to paragraph (b);

44 and



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

3 3. If a person less than 21 years of age to whom a test is given
4 pursuant to NRS 484.382 or 484.383 is not present when a peace
5 officer receives the result of the test and the test indicates that the
6 person has a concentration of alcohol of 0.02 or more but less than
7 ~~0.10~~ 0.08 in his blood or breath, the peace officer shall transmit to
8 the Department a copy of the result of the test and the written
9 certificate which the peace officer is required to prepare pursuant to
10 subsection 1.

11 4. The Department, upon receiving a copy of the result of the
12 test and the written certificate transmitted by the peace officer
13 pursuant to subsection 3, shall:

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

15 (b) If the Department determines that it is appropriate, issue an
16 order to suspend the license, permit or privilege to drive of the
17 person by mailing the order to the person at his last known address.

18 5. An order for suspension issued by the Department pursuant
19 to subsection 4 must:

20 (a) Explain the grounds for the suspension;

21 (b) Indicate the period of the suspension;

22 (c) Require the person to transmit to the Department any license
23 or permit held by the person; and

24 (d) Explain that the person has a right to administrative and
25 judicial review of the suspension.

26 6. An order for suspension issued by the Department pursuant
27 to subsection 4 is presumed to have been received by the person 5
28 days after the order is deposited, postage prepaid, in the United
29 States mail by the Department. The date of mailing of the order may
30 be shown by a certificate that is prepared by an officer or employee
31 of the Department specifying the date of mailing.

32 **Sec. 4.** NRS 483.463 is hereby amended to read as follows:

33 483.463 1. At any time during which the license, permit or
34 privilege to drive is suspended pursuant to NRS 483.462, the person
35 may request in writing a hearing by the Department to review the
36 order of suspension. A person is entitled to only one administrative
37 hearing pursuant to this section.

38 2. Unless the parties agree otherwise, the hearing must be
39 conducted within 15 days after receipt of the request or as soon
40 thereafter as is practicable in the county in which the requester
41 resides.

42 3. The Director or his agent may:

43 (a) Issue subpoenas for:

44 (1) The attendance of witnesses at the hearing; and

45 (2) The production of relevant books and papers; and



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- 1 (b) Require a reexamination of the requester.
2 4. The scope of the hearing must be limited to the issues of
3 whether the person, at the time of the test:
4 (a) Was less than 21 years of age; and
5 (b) Had a concentration of alcohol of 0.02 or more but less than
6 ~~0.10~~ 0.08 in his blood or breath.
7 5. The Department shall issue the person a temporary license
8 for a period that is sufficient to complete the administrative hearing.
9 6. Upon an affirmative finding on the issues listed in
10 subsection 4, the Department shall affirm the order of suspension.
11 Otherwise, the order of suspension must be rescinded.
12 7. If the order of suspension is affirmed by the Department, the
13 person is entitled to judicial review of the issues listed in subsection
14 4 in the manner provided in chapter 233B of NRS.
15 8. The court shall notify the Department upon issuing a stay.
16 Upon receiving such notice, the Department shall issue an additional
17 temporary license for a period that is sufficient to complete the
18 judicial review.
19 9. The hearing officer or the court shall notify the Department
20 if the hearing officer grants a continuance of the administrative
21 hearing or the court grants a continuance after issuing a stay of the
22 suspension. Upon receiving such notice, the Department shall cancel
23 any temporary license granted pursuant to this section and notify the
24 holder by mailing an order of cancellation to the last known address
25 of the holder.
26 **Sec. 5.** NRS 484.038 is hereby amended to read as follows:
27 484.038 The phrase "concentration of alcohol of ~~0.10~~ 0.08 or
28 more in his blood or breath" means ~~0.10~~ 0.08 gram or more of
29 alcohol per 100 milliliters of the blood of a person or per 210 liters
30 of his breath.
31 **Sec. 6.** NRS 484.379 is hereby amended to read as follows:
32 484.379 1. It is unlawful for any person who:
33 (a) Is under the influence of intoxicating liquor;
34 (b) Has a concentration of alcohol of ~~0.10~~ 0.08 or more in his
35 blood or breath; or
36 (c) Is found by measurement within 2 hours after driving or
37 being in actual physical control of a vehicle to have a concentration
38 of alcohol of ~~0.10~~ 0.08 or more in his blood or breath,
39 to drive or be in actual physical control of a vehicle on a highway or
40 on premises to which the public has access.
41 2. It is unlawful for any person who:
42 (a) Is under the influence of a controlled substance;
43 (b) Is under the combined influence of intoxicating liquor and a
44 controlled substance; or



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1 (c) Inhales, ingests, applies or otherwise uses any chemical,
2 poison or organic solvent, or any compound or combination of any
3 of these, to a degree which renders him incapable of safely driving
4 or exercising actual physical control of a vehicle,
5 to drive or be in actual physical control of a vehicle on a highway or
6 on premises to which the public has access. The fact that any person
7 charged with a violation of this subsection is or has been entitled to
8 use that drug under the laws of this state is not a defense against any
9 charge of violating this subsection.

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

14 Prohibited substance	15 Urine	16 Blood
17	Nanograms per	Nanograms
18	milliliter	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
33 evidence, it is an affirmative defense under paragraph (c) of
34 subsection 1 that the defendant consumed a sufficient quantity of
35 alcohol after driving or being in actual physical control of the
36 vehicle, and before his blood or breath was tested, to cause him to
37 have a concentration of alcohol of ~~0.10~~ 0.08 or more in his blood
38 or breath. A defendant who intends to offer this defense at a trial or
39 preliminary hearing must, not less than 14 days before the trial or
40 hearing or at such other time as the court may direct, file and serve
41 on the prosecuting attorney a written notice of that intent.

42 **Sec. 7.** NRS 484.3795 is hereby amended to read as follows:

43 484.3795 1. A person who:

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



1 (b) Has a concentration of alcohol of ~~0.10~~ 0.08 or more in his
2 blood or breath;

3 (c) Is found by measurement within 2 hours after driving or
4 being in actual physical control of a vehicle to have a concentration
5 of alcohol of ~~0.10~~ 0.08 or more in his blood or breath;

6 (d) Is under the influence of a controlled substance or is under
7 the combined influence of intoxicating liquor and a controlled
8 substance;

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

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

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

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

35 3. If consumption is proven by a preponderance of the
36 evidence, it is an affirmative defense under paragraph (c) of
37 subsection 1 that the defendant consumed a sufficient quantity of
38 alcohol after driving or being in actual physical control of the
39 vehicle, and before his blood or breath was tested, to cause him to
40 have a concentration of alcohol of ~~0.10~~ 0.08 or more in his blood
41 or breath. A defendant who intends to offer this defense at a trial or
42 preliminary hearing must, not less than 14 days before the trial or
43 hearing or at such other time as the court may direct, file and serve
44 on the prosecuting attorney a written notice of that intent.



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

5 **Sec. 8.** NRS 484.384 is hereby amended to read as follows:

6 484.384 1. If the result of a test given under NRS 484.382 or
7 484.383 shows that a person had a concentration of alcohol of ~~0.10~~
8 0.08 or more in his blood or breath at the time of the test, his
9 license, permit or privilege to drive must be revoked as provided in
10 NRS 484.385 and he is not eligible for a license, permit or privilege
11 for a period of 90 days.

12 2. If a revocation of a person's license, permit or privilege to
13 drive under NRS 62.227 or 483.460 follows a revocation under
14 subsection 1 which was based on his having a concentration of
15 alcohol of ~~0.10~~ 0.08 or more in his blood or breath, the
16 Department shall cancel the revocation under that subsection and
17 give the person credit for any period during which he was not
18 eligible for a license, permit or privilege.

19 3. Periods of ineligibility for a license, permit or privilege to
20 drive which are imposed pursuant to this section must run
21 consecutively.

22 **Sec. 9.** NRS 484.385 is hereby amended to read as follows:

23 484.385 1. As agent for the Department, the officer who
24 obtained the result of a test given pursuant to NRS 484.382 or
25 484.383 shall immediately serve an order of revocation of the
26 license, permit or privilege to drive on a person who has a
27 concentration of alcohol of ~~0.10~~ 0.08 or more in his blood or
28 breath or has a detectable amount of a prohibited substance in his
29 blood or urine, if that person is present, and shall seize his license or
30 permit to drive. The officer shall then advise him of his right to
31 administrative and judicial review of the revocation and to have a
32 temporary license, and shall issue him a temporary license on a form
33 approved by the Department if he requests one, which is effective
34 for only 7 days including the date of issuance. The officer shall
35 immediately transmit the person's license or permit to the
36 Department along with the written certificate required by
37 subsection 2.

38 2. When a police officer has served an order of revocation of a
39 driver's license, permit or privilege on a person pursuant to
40 subsection 1, or later receives the result of an evidentiary test which
41 indicates that a person, not then present, had a concentration of
42 alcohol of ~~0.10~~ 0.08 or more in his blood or breath or had a
43 detectable amount of a prohibited substance in his blood or urine,
44 the officer shall immediately prepare and transmit to the
45 Department, together with the seized license or permit and a copy of



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1 the result of the test, a written certificate that he had reasonable
2 grounds to believe that the person had been driving or in actual
3 physical control of a vehicle with a concentration of alcohol of
4 ~~{0.10}~~ 0.08 or more in his blood or breath or with a detectable
5 amount of a prohibited substance in his blood or urine, as
6 determined by a chemical test. The certificate must also indicate
7 whether the officer served an order of revocation on the person and
8 whether he issued the person a temporary license.

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

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

29 **Sec. 10.** NRS 484.387 is hereby amended to read as follows:

30 484.387 1. At any time while a person is not eligible for a
31 license, permit or privilege to drive following an order of revocation
32 issued pursuant to NRS 484.385, he may request in writing a
33 hearing by the Department to review the order of revocation, but he
34 is only entitled to one hearing. The hearing must be conducted
35 within 15 days after receipt of the request, or as soon thereafter as is
36 practicable, in the county where the requester resides unless the
37 parties agree otherwise. The Director or his agent may issue
38 subpoenas for the attendance of witnesses and the production of
39 relevant books and papers and may require a reexamination of the
40 requester. The Department shall issue an additional temporary
41 license for a period which is sufficient to complete the
42 administrative review.

43 2. The scope of the hearing must be limited to the issue of
44 whether the person, at the time of the test, had a concentration of
45 alcohol of ~~{0.10}~~ 0.08 or more in his blood or breath or a detectable



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1 amount of a prohibited substance in his blood or urine. Upon an
2 affirmative finding on this issue, the Department shall affirm the
3 order of revocation. Otherwise, the order of revocation must be
4 rescinded.

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

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

18 **Sec. 11.** NRS 488.405 is hereby amended to read as follows:

19 488.405 As used in NRS 488.410 and 488.420, the phrase
20 "concentration of alcohol of ~~0.10~~ 0.08 or more in his blood or
21 breath" means ~~0.10~~ 0.08 gram or more per 100 milliliters of the
22 blood of a person or per 210 liters of his breath.

23 **Sec. 12.** NRS 488.410 is hereby amended to read as follows:

24 488.410 1. It is unlawful for any person who:

- 25 (a) Is under the influence of intoxicating liquor;
26 (b) Has a concentration of alcohol of ~~0.10~~ 0.08 or more in his
27 blood or breath; or
28 (c) Is found by measurement within 2 hours after operating or
29 being in actual physical control of a vessel to have a concentration
30 of alcohol of ~~0.10~~ 0.08 or more in his blood or breath,
31 to operate or be in actual physical control of a vessel under power or
32 sail on the waters of this state.

33 2. It is unlawful for any person who:

- 34 (a) Is under the influence of a controlled substance;
35 (b) Is under the combined influence of intoxicating liquor and a
36 controlled substance; or
37 (c) Inhales, ingests, applies or otherwise uses any chemical,
38 poison or organic solvent, or any compound or combination of any
39 of these, to a degree which renders him incapable of safely
40 operating or exercising actual physical control of a vessel under
41 power or sail,
42 to operate or be in actual physical control of a vessel under power or
43 sail on the waters of this state.

44 3. It is unlawful for any person to operate or be in actual
45 physical control of a vessel under power or sail on the waters of this



1 state with an amount of a prohibited substance in his blood or urine
2 that is equal to or greater than:

3	Prohibited substance	Urine	Blood
4		Nanograms per	Nanograms per
5		milliliter	milliliter
6			
7			
8	(a) Amphetamine	500	100
9	(b) Cocaine	150	50
10	(c) Cocaine metabolite	150	50
11	(d) Heroin	2,000	50
12	(e) Heroin metabolite:		
13	(1) Morphine	2,000	50
14	(2) 6-monoacetyl morphine	10	10
15	(f) Lysergic acid diethylamide	25	10
16	(g) Marijuana	10	2
17	(h) Marijuana metabolite	15	5
18	(i) Methamphetamine	500	100
19	(j) Phencyclidine	25	10
20			

21 4. If consumption is proven by a preponderance of the
22 evidence, it is an affirmative defense under paragraph (c) of
23 subsection 1 that the defendant consumed a sufficient quantity of
24 alcohol after operating or being in actual physical control of the
25 vessel, and before his blood was tested, to cause him to have a
26 concentration of ~~0.10~~ 0.08 or more of alcohol in his blood
27 or breath. A defendant who intends to offer this defense at a trial or
28 preliminary hearing must, not less than 14 days before the trial or
29 hearing or at such other time as the court may direct, file and serve
30 on the prosecuting attorney a written notice of that intent.

31 **Sec. 13.** NRS 488.420 is hereby amended to read as follows:

32 488.420 1. A person who:

- 33 (a) Is under the influence of intoxicating liquor;
34 (b) Has a concentration of alcohol of ~~0.10~~ 0.08 or more in his
35 blood or breath;
36 (c) Is found by measurement within 2 hours after operating or
37 being in actual physical control of a vessel under power or sail to
38 have a concentration of alcohol of ~~0.10~~ 0.08 or more in his blood
39 or breath;
40 (d) Is under the influence of a controlled substance or is under
41 the combined influence of intoxicating liquor and a controlled
42 substance;
43 (e) Inhales, ingests, applies or otherwise uses any chemical,
44 poison or organic solvent, or any compound or combination of any
45 of these, to a degree which renders him incapable of safely



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1 operating or being in actual physical control of a vessel under power
2 or sail; or

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

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

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

25 3. If consumption is proven by a preponderance of the
26 evidence, it is an affirmative defense under paragraph (c) of
27 subsection 1 that the defendant consumed a sufficient quantity of
28 alcohol after operating or being in actual physical control of the
29 vessel under power or sail, and before his blood was tested, to cause
30 him to have a concentration of alcohol of ~~0.10~~ 0.08 or more in his
31 blood or breath. A defendant who intends to offer this defense at a
32 trial or preliminary hearing must, not less than 14 days before the
33 trial or hearing or at such other time as the court may direct, file and
34 serve on the prosecuting attorney a written notice of that intent.

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

38 **Sec. 14.** NRS 202.257 is hereby amended to read as follows:

39 202.257 1. It is unlawful for a person who:

40 (a) Has a concentration of alcohol of 0.10 or more in his blood
41 or breath; or

42 (b) Is under the influence of any controlled substance, or is
43 under the combined influence of intoxicating liquor and a controlled
44 substance, or any person who inhales, ingests, applies or otherwise
45 uses any chemical, poison or organic solvent, or any compound or



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1 combination of any of these, to a degree which renders him
2 incapable of safely exercising actual physical control of a
3 firearm,
4 to have in his actual physical possession any firearm. This
5 prohibition does not apply to the actual physical possession of a
6 firearm by a person who was within his personal residence and had
7 the firearm in his possession solely for self-defense.

8 2. Any evidentiary test to determine whether a person has
9 violated the provisions of subsection 1 must be administered in the
10 same manner as an evidentiary test that is administered pursuant to
11 NRS 484.383 to 484.3947, inclusive, except that submission to the
12 evidentiary test is required of any person who is directed by a police
13 officer to submit to the test. If a person to be tested fails to submit to
14 a required test as directed by a police officer, the officer may direct
15 that reasonable force be used to the extent necessary to obtain the
16 samples of blood from the person to be tested, if the officer has
17 reasonable cause to believe that the person to be tested was in
18 violation of this section.

19 3. Any person who violates the provisions of subsection 1 is
20 guilty of a misdemeanor.

21 4. A firearm is subject to forfeiture pursuant to NRS 179.1156
22 to 179.119, inclusive, only if, during the violation of subsection 1,
23 the firearm is brandished, aimed or otherwise handled by the person
24 in a manner which endangered others.

25 5. As used in this section, the phrase “concentration of alcohol
26 of 0.10 or more in his blood or breath” ~~has the meaning ascribed to~~
27 ~~it in NRS 484.038.~~ *means 0.10 gram or more of alcohol per 100*
28 *milliliters of the blood of a person or per 210 liters of his breath.*

29 **Sec. 15.** This act becomes effective on September 23, 2003,
30 and expires by limitation on the date of the repeal of the federal law
31 requiring each state to make it unlawful for a person to operate a
32 motor vehicle with a blood alcohol concentration of 0.08 percent or
33 greater as a condition to receiving federal funding for the
34 construction of highways in this state.

