

ASSEMBLY BILL NO. 578—COMMITTEE ON JUDICIARY

JUNE 6, 2005

Referred to Committee on Judiciary

SUMMARY—Makes technical corrections to certain legislative measures. (BDR S-1493)

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 statutes; making technical corrections to certain legislative measures; 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. Section 3 of Assembly Bill No. 203 of this session is hereby amended to read as follows:

Sec. 3. The Board may delegate its authority to conduct a hearing concerning the discipline of a licensee pursuant to ~~[NRS 633.621]~~ *sections 2 to 41, inclusive, of Senate Bill No. 276 of this session* to:

1. A person; or

2. A group of such members of the Board as the President of the Board may designate from time to time, which group must consist of not less than three members of the Board, at least one of whom was appointed to the Board pursuant to subsection 2 or 3 of NRS 633.191.

Sec. 2. Section 3.5 of Assembly Bill No. 203 of this session is hereby amended to read as follows:

Sec. 3.5. A hearing officer or panel has *all* the powers ~~[of the Board in connection with]~~ *that are necessary to conduct* a hearing ~~[conducted]~~ *concerning the discipline of a licensee* pursuant to ~~[NRS 633.621, and shall report to the Board with findings of fact and conclusions of law within 30~~



~~days after the final hearing on the matter. The Board may take action based upon the report of the hearing officer or panel, refer the matter to the hearing officer or panel for further hearings or conduct its own hearings on the matter.] sections 2 to 41, inclusive, of Senate Bill No. 276 of this session.~~

Sec. 3. Assembly Bill No. 334 of this session is hereby amended by adding thereto a new section to be designated as sec. 7.5, immediately following sec.7, to read as follows:

Sec. 7.5. 1. A person who suffers an injury as the proximate result of a violation of section 24 of Senate Bill No. 347 of this session may commence an action for damages against the data collector who committed the violation.

2. A person who prevails in such an action may be awarded the amount of his actual damages, costs and reasonable attorney's fees and, if the violation of section 24 of Senate Bill No. 347 of this session was willful or intentional, punitive damages in an amount warranted by the facts. An award pursuant to this section is subject to any applicable limitations set forth in NRS 41.0305 to 41.039, inclusive.

3. An action described in this section must be commenced not later than 2 years after the person who suffered the injury discovers the facts constituting the violation of section 24 of Senate Bill No. 347 of this session.

Sec. 4. Section 8 of Assembly Bill No. 334 of this session is hereby amended to read as follows:

Sec. 8. 1. This section and section 7.5 of this act become effective on January 1, 2006.

2. Sections 2, 3, 5 and 7 of this act [becomes] become effective on January 1, 2007.

Sec. 5. Section 29 of Assembly Bill No. 384 of this session is hereby amended to read as follows:

Sec. 29. 1. A person, including, without limitation, a person licensed pursuant to chapter 675 of NRS, shall not operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service unless the person is licensed with the Commissioner pursuant to the provisions of this chapter.

2. A person must have a license regardless of the location or method that the person uses to operate such a service, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the



1 *person shall not operate such a service through any*
2 *automated loan machine in violation of the provisions of*
3 *subsection 3.*

4 *3. A person shall not operate a deferred deposit loan*
5 *service or short-term loan service through any automated*
6 *loan machine, and the Commissioner shall not issue a*
7 *license that authorizes the licensee to conduct business*
8 *through any automated loan machine.*

9 *4. Any person, and any member, officer, director, agent*
10 *or employee thereof, who violates or participates in the*
11 *violation of any provision of this section is guilty of a*
12 *misdemeanor.*

13 **Sec. 6.** Section 49 of Assembly Bill No. 384 of this session is
14 hereby amended to read as follows:

15 Sec. 49. *1. Except as otherwise provided in section*
16 *50 of this act, each application for a license pursuant to the*
17 *provisions of this chapter must be accompanied by a surety*
18 *bond payable to the State of Nevada in the amount of*
19 *\$50,000 plus an additional \$5,000 for each branch location*
20 *at which the applicant proposes to do business under the*
21 *license. Thereafter, each licensee shall maintain the surety*
22 *bond so that the amount of the surety bond is \$50,000 plus*
23 *an additional \$5,000 for each branch location at which the*
24 *licensee does business under the license. The surety bond*
25 *required by this section is for the use and benefit of any*
26 *customer receiving the services of the licensee at any*
27 *location at which the licensee does business under the*
28 *license.*

29 *2. Each bond must be in a form satisfactory to the*
30 *Commissioner, issued by a bonding company authorized to*
31 *do business in this State and must secure the faithful*
32 *performance of the obligations of the licensee respecting the*
33 *provision of the services.*

34 *3. A licensee shall, within 10 days after the*
35 *commencement of any action or notice of entry of any*
36 *judgment against him by any creditor or claimant arising*
37 *out of business regulated by this chapter give notice thereof*
38 *to the Commissioner by certified mail with details sufficient*
39 *to identify the action or judgment. The surety shall, within*
40 *10 days after it pays any claim or judgment to a creditor or*
41 *claimant, give notice thereof to the Commissioner by*
42 *certified mail with details sufficient to identify the creditor*
43 *or claimant and the claim or judgment so paid.*



1 4. *Whenever the principal sum of any bond is reduced*
2 *by recoveries or payments thereon, the licensee shall*
3 *furnish:*

4 (a) *A new or additional bond so that the total or*
5 *aggregate principal sum of the bonds equals the sum*
6 *required pursuant to subsection 1; or*

7 (b) *An endorsement, duly executed by the surety,*
8 *reinstating the bond to the required principal sum.*

9 5. *The liability of the surety on a bond to a creditor or*
10 *claimant is not affected by any misrepresentation, breach of*
11 *warranty, failure to pay a premium or other act or omission*
12 *of the licensee, or by any insolvency or bankruptcy of the*
13 *licensee.*

14 6. *The liability of the surety continues as to all*
15 *transactions entered into in good faith by the creditors and*
16 *claimants with the agents of the licensee within 30 days*
17 *after:*

18 (a) *The death of the licensee or the dissolution or*
19 *liquidation of his business; or*

20 (b) *The termination of the bond,*
21 *↪ whichever event occurs first.*

22 7. *A licensee or his surety shall not cancel or alter a*
23 *bond except after notice to the Commissioner by certified*
24 *mail. The cancellation or alteration is not effective until 10*
25 *days after receipt of the notice by the Commissioner. A*
26 *cancellation or alteration does not affect any liability*
27 *incurred or accrued on the bond before the expiration of the*
28 *30-day period designated in subsection 6.*

29 **Sec. 7.** *Section 50 of Assembly Bill No. 384 of this session is*
30 *hereby amended to read as follows:*

31 Sec. 50. *1. In lieu of any surety bond, or any portion*
32 *of the principal sum thereof as required pursuant to the*
33 *provisions of this chapter, a licensee may deposit with the*
34 *State Treasurer or with any bank, credit union or trust*
35 *company authorized to do business in this State as the*
36 *licensee may select, with the approval of the Commissioner:*

37 (a) *Interest-bearing stocks;*

38 (b) *Bills, bonds, notes, debentures or other obligations*
39 *of the United States or any agency or instrumentality*
40 *thereof, or guaranteed by the United States; or*

41 (c) *Any obligation of this State or any city, county, town,*
42 *township, school district or other instrumentality of this*
43 *State or guaranteed by this State,*



1 ↪ in an aggregate amount of, based upon principal amount
2 or market value, whichever is lower, of not less than the
3 amount of any required surety bond or portion thereof.

4 2. The securities must be held to secure the same
5 obligation as would any surety bond, but the depositor may
6 receive any interest or dividends and, with the approval of
7 the Commissioner, substitute other suitable securities for
8 those deposited.

9 **Sec. 8.** Section 53.5 of Assembly Bill No. 384 of this session
10 is hereby amended to read as follows:

11 Sec. 53.5. 1. In addition to any other requirements
12 set forth in this chapter, each applicant must submit:

13 (a) Proof satisfactory to the Commissioner that the
14 applicant:

15 (1) Has a good reputation for honesty,
16 trustworthiness and integrity and is competent to transact
17 the business for which the applicant seeks to be licensed in
18 a manner which protects the interests of the general public.

19 (2) Has not made a false statement of material fact
20 on the application for the license.

21 (3) Has not committed any of the acts specified in
22 subsection 2.

23 (4) Has not had a license issued pursuant to this
24 chapter suspended or revoked within the 10 years
25 immediately preceding the date of the application.

26 (5) Has not been convicted of, or entered a plea of
27 *nolo contendere* to, a felony or any crime involving fraud,
28 misrepresentation or moral turpitude.

29 (6) If the applicant is a natural person:

30 (I) Is at least 21 years of age; and

31 (II) Is a citizen of the United States or lawfully
32 entitled to remain and work in the United States.

33 (b) A complete set of his fingerprints and written
34 permission authorizing the Division of Financial
35 Institutions of the Department of Business and Industry to
36 forward the fingerprints to the Central Repository for
37 Nevada Records of Criminal History for submission to the
38 Federal Bureau of Investigation for its report.

39 2. In addition to any other lawful reasons, the
40 Commissioner may refuse to issue a license to an applicant
41 if the applicant:

42 (a) Has committed or participated in any act which, if
43 committed or done by a holder of a license, would be
44 grounds for the suspension or revocation of the license.



1 (b) *Has previously been refused a license pursuant to*
2 *this chapter or has had such a license suspended or*
3 *revoked.*

4 (c) *Has participated in any act which was a basis for the*
5 *refusal or revocation of a license pursuant to this chapter.*

6 (d) *Has falsified any of the information submitted to the*
7 *Commissioner in support of the application for the license.*

8 **Sec. 9.** Section 55 of Assembly Bill No. 384 of this session is
9 hereby amended to read as follows:

10 Sec. 55. 1. *A license issued pursuant to the*
11 *provisions of this chapter expires annually on the*
12 *anniversary of the issuance of the license. A licensee must*
13 *renew his license on or before the date on which the license*
14 *expires by paying:*

15 (a) *A renewal fee of not more than \$500; and*

16 (b) *An additional fee of not more than \$100 for each*
17 *branch location at which the licensee is authorized to*
18 *operate under the license.*

19 2. *A licensee who fails to renew his license within the*
20 *time required by this section is not licensed pursuant to the*
21 *provisions of this chapter.*

22 3. *The Commissioner may reinstate an expired license*
23 *upon receipt of the renewal fee and a fee for reinstatement.*

24 4. *The Commissioner shall adopt regulations*
25 *establishing the amount of the fees required pursuant to this*
26 *section.*

27 **Sec. 10.** Section 65 of Assembly Bill No. 384 of this session is
28 hereby amended to read as follows:

29 Sec. 65. 1. *The Commissioner shall charge and*
30 *collect from each licensee a fee of not more than \$80 per*
31 *hour for any supervision, audit, examination, investigation*
32 *or hearing conducted pursuant to this chapter or any*
33 *regulations adopted pursuant thereto.*

34 2. *The Commissioner shall bill each licensee upon the*
35 *completion of the activity for the fee required pursuant to*
36 *subsection 1. The licensee shall pay the fee within 30 days*
37 *after the date the bill is received. Except as otherwise*
38 *provided in this subsection, any payment received after the*
39 *date due must include a penalty of 10 percent of the fee plus*
40 *an additional 1 percent of the fee for each month, or portion*
41 *of a month, that the fee is not paid. The Commissioner may*
42 *waive the penalty for good cause.*

43 3. *The failure of a licensee to pay the fee required*
44 *pursuant to subsection 1 as provided in this section*



1 *constitutes grounds for revocation of the license of the*
2 *licensee.*

3 *4. The Commissioner shall adopt regulations*
4 *establishing the amount of the fee required pursuant to this*
5 *section.*

6 **Sec. 11.** Section 68 of Assembly Bill No. 384 of this session is
7 hereby amended to read as follows:

8 Sec. 68. *1. If the Commissioner has reason to believe*
9 *that grounds for revocation or suspension of a license exist,*
10 *he shall give 20 days' written notice to the licensee stating*
11 *the contemplated action and, in general, the grounds*
12 *therefor and set a date for a hearing.*

13 *2. At the conclusion of a hearing, the Commissioner*
14 *shall:*

15 *(a) Enter a written order either dismissing the charges,*
16 *revoking the license or suspending the license for a period*
17 *of not more than 60 days, which period must include any*
18 *prior temporary suspension. The Commissioner shall send a*
19 *copy of the order to the licensee by registered or certified*
20 *mail.*

21 *(b) Impose upon the licensee an administrative fine of*
22 *\$10,000 for each violation by the licensee of any provision*
23 *of this chapter or any regulation adopted pursuant thereto.*

24 *(c) If a fine is imposed pursuant to this section, enter*
25 *such order as is necessary to recover the costs of the*
26 *proceeding, including his investigative costs and attorney's*
27 *fees.*

28 *3. The grounds for revocation or suspension of a*
29 *license are that:*

30 *(a) The licensee has failed to pay the annual license fee;*

31 *(b) The licensee, either knowingly or without any*
32 *exercise of due care to prevent it, has violated any provision*
33 *of this chapter or any lawful regulation adopted pursuant*
34 *thereto;*

35 *(c) The licensee has failed to pay a tax as required*
36 *pursuant to the provisions of chapter 363A of NRS;*

37 *(d) Any fact or condition exists which would have*
38 *justified the Commissioner in denying the licensee's*
39 *original application for a license pursuant to the provisions*
40 *of this chapter; or*

41 *(e) The licensee:*

42 *(1) Failed to open an office for the conduct of the*
43 *business authorized by his license within 180 days after the*
44 *date his license was issued; or*



1 (2) *Has failed to remain open for the conduct of the*
2 *business for a period of 180 days without good cause*
3 *therefor.*

4 4. *Any revocation or suspension applies only to the*
5 *license granted to a person for the particular office for*
6 *which grounds for revocation or suspension exist.*

7 5. *An order suspending or revoking a license becomes*
8 *effective 5 days after being entered unless the order*
9 *specifies otherwise or a stay is granted.*

10 **Sec. 12.** Assembly Bill No. 384 of this session is hereby
11 amended by adding thereto a new section to be designated as sec.
12 71.5, immediately following sec. 71, to read as follows:

13 Sec. 71.5. 1. *If a licensee fails to submit any report*
14 *required pursuant to this chapter or any regulation adopted*
15 *pursuant thereto within the prescribed period, the*
16 *Commissioner may impose and collect a fee of not more*
17 *than \$10 for each day the report is overdue.*

18 2. *The Commissioner shall adopt regulations*
19 *establishing the amount of the fee that may be imposed*
20 *pursuant to this section.*

21 **Sec. 13.** Section 73.5 of Assembly Bill No. 384 of this session
22 is hereby amended to read as follows:

23 Sec. 73.5. *In addition to any other remedy or penalty,*
24 *the Commissioner may impose an administrative fine of not*
25 *more than \$50,000 upon a person who, without a license,*
26 *conducts any business or activity for which a license is*
27 *required pursuant to the provisions of this chapter.*

28 **Sec. 14.** Assembly Bill No. 384 of this session is hereby
29 amended by adding thereto a new section to be designated as sec.
30 73.7, immediately following sec. 73.5, to read as follows:

31 Sec. 73.7. *If a person operates a check-cashing*
32 *service, deferred deposit loan service, short-term loan*
33 *service or title loan service without obtaining a license*
34 *pursuant to this chapter:*

35 1. *Any contracts entered into by that person for the*
36 *cashing of a check or for a deferred deposit loan, short-term*
37 *loan or title loan are voidable by the other party to the*
38 *contract; and*

39 2. *In addition to any other remedy or penalty, the other*
40 *party to the contract may bring a civil action against the*
41 *person pursuant to section 74 of this act.*



1 **Sec. 15.** Section 3 of Assembly Bill No. 421 of this session is
2 hereby amended to read as follows:

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

5 484.3792 1. Unless a greater penalty is provided
6 pursuant to NRS 484.3795 ~~[6.]~~ or section 10 of ~~[this act,]~~
7 *Assembly Bill No. 256 of this session, and except as*
8 *otherwise provided in subsection 2,* a person who violates the
9 provisions of NRS 484.379:

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

13 (1) Except as otherwise provided in subparagraph (4)
14 or subsection ~~[6.]~~ 7, order him to pay tuition for an
15 educational course on the abuse of alcohol and controlled
16 substances approved by the Department and complete the
17 course within the time specified in the order, and the court
18 shall notify the Department if he fails to complete the course
19 within the specified time;

20 (2) Unless the sentence is reduced pursuant to NRS
21 484.37937, sentence him to imprisonment for not less than 2
22 days nor more than 6 months in jail, or to perform not less
23 than 48 hours, but not more than 96 hours, of community
24 service while dressed in distinctive garb that identifies him as
25 having violated the provisions of NRS 484.379;

26 (3) Fine him not less than \$400 nor more than \$1,000;
27 and

28 (4) If he is found to have a concentration of alcohol of
29 0.18 or more in his blood or breath, order him to attend a
30 program of treatment for the abuse of alcohol or drugs
31 pursuant to the provisions of NRS 484.37945.

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

35 (1) Sentence him to:

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

38 (II) Residential confinement for not less than 10
39 days nor more than 6 months, in the manner provided in NRS
40 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

41 (2) Fine him not less than \$750 nor more than \$1,000,
42 or order him to perform an equivalent number of hours of
43 community service while dressed in distinctive garb that
44 identifies him as having violated the provisions of NRS
45 484.379; and



(3) Order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

↪ A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this ~~[subsection]~~ *paragraph* is guilty of a misdemeanor.

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

2. ~~[An]~~ *Unless a greater penalty is provided in section 10 of Assembly Bill No. 256 of this session, a person who has previously been convicted of:*

(a) A violation of NRS 484.379 that is punishable as a felony pursuant to paragraph (c) of subsection 1;

(b) A violation of NRS 484.3795;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379 or 484.3795 or section 10 of Assembly Bill No. 256 of this session; or

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

↪ *and who violates the provisions of NRS 484.379 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.*

3. *Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section*



1 when evidenced by a conviction, without regard to the
2 sequence of the offenses and convictions. *An offense which*
3 *is listed in paragraphs (a) to (d), inclusive, of subsection 2*
4 *that occurred on any date preceding the date of the*
5 *principal offense or after the principal offense constitutes a*
6 *prior offense for the purposes of this section when*
7 *evidenced by a conviction, without regard for the sequence*
8 *of the offenses and convictions.* The facts concerning a prior
9 offense must be alleged in the complaint, indictment or
10 information, must not be read to the jury or proved at trial but
11 must be proved at the time of sentencing and, if the principal
12 offense is alleged to be a felony, must also be shown at the
13 preliminary examination or presented to the grand jury.

14 ~~[3.]~~ 4. A person convicted of violating the provisions of
15 NRS 484.379 must not be released on probation, and a
16 sentence imposed for violating those provisions must not be
17 suspended except, as provided in NRS 4.373, 5.055,
18 484.37937 and 484.3794, that portion of the sentence
19 imposed that exceeds the mandatory minimum. A prosecuting
20 attorney shall not dismiss a charge of violating the provisions
21 of NRS 484.379 in exchange for a plea of guilty or nolo
22 contendere to a lesser charge or for any other reason unless he
23 knows or it is obvious that the charge is not supported by
24 probable cause or cannot be proved at the time of trial.

25 ~~[4.]~~ 5. A term of confinement imposed pursuant to the
26 provisions of this section may be served intermittently at the
27 discretion of the judge or justice of the peace, except that a
28 person who is convicted of a second or subsequent offense
29 within 7 years must be confined for at least one segment of
30 not less than 48 consecutive hours. This discretion must be
31 exercised after considering all the circumstances surrounding
32 the offense, and the family and employment of the offender,
33 but any sentence of 30 days or less must be served within 6
34 months after the date of conviction or, if the offender was
35 sentenced pursuant to NRS 484.37937 or 484.3794 and the
36 suspension of his sentence was revoked, within 6 months
37 after the date of revocation. Any time for which the offender
38 is confined must consist of not less than 24 consecutive
39 hours.

40 ~~[5.]~~ 6. Jail sentences simultaneously imposed pursuant to
41 this section and NRS 482.456, 483.560 or 485.330 must run
42 consecutively.

43 ~~[6.]~~ 7. If the person who violated the provisions of NRS
44 484.379 possesses a driver's license issued by a state other
45 than the State of Nevada and does not reside in the State of



Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) of subsection 1, the court shall:

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

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

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

~~[7.]~~ 8. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[8.]~~ 9. As used in this section, unless the context otherwise requires:

(a) "Concentration of alcohol of 0.18 or more in his blood or breath" means 0.18 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his breath.

(b) "Offense" means:

(1) A violation of NRS 484.379 or 484.3795;

(2) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379 or 484.3795 or section 10 of ~~[this act.]~~ *Assembly Bill No. 256 of this session*; or

(3) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in subparagraph (1) or (2).

Sec. 16. Section 9 of Assembly Bill No. 421 of this session is hereby amended to read as follows:

Sec. 9. Chapter 488 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Unless a greater penalty is provided pursuant to section 31 of Assembly Bill No. 256 of this session, a person who violates the provisions of NRS 488.410 and who has previously been convicted of a violation of NRS 488.420 or section 31 of Assembly Bill No. 256 of this session or a violation of the law of any other jurisdiction that prohibits



1 *the same or similar conduct as set forth in NRS 488.420 or*
2 *section 31 of Assembly Bill No. 256 of this session is guilty*
3 *of a category B felony and shall be punished by*
4 *imprisonment in the state prison for a minimum term of not*
5 *less than 2 years and a maximum term of not more than 15*
6 *years, and shall be further punished by a fine of not less*
7 *than \$2,000 nor more than \$5,000. An offender so*
8 *imprisoned must, insofar as practicable, be segregated from*
9 *offenders whose crimes were violent and, insofar as*
10 *practicable, be assigned to an institution or facility of*
11 *minimum security.*

12 2. *The facts concerning a prior violation of NRS*
13 *488.420 or section 31 of Assembly Bill No. 256 of this*
14 *session must be alleged in the complaint, indictment or*
15 *information, must not be read to the jury or proved at trial*
16 *but must be proved at the time of sentencing.*

17 3. *A prosecuting attorney shall not dismiss a charge of*
18 *violating the provisions of NRS 488.410 against a person*
19 *previously convicted of violating NRS 488.420 or section 31*
20 *of Assembly Bill No. 256 of this session in exchange for a*
21 *plea of guilty or nolo contendere to a lesser charge or for*
22 *any other reason unless he knows or it is obvious that the*
23 *charge is not supported by probable cause or cannot be*
24 *proved at the time of trial. A sentence imposed pursuant to*
25 *subsection 1 must not be suspended, and probation must not*
26 *be granted.*

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

31 **Sec. 17.** Section 3 of Assembly Bill No. 550 of this session is
32 hereby amended to read as follows:

33 Sec. 3. NRS 484.3943 is hereby amended to read as
34 follows:

35 484.3943 1. Except as otherwise provided in
36 ~~[subsection]~~ *subsections 2 and 5*, a court:

37 (a) May order a person convicted of a first *or second*
38 *violation of NRS 484.379* ~~[]~~ *if the person is found to have*
39 *had a concentration of alcohol of less than 0.18 in his blood*
40 *or breath*, for a period of not less than 3 months nor more
41 than 6 months ~~[; and]~~, *to install at his own expense a device*
42 *in any motor vehicle which he owns or operates as a*
43 *condition to obtaining a restricted license pursuant to NRS*
44 *483.490 or as a condition of reinstatement of his driving*
45 *privilege.*



(b) Shall order a person convicted of ~~fel~~ :

(1) A first or second violation of NRS 484.379 if the person is found to have had a concentration of alcohol of 0.18 or more in his blood or breath;

(2) A third or subsequent violation of NRS 484.379 ~~for~~ ~~fel~~; or

*(3) A violation of NRS 484.3795,
 ➔ for a period of not less than 12 months nor more than 36 months, to install at his own expense a device in any motor vehicle which he owns or operates as a condition to obtaining a restricted license pursuant to ~~subsection 3 of~~ NRS 483.490 ~~fel~~ or as a condition of reinstatement of his driving privilege.*

2. A court may ~~order a person convicted of a violation of NRS 484.379 or 484.3795, for a period determined by the court, to install at his own expense a device in any motor vehicle which he owns or operates as a condition of reinstatement of his driving privilege.~~ provide for an exception to the provisions of subparagraph (1) of paragraph (b) of subsection 1 for a person who is convicted of a first violation of NRS 484.379 to avoid undue hardship to the person if the court determines that:

(a) Requiring the person to install a device in a motor vehicle which the person owns or operates would cause the person to experience an economic hardship; and

(b) The person requires the use of the motor vehicle to:

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

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

(3) Transport himself or another member of his immediate family to or from school.

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

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

(b) The person who is required to install the device shall provide proof of compliance to the Department before he may receive a restricted license or before his driving privilege may be reinstated, as applicable. Each model of a device installed



pursuant to this section must have been certified by the Committee on Testing for Intoxication.

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

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

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

↳ to determine whether the device is operating properly. An inspection required pursuant to this subsection must be conducted in accordance with regulations adopted pursuant to NRS 484.3888. The manufacturer or its agent shall submit a report to the Director indicating whether the device is operating properly and whether it has been tampered with. If the device has been tampered with, the Director shall notify the court that ordered the installation of the device.

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

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

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

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

6. The running of the period during which a person is required to have a device installed pursuant to this section commences when the Department issues a restricted license to him or reinstates his driving privilege and is tolled whenever and for as long as the person is, with regard to a violation of NRS 484.379 or 484.3795 or section 10 of Assembly Bill No. 256 of this session, imprisoned, serving a term of residential confinement, confined in a treatment facility, on parole or on probation.

7. As used in this section:

(a) "Concentration of alcohol of 0.18 or more in his blood or breath" means 0.18 gram or more of alcohol per



1 *100 milliliters of the blood of a person or per 210 liters of*
2 *his breath.*

3 ***(b) "Concentration of alcohol of less than 0.18 in his***
4 ***blood or breath" means less than 0.18 gram of alcohol per***
5 ***100 milliliters of the blood of a person or per 210 liters of***
6 ***his breath.***

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

9 **Sec. 18.** Section 41 of Assembly Bill No. 576 of this session is
10 hereby amended to read as follows:

11 Sec. 41. 1. The sums appropriated to the Legislative
12 Fund by section 10 of this act for the support of the
13 Legislative Commission, the various divisions of the
14 Legislative Counsel Bureau and Interim Legislative
15 Operations are available for both Fiscal Years 2005-2006 and
16 2006-2007, and may be transferred among the Legislative
17 Commission, the various divisions of the Legislative Counsel
18 Bureau and the Interim Legislative Operations and from one
19 fiscal year to another with the approval of the Legislative
20 Commission upon the recommendation of the Director of the
21 Legislative Counsel Bureau. The provisions of chapter 338 of
22 NRS do not apply to projects undertaken pursuant to those
23 appropriations ~~[]~~, ***except that the Legislative Counsel***
24 ***Bureau shall comply with the provisions of NRS 338.010 to***
25 ***338.090, inclusive, for those projects.***

26 2. The sums appropriated for the support of salaries and
27 payroll costs must be applied pursuant to the budget approved
28 by the Legislature notwithstanding the provisions of
29 NRS 281.123.

30 **Sec. 19.** Section 104 of Senate Bill No. 276 of this session is
31 hereby amended to read as follows:

32 Sec. 104. NRS 633.621 is hereby amended to read as
33 follows:

34 633.621 ~~[1.—If a formal complaint is filed with the~~
35 ~~Board pursuant to NRS 633.541, the Secretary of the Board~~
36 ~~or a hearing officer shall fix a time and place for a hearing~~
37 ~~and cause a notice of the hearing and a formal complaint to be~~
38 ~~served on the person charged at least 20 days before the date~~
39 ~~fixed for the hearing. If]~~ ***Notwithstanding the provisions of***
40 ***sections 2 to 41, inclusive, of this act, if the Board receives a***
41 ***[formal complaint concerning] report pursuant to*** subsection
42 5 of NRS 228.420, ***[such a hearing] a disciplinary proceeding***
43 ***regarding the report*** must be ***[held] commenced*** within 30
44 days after ~~[receiving the formal complaint.]~~



~~2. The Board, a hearing officer or panel shall hold the formal hearing on the charges at the time and place designated in the notice of hearing. The President of the Board shall determine whether the hearing will be held before the Board, a hearing officer or panel.]~~ *the Board receives the report.*

Sec. 20. Section 106 of Senate Bill No. 276 of this session is hereby amended to read as follows:

Sec. 106. NRS 633.641 is hereby amended to read as follows:

633.641 ~~[In]~~ *Notwithstanding the provisions of sections 2 to 41, inclusive, of this act, in* any disciplinary proceeding before the Board, a hearing officer or *a* panel:

1. Proof of actual injury need not be established where the formal complaint charges deceptive or unethical professional conduct or medical practice harmful to the public.

2. A certified copy of the record of a court or a licensing agency showing a conviction or the suspension or revocation of a license to practice osteopathic medicine is conclusive evidence of its occurrence.

Sec. 21. Section 109 of Senate Bill No. 276 of this session is hereby amended to read as follows:

Sec. 109. NRS 633.691 is hereby amended to read as follows:

633.691 ~~[The]~~ *In addition to any other immunity provided by the provisions of sections 2 to 41, inclusive, of this act, the* Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, repeated malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 22. Section 115 of Senate Bill No. 431 of this session is hereby amended to read as follows:

Sec. 115. ~~[1. If, on October 1, 2005, a person holds a valid certificate of registration that was issued by the Commissioner of Financial Institutions pursuant to chapter 604 of NRS before October 1, 2005, the person's certificate of registration shall be deemed to be a license issued pursuant to chapter 604 of NRS, as amended by the provisions of this act, until the date of its renewal.]~~



1 ~~—2.~~ The amendatory provisions of section 62 of this act
2 shall apply:

3 ~~{(a)}~~ 1. On October 1, 2008, to any person who has been
4 issued a license pursuant to NRS 649.095 on or before
5 September 30, 2005.

6 ~~{(b)}~~ 2. On October 1, 2005, to any person to whom a
7 license is issued pursuant to NRS 649.095 on or after
8 October 1, 2005.

9 **Sec. 23.** Section 29 of Senate Bill No. 520 of this session is
10 hereby amended to read as follows:

11 Sec. 29. NRS 344.070 is hereby amended to read as
12 follows:

13 344.070 1. The ~~{Superintendent is authorized to}~~ *State*
14 *Printer may* secure copyright under the laws of the United
15 States in all publications issued by the State of Nevada, the
16 copyright to be secured in the name of the State of Nevada.

17 2. All costs and charges incurred in copyrighting such
18 publications ~~{shall}~~ *must* be charged against the State Printing
19 Fund, and ~~{shall}~~ *must* be paid in the same way as other
20 charges are paid by the State.

21 **Sec. 24.** Section 31 of Senate Bill No. 520 of this session is
22 hereby amended to read as follows:

23 Sec. 31. NRS 344.090 is hereby amended to read as
24 follows:

25 344.090 1. The State Printing Fund is created as an
26 internal service fund.

27 2. The State Printing Fund consists of the money
28 appropriated to carry out the provisions of this chapter ~~{}~~ and
29 all money received in the State Printing Fund from any source
30 in payment of all printing, reproduction and binding done in
31 the ~~{Division}.~~

32 ~~—3.—All expenses for the support of the Division, including~~
33 ~~the salary of the Superintendent, must be paid from the State~~
34 ~~Printing Fund.] State Printing Office.~~

35 **Sec. 25.** Sections 1, 4 and 6 of Assembly Bill No. 334 of this
36 session, sections 33, 35, 36, 37, 37.1, 37.2, 37.3, 37.4, 37.5, 37.6,
37 37.7, 37.8, 38, 39, 40, 40.5, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51,
38 52, 52.5, 53 and 54 of Senate Bill No. 431 of this session and
39 section 43 of Senate Bill No. 520 of this session are hereby
40 repealed.

41 **Sec. 26.** 1. This section and sections 3 to 25, inclusive, of
42 this act become effective upon passage and approval.



1 2. Sections 1 and 2 of this act become effective on October 1,
2 2005.



