

SENATE BILL NO. 344—SENATOR CEGAVSKE

MARCH 25, 2005

Referred to Committee on Transportation and Homeland Security

SUMMARY—Establishes crime of driving under extreme influence of alcohol. (BDR 43-339)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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; establishing the crime of driving under the extreme influence of alcohol for a person who drives a motor vehicle or operates a vessel with a concentration of alcohol of 0.18 or more in his blood or breath; providing that a person may not petition the court for sealing the records relating to a conviction of driving under the extreme influence of alcohol; 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:

- 1 **Section 1.** NRS 482.31555 is hereby amended to read as
2 follows:
3 482.31555 A short-term lessor may provide in a lease of a
4 passenger car that a waiver of damages does not apply in the
5 following circumstances:
6 1. Damage or loss resulting from an authorized driver's:
7 (a) Intentional, willful, wanton or reckless conduct.
8 (b) Operation of the car in violation of NRS 484.379 ~~or~~ *or*
9 *section 14 of this act.*
10 (c) Towing or pushing with the car.
11 (d) Operation of the car on an unpaved road if the damage or
12 loss is a direct result of the road or driving conditions.



2. Damage or loss occurring when the passenger car is:
(a) Used for hire.
(b) Used in connection with conduct that constitutes a felony.
(c) Involved in a speed test or contest or in driver training activity.
(d) Operated by a person other than an authorized driver.
(e) Operated in a foreign country or outside of the States of Nevada, Arizona, California, Idaho, Oregon and Utah, unless the lease expressly provides that the passenger car may be operated in other locations.

3. An authorized driver providing:
(a) Fraudulent information to the short-term lessor.
(b) False information to the lessor and the lessor would not have leased the passenger car if he had received true information.

Sec. 2. NRS 482.456 is hereby amended to read as follows:

482.456 1. A person who has had the registration of his motor vehicle suspended pursuant to NRS 482.451 and who drives the motor vehicle for which the registration has been suspended on a highway is guilty of a misdemeanor and shall be:

(a) Punished by imprisonment in the county jail for not less than 30 days nor more than 6 months; or

(b) Sentenced to a term of not less than 60 days nor more than 6 months in residential confinement, and by a fine of not less than \$500 and not more than \$1,000.

➤ The provisions of this subsection do not apply if the period of suspension has expired but the person has not reinstated his registration.

2. A person who has had the registration of his motor vehicle suspended pursuant to NRS 482.451 and who knowingly allows the motor vehicle for which the registration has been suspended to be operated by another person upon a highway is guilty of a misdemeanor.

3. A person who willfully fails to return a certificate of registration or the license plates as required pursuant to NRS 482.451 is guilty of a misdemeanor.

4. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted.



1 5. Jail sentences simultaneously imposed pursuant to this
2 section and NRS 484.3792, 484.37937 or 484.3794 *or section 15 of*
3 *this act* must run consecutively.

4 **Sec. 3.** NRS 483.330 is hereby amended to read as follows:

5 483.330 1. The Department may require every applicant for a
6 driver's license, including a commercial driver's license issued
7 pursuant to NRS 483.900 to 483.940, inclusive, to submit to an
8 examination. The examination may include:

9 (a) A test of the applicant's ability to understand official devices
10 used to control traffic;

11 (b) A test of his knowledge of practices for safe driving and the
12 traffic laws of this State;

13 (c) Except as otherwise provided in subsection 2, a test of his
14 eyesight; and

15 (d) Except as otherwise provided in subsection 3, an actual
16 demonstration of his ability to exercise ordinary and reasonable
17 control in the operation of a motor vehicle of the type or class of
18 vehicle for which he is to be licensed.

19 ➤ The examination may also include such further physical and
20 mental examination as the Department finds necessary to determine
21 the applicant's fitness to drive a motor vehicle safely upon the
22 highways.

23 2. The Department may provide by regulation for the
24 acceptance of a report from an ophthalmologist, optician or
25 optometrist in lieu of an eye test by a driver's license examiner.

26 3. If the Department establishes a type or classification of
27 driver's license to operate a motor vehicle of a type which is not
28 normally available to examine an applicant's ability to exercise
29 ordinary and reasonable control of such a vehicle, the Department
30 may, by regulation, provide for the acceptance of an affidavit
31 from a:

32 (a) Past, present or prospective employer of the applicant; or

33 (b) Local joint apprenticeship committee which had jurisdiction
34 over the training or testing, or both, of the applicant,

35 ➤ in lieu of an actual demonstration.

36 4. The Department may waive an examination pursuant to
37 subsection 1 for a person applying for a Nevada driver's license who
38 possesses a valid driver's license of the same type or class issued by
39 another jurisdiction unless that person:

40 (a) Has not attained 25 years of age;

41 (b) Has had his license or privilege to drive a motor vehicle
42 suspended, revoked or cancelled or has been otherwise disqualified
43 from driving during the immediately preceding 4 years;

44 (c) Has been convicted, during the immediately preceding 7
45 years, of a violation of NRS 484.379 or 484.3795 *or section 14 of*



1 *this act* or a law of any other jurisdiction that prohibits the same or
2 similar conduct;

3 (d) Has restrictions to his driver's license which the Department
4 must reevaluate to ensure the safe driving of a motor vehicle by that
5 person;

6 (e) Has had three or more convictions of moving traffic
7 violations on his driving record during the immediately preceding 4
8 years; or

9 (f) Has been convicted of any of the offenses related to the use
10 or operation of a motor vehicle which must be reported pursuant to
11 the provisions of ~~(Parts 1325 and)~~ *Part* 1327 of Title 23 of the Code
12 of Federal Regulations relating to the National Driver Register
13 Problem Driver Pointer System during the immediately preceding 4
14 years.

15 **Sec. 4.** NRS 483.410 is hereby amended to read as follows:

16 483.410 1. Except as otherwise provided in subsection 6, for
17 every driver's license, including a motorcycle driver's license,
18 issued and service performed, the following fees must be charged:

19	
20	A license issued to a person 65 years of age or older \$14
21	An original license issued to any other person..... 19
22	A renewal license issued to any other person 19
23	Reinstatement of a license after suspension, revocation
24	or cancellation, except a revocation for a violation
25	of NRS 484.379 or 484.3795 <i>or section 14 of this</i>
26	<i>act</i> or pursuant to NRS 484.384 and 484.385 40
27	Reinstatement of a license after revocation for a
28	violation of NRS 484.379 or 484.3795 <i>or section 14</i>
29	<i>of this act</i> or pursuant to NRS 484.384 and 484.385..... 65
30	A new photograph, change of name, change of other
31	information, except address, or any combination 5
32	A duplicate license 14
33	

34 2. For every motorcycle endorsement to a driver's license, a
35 fee of \$5 must be charged.

36 3. If no other change is requested or required, the Department
37 shall not charge a fee to convert the number of a license from the
38 licensee's social security number, or a number that was formulated
39 by using the licensee's social security number as a basis for the
40 number, to a unique number that is not based on the licensee's social
41 security number.

42 4. The increase in fees authorized by NRS 483.347 and the fees
43 charged pursuant to NRS 483.383 and 483.415 must be paid in
44 addition to the fees charged pursuant to subsections 1 and 2.



5. A penalty of \$10 must be paid by each person renewing his license after it has expired for a period of 30 days or more as provided in NRS 483.386 unless he is exempt pursuant to that section.

6. The Department may not charge a fee for the reinstatement of a driver's license that has been:

(a) Voluntarily surrendered for medical reasons; or

(b) Cancelled pursuant to NRS 483.310.

7. All fees and penalties are payable to the Administrator at the time a license or a renewal license is issued.

8. Except as otherwise provided in NRS 483.340, 483.415 and 483.840, all money collected by the Department pursuant to this chapter must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

Sec. 5. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

(a) For a period of 3 years if the offense is:

(1) A violation of subsection 2 of NRS 484.377.

(2) A third or subsequent violation within 7 years of NRS 484.379 ~~or~~ *or section 14 of this act.*

(3) A violation of NRS 484.3795 or 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~~ *or section 14 of this act.*

➤ The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume upon completion of the period of imprisonment or when the person is placed on residential confinement.

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

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

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

(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630,



1 inclusive, or pursuant to any other law relating to the ownership or
2 driving of motor vehicles.

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

5 (5) A second violation within 7 years of NRS 484.379 *or*
6 *section 14 of this act* and the driver is not eligible for a restricted
7 license during any of that period.

8 (6) A violation of NRS 484.348.

9 (c) For a period of 90 days, if the offense is a first violation
10 within 7 years of NRS 484.379 ~~§~~ *or section 14 of this act.*

11 2. The Department shall revoke the license, permit or privilege
12 of a driver convicted of violating NRS 484.379 who fails to
13 complete the educational course on the use of alcohol and controlled
14 substances within the time ordered by the court and shall add a
15 period of 90 days during which the driver is not eligible for a
16 license, permit or privilege to drive.

17 3. When the Department is notified by a court that a person
18 who has been convicted of a first violation within 7 years of NRS
19 484.379 has been permitted to enter a program of treatment pursuant
20 to NRS 484.37937, the Department shall reduce by one-half the
21 period during which he is not eligible for a license, permit or
22 privilege to drive, but shall restore that reduction in time if notified
23 that he was not accepted for or failed to complete the treatment.

24 4. The Department shall revoke the license, permit or privilege
25 to drive of a person who is required to install a device pursuant to
26 NRS 484.3943 but who operates a motor vehicle without such a
27 device:

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

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

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

36 6. In addition to any other requirements set forth by specific
37 statute, if the Department is notified that a court has ordered the
38 revocation, suspension or delay in the issuance of a license pursuant
39 to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or
40 any other provision of law, the Department shall take such actions
41 as are necessary to carry out the court's order.

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



Sec. 6. NRS 483.461 is hereby amended to read as follows:

483.461 1. If the result of a test given pursuant to NRS 484.382 or 484.383 shows that a person less than 21 years of age had a concentration of alcohol of 0.02 or more but less than 0.08 in his blood or breath at the time of the test, his license, permit or privilege to drive must be suspended for a period of 90 days.

2. If a revocation or suspension of a person's license, permit or privilege to drive for a violation of NRS 62E.640, 484.379 or 484.3795 *or section 14 of this act* follows a suspension ordered pursuant to subsection 1, the Department shall:

(a) Cancel the suspension ordered pursuant to subsection 1; and

(b) Give the person credit toward the period of revocation or suspension ordered pursuant to NRS 62E.640, 484.379 or 484.3795, *or section 14 of this act*, whichever is applicable, for any period during which the person's license, permit or privilege to drive was suspended pursuant to subsection 1.

3. This section does not preclude:

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

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

Sec. 7. NRS 483.461 is hereby amended to read as follows:

483.461 1. If the result of a test given pursuant to NRS 484.382 or 484.383 shows that a person less than 21 years of age had a concentration of alcohol of 0.02 or more but less than 0.10 in his blood or breath at the time of the test, his license, permit or privilege to drive must be suspended for a period of 90 days.

2. If a revocation or suspension of a person's license, permit or privilege to drive for a violation of NRS 62E.640, 484.379 or 484.3795 *or section 14 of this act* follows a suspension ordered pursuant to subsection 1, the Department shall:

(a) Cancel the suspension ordered pursuant to subsection 1; and

(b) Give the person credit toward the period of revocation or suspension ordered pursuant to NRS 62E.640, 484.379 or 484.3795, *or section 14 of this act*, whichever is applicable, for any period during which the person's license, permit or privilege to drive was suspended pursuant to subsection 1.

3. This section does not preclude:

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

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

Sec. 8. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense



1 other than a second violation within 7 years of NRS 484.379 *or*
2 *section 14 of this act* and one-half of the period during which the
3 driver is not eligible for a license has expired, the Department may,
4 unless the statute authorizing the suspension prohibits the issuance
5 of a restricted license, issue a restricted driver's license to an
6 applicant permitting the applicant to drive a motor vehicle:

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

8 (b) To acquire supplies of medicine or food or receive regularly
9 scheduled medical care for himself or a member of his immediate
10 family.

11 ➤ Before a restricted license may be issued, the applicant must
12 submit sufficient documentary evidence to satisfy the Department
13 that a severe hardship exists because the applicant has no alternative
14 means of transportation and that the severe hardship outweighs the
15 risk to the public if he is issued a restricted license.

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

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

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

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

24 (I) A violation of NRS 484.3795 or a homicide resulting
25 from driving or being in actual physical control of a vehicle while
26 under the influence of intoxicating liquor or a controlled substance
27 or resulting from any other conduct prohibited by NRS 484.379 or
28 484.3795 *[§] or section 14 of this act;* or

29 (II) A third or subsequent violation within 7 years of NRS
30 484.379 *[§] or section 14 of this act;*

31 (2) After at least 180 days of the period during which he is
32 not eligible for a license, if he was convicted of a violation of
33 subsection 2 of NRS 484.377; or

34 (3) After at least 45 days of the period during which he is not
35 eligible for a license, if he was convicted of a first violation within 7
36 years of NRS 484.379 *[§] or section 14 of this act.*

37 3. If the Department has received a copy of an order requiring a
38 person to install a device in a motor vehicle pursuant to NRS
39 484.3943, the Department shall not issue a restricted driver's license
40 to such a person pursuant to this section unless the applicant has
41 submitted proof of compliance with the order and subsection 2.

42 4. After a driver's license has been revoked or suspended
43 pursuant to title 5 of NRS, the Department may issue a restricted
44 driver's license to an applicant permitting the applicant to drive a
45 motor vehicle:



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

(b) If applicable, to and from school.

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

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

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

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

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

(a) A violation of NRS 484.379, 484.3795 or 484.384 ~~§~~ *or section 14 of this act;*

(b) 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 14 of this act;* or

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

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

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

Sec. 9. NRS 483.560 is hereby amended to read as follows:

483.560 1. Except as otherwise provided in subsection 2, any person who drives a motor vehicle on a highway or on premises to which the public has access at a time when his driver's license has been cancelled, revoked or suspended is guilty of a misdemeanor.

2. Except as otherwise provided in this subsection, if the license of the person was suspended, revoked or restricted because of:

(a) A violation of NRS 484.379, 484.3795 or 484.384 ~~§~~ *or section 14 of this act;*



(b) 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 14 of this act*; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),
➔ the person shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months or by serving a term of residential confinement for not less than 60 days nor more than 6 months, and shall be further punished by a fine of not less than \$500 nor more than \$1,000. A person who is punished pursuant to this subsection may not be granted probation, and a sentence imposed for such a violation may not be suspended. A prosecutor may not dismiss a charge of such a violation in exchange for a plea of guilty or of nolo contendere to a lesser charge or for any other reason, unless in his judgment the charge is not supported by probable cause or cannot be proved at trial. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated his license.

3. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 484.3792, 484.37937 or 484.3794 *or section 15 of this act* must run consecutively.

5. If the Department receives a record of the conviction or punishment of any person pursuant to this section upon a charge of driving a vehicle while his license was:

(a) Suspended, the Department shall extend the period of the suspension for an additional like period.

(b) Revoked, the Department shall extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(c) Restricted, the Department shall revoke his restricted license and extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(d) Suspended or cancelled for an indefinite period, the Department shall suspend his license for an additional 6 months for



1 the first violation and an additional 1 year for each subsequent
2 violation.

3 6. Suspensions and revocations imposed pursuant to this
4 section must run consecutively.

5 **Sec. 10.** NRS 483.910 is hereby amended to read as follows:

6 483.910 1. The Department shall charge and collect the
7 following fees:

8		
9	For an original commercial driver's license which	
10	requires the Department to administer a driving	
11	skills test.....	\$84
12	For an original commercial driver's license which does	
13	not require the Department to administer a driving	
14	skills test.....	54
15	For renewal of a commercial driver's license which	
16	requires the Department to administer a driving	
17	skills test.....	84
18	For renewal of a commercial driver's license which	
19	does not require the Department to administer a	
20	driving skills test.....	54
21	For reinstatement of a commercial driver's license after	
22	suspension or revocation of the license for a	
23	violation of NRS 484.379 or 484.3795, <i>or section</i>	
24	<i>14 of this act</i> or pursuant to NRS 484.384 and	
25	484.385, or pursuant to 49 C.F.R. § 383.51(b)(2)(i)	
26	or (ii)	84
27	For reinstatement of a commercial driver's license after	
28	suspension, revocation, cancellation or	
29	disqualification of the license, except a suspension	
30	or revocation for a violation of NRS 484.379 or	
31	484.3795, <i>or section 14 of this act</i> or pursuant to	
32	NRS 484.384 and 484.385, or pursuant to 49 C.F.R.	
33	§ 383.51(b)(2)(i) or (ii)	54
34	For the transfer of a commercial driver's license from	
35	another jurisdiction, which requires the Department	
36	to administer a driving skills test	84
37	For the transfer of a commercial driver's license from	
38	another jurisdiction, which does not require the	
39	Department to administer a driving skills test	54
40	For a duplicate commercial driver's license	19
41	For any change of information on a commercial	
42	driver's license.....	9
43	For each endorsement added after the issuance of an	
44	original commercial driver's license.....	14



1 For the administration of a driving skills test to change
2 any information on, or add an endorsement to, an
3 existing commercial driver's license \$30

4 2. The Department shall charge and collect an annual fee of
5 \$555 from each person who is authorized by the Department to
6 administer a driving skills test pursuant to NRS 483.912.

7 3. An additional charge of \$3 must be charged for each
8 knowledge test administered to a person who has twice failed the
9 test.

10 4. An additional charge of \$25 must be charged for each
11 driving skills test administered to a person who has twice failed the
12 test.

13 5. The increase in fees authorized in NRS 483.347 must be
14 paid in addition to the fees charged pursuant to this section.

15 6. The Department shall charge an applicant for a hazardous
16 materials endorsement an additional fee for the processing of
17 fingerprints. The Department shall establish the additional fee by
18 regulation, except that the amount of the additional fee must not
19 exceed the sum of the amount charged by the Central Repository for
20 Nevada Records of Criminal History and each applicable federal
21 agency to process the fingerprints for a background check of the
22 applicant in accordance with Section 1012 of the Uniting and
23 Strengthening America by Providing Appropriate Tools Required to
24 Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of
25 2001, 49 U.S.C. § 5103a.

26 **Sec. 11.** NRS 483.922 is hereby amended to read as follows:

27 483.922 1. Except as otherwise provided in NRS 484.383, a
28 person who drives, operates or is in actual physical control of a
29 commercial motor vehicle within this State shall be deemed to have
30 given consent to an evidentiary test of his blood, urine, breath or
31 other bodily substance for the purpose of determining the
32 concentration of alcohol in his blood or breath or to detect the
33 presence of a controlled substance, chemical, poison, organic
34 solvent or another prohibited substance.

35 2. The tests must be administered pursuant to NRS 484.383 at
36 the direction of a police officer who, after stopping or detaining
37 such a person, has reasonable grounds to believe that the person
38 was:

39 (a) Driving, ~~operation~~ *operating* or in actual physical control
40 of a commercial motor vehicle while under the influence of
41 intoxicating liquor or a controlled substance; or

42 (b) Engaging in any other conduct prohibited by NRS 484.379
43 or 484.3795 ~~or~~ *or section 14 of this act.*

44 3. As used in this section, "prohibited substance" has the
45 meaning ascribed to it in NRS 484.1245.



1 **Sec. 12.** Chapter 484 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 13, 14 and 15 of this act.

3 **Sec. 13.** *The phrase "concentration of alcohol of 0.18 or*
4 *more in his blood or breath" means 0.18 gram or more of alcohol*
5 *per 100 milliliters of the blood of a person or per 210 liters of his*
6 *breath.*

7 **Sec. 14. 1.** *It is unlawful for any person who:*

8 *(a) Is under the extreme influence of intoxicating liquor;*

9 *(b) Has a concentration of alcohol of 0.18 or more in his blood*
10 *or breath; or*

11 *(c) Is found by measurement within 2 hours after driving or*
12 *being in actual physical control of a vehicle to have a*
13 *concentration of alcohol of 0.18 or more in his blood or breath,*
14 *↳ to drive or be in actual physical control of a vehicle on a*
15 *highway or on premises to which the public has access.*

16 **2.** *If consumption is proven by a preponderance of the*
17 *evidence, it is an affirmative defense under paragraph (c) of*
18 *subsection 1 that the defendant consumed a sufficient quantity of*
19 *alcohol after driving or being in actual physical control of the*
20 *vehicle, and before his blood or breath was tested, to cause him to*
21 *have a concentration of alcohol of 0.18 or more in his blood or*
22 *breath. A defendant who intends to offer this defense at a trial*
23 *or preliminary hearing must, not less than 14 days before the trial*
24 *or hearing or at such other time as the court may direct, file and*
25 *serve on the prosecuting attorney a written notice of that intent.*

26 **3.** *A person who violates any provision of this section may be*
27 *subject to the additional penalty set forth in NRS 484.3667.*

28 **Sec. 15. 1.** *Unless a greater penalty is provided pursuant to*
29 *NRS 484.3795, a person who violates the provisions of section 14*
30 *of this act:*

31 *(a) For the first offense within 7 years, is guilty of a*
32 *misdemeanor. The court shall:*

33 *(1) Sentence him to imprisonment for not less than 6 days*
34 *nor more than 6 months in jail, or to perform not less than 72*
35 *hours, but not more than 144 hours, of community service while*
36 *dressed in distinctive garb that identifies him as having violated*
37 *the provisions of section 14 of this act;*

38 *(2) Fine him not less than \$400 nor more than \$1,000; and*

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

41 *(b) For a second offense within 7 years, is guilty of a*
42 *misdemeanor. Unless the sentence is reduced pursuant to NRS*
43 *484.3794, the court shall:*

44 *(1) Sentence him to:*



1 (I) Imprisonment for not less than 14 days nor more
2 than 6 months in jail; or

3 (II) Residential confinement for not less than 14 days
4 nor more than 6 months, in the manner provided in NRS 4.376 to
5 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

6 (2) Fine him not less than \$750 nor more than \$1,000, or
7 order him to perform an equivalent number of hours of
8 community service while dressed in distinctive garb that identifies
9 him as having violated the provisions of section 14 of this act; and

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

12 (c) For a third offense within 7 years, is guilty of a category B
13 felony and shall be punished by imprisonment in the state prison
14 for a minimum term of not less than 1 year and a maximum term
15 of not more than 6 years, and shall be further punished by a fine
16 of not less than \$4,000 nor more than \$5,000. An offender so
17 imprisoned must, insofar as practicable, be segregated from
18 offenders whose crimes were violent and, insofar as practicable,
19 be assigned to an institution or facility of minimum security.

20 (d) For a fourth or subsequent offense, regardless of the
21 length of time that has passed since the prior offenses, is guilty of
22 a category B felony and shall be punished by imprisonment in the
23 state prison for a minimum term of not less than 2 years and a
24 maximum term of not more than 15 years, and shall be further
25 punished by a fine of not less than \$4,000 nor more than \$5,000.
26 An offender so imprisoned must, insofar as practicable, be
27 segregated from offenders whose crimes were violent and, insofar
28 as practicable, be assigned to an institution or facility of minimum
29 security.

30 2. Except as otherwise provided in this subsection, an offense
31 that occurred within 7 years immediately preceding the date of the
32 principal offense or after the principal offense constitutes a prior
33 offense for the purposes of this section when evidenced by a
34 conviction, without regard to the sequence of the offenses and
35 convictions. For the purposes of paragraph (d) of subsection 1, an
36 offense that occurred on any date preceding the date of the
37 principal offense or after the principal offense constitutes a prior
38 offense for the purposes of this section when evidenced by a
39 conviction, without regard for the sequence of the offenses and
40 convictions. The facts concerning a prior offense must be alleged
41 in the complaint, indictment or information, must not be read to
42 the jury or proved at trial but must be proved at the time of
43 sentencing and, if the principal offense is alleged to be a felony,
44 must also be shown at the preliminary examination or presented to
45 the grand jury.



1 3. A person convicted of violating the provisions of section 14
2 of this act must not be released on probation, and a sentence
3 imposed for violating those provisions must not be suspended
4 except, as provided in NRS 4.373, 5.055 and 484.3794, that portion
5 of the sentence imposed that exceeds the mandatory minimum. A
6 prosecuting attorney shall not dismiss a charge of violating the
7 provisions of section 14 of this act in exchange for a plea of guilty
8 or nolo contendere to a lesser charge or for any other reason
9 unless he knows or it is obvious that the charge is not supported by
10 probable cause or cannot be proved at the time of trial.

11 4. A term of confinement imposed pursuant to the provisions
12 of this section may be served intermittently at the discretion of the
13 judge or justice of the peace, except that a person who is convicted
14 of a second or subsequent offense within 7 years must be confined
15 for at least one segment of not less than 48 consecutive hours.
16 This discretion must be exercised after considering all the
17 circumstances surrounding the offense, and the family and
18 employment of the offender, but any sentence of 30 days or less
19 must be served within 6 months after the date of conviction or, if
20 the offender was sentenced pursuant to NRS 484.3794 and the
21 suspension of his sentence was revoked, within 6 months after the
22 date of revocation. Any time for which the offender is confined
23 must consist of not less than 24 consecutive hours.

24 5. Jail sentences simultaneously imposed pursuant to this
25 section and NRS 482.456, 483.560 or 485.330 must run
26 consecutively.

27 6. If the defendant was transporting a person who is less than
28 15 years of age in the motor vehicle at the time of the violation, the
29 court shall consider that fact as an aggravating factor in
30 determining the sentence of the defendant.

31 7. As used in this section, unless the context otherwise
32 requires, "offense" means:

33 (a) A violation of NRS 484.379, 484.3795 or section 14 of this
34 act;

35 (b) A homicide resulting from driving or being in actual
36 physical control of a vehicle while under the influence of
37 intoxicating liquor or a controlled substance or resulting from any
38 other conduct prohibited by NRS 484.379, 484.3795 or section 14
39 of this act; or

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

42 **Sec. 16.** NRS 484.013 is hereby amended to read as follows:

43 484.013 As used in this chapter, unless the context otherwise
44 requires, the words and terms defined in NRS 484.014 to 484.217,



1 inclusive, *and section 13 of this act* have the meanings ascribed to
2 them in those sections.

3 **Sec. 17.** NRS 484.259 is hereby amended to read as follows:

4 484.259 1. Except for the provisions of NRS 484.379 to
5 484.3947, inclusive, *and sections 14 and 15 of this act*, and any
6 provisions made applicable by specific statute, the provisions of this
7 chapter do not apply to persons, teams, motor vehicles and other
8 equipment while actually engaged in work upon the surface of a
9 highway.

10 2. The provisions of this chapter apply to the persons, teams,
11 motor vehicles and other equipment described in subsection 1 when
12 traveling to or from such work.

13 **Sec. 18.** NRS 484.3667 is hereby amended to read as follows:

14 484.3667 1. Except as otherwise provided in subsection 2, a
15 person who is convicted of a violation of a speed limit, or of NRS
16 484.254, 484.278, 484.289, 484.291 to 484.301, inclusive, 484.305,
17 484.309, 484.311, 484.335, 484.337, 484.361, 484.363, 484.3765,
18 484.377, 484.379, 484.448, 484.453 or 484.479, *or section 14 of*
19 *this act*, that occurred:

20 (a) In an area designated as a temporary traffic control zone in
21 which construction, maintenance or repair of a highway is
22 conducted; and

23 (b) At a time when the workers who are performing the
24 construction, maintenance or repair of the highway are present, or
25 when the effects of the act may be aggravated because of the
26 condition of the highway caused by construction, maintenance or
27 repair, including, without limitation, reduction in lane width,
28 reduction in the number of lanes, shifting of lanes from the
29 designated alignment and uneven or temporary surfaces, including,
30 without limitation, modifications to road beds, cement-treated bases,
31 chip seals and other similar conditions,

32 ➤ shall be punished by imprisonment or by a fine, or both, for a
33 term or an amount equal to and in addition to the term of
34 imprisonment or amount of the fine, or both, that the court imposes
35 for the primary offense. Any term of imprisonment imposed
36 pursuant to this subsection runs consecutively with the sentence
37 prescribed by the court for the crime. This subsection does not
38 create a separate offense, but provides an additional penalty for the
39 primary offense, whose imposition is contingent upon the finding of
40 the prescribed fact.

41 2. The additional penalty imposed pursuant to subsection 1
42 must not exceed a total of \$1,000, 6 months of imprisonment or 120
43 hours of community service.

44 3. A governmental entity that designates an area as a temporary
45 traffic control zone in which construction, maintenance or repair of



1 a highway is conducted, or the person with whom the governmental
2 entity contracts to provide such service shall cause to be erected:

3 (a) A sign located before the beginning of such an area stating
4 "DOUBLE PENALTIES IN WORK ZONES" to indicate a double
5 penalty may be imposed pursuant to this section;

6 (b) A sign to mark the beginning of the temporary traffic control
7 zone; and

8 (c) A sign to mark the end of the temporary traffic control zone.

9 4. A person who otherwise would be subject to an additional
10 penalty pursuant to this section is not relieved of any criminal
11 liability because signs are not erected as required by subsection 3 if
12 the violation results in injury to any person performing highway
13 construction or maintenance in the temporary traffic control zone or
14 in damage to property in an amount equal to \$1,000 or more.

15 **Sec. 19.** NRS 484.3791 is hereby amended to read as follows:

16 484.3791 1. In addition to any other penalty provided by law,
17 a person convicted of a violation of NRS 484.379 *or section 14 of*
18 *this act* is liable to the State for a civil penalty of \$35, payable to the
19 Department.

20 2. The Department shall not issue any license to drive a motor
21 vehicle to a person convicted of a violation of NRS 484.379 *or*
22 *section 14 of this act* until the civil penalty is paid.

23 3. Any money received by the Department pursuant to
24 subsection 1 must be deposited with the State Treasurer for credit to
25 the Fund for the Compensation of Victims of Crime.

26 **Sec. 20.** NRS 484.3792 is hereby amended to read as follows:

27 484.3792 1. Unless a greater penalty is provided pursuant to
28 NRS 484.3795 ~~§~~ *or section 15 of this act*, a person who violates
29 the provisions of NRS 484.379:

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

33 (1) Except as otherwise provided in ~~{subparagraph (4) or}~~
34 subsection 6, order him to pay tuition for an educational course on
35 the abuse of alcohol and controlled substances approved by the
36 Department and complete the course within the time specified in the
37 order, and the court shall notify the Department if he fails to
38 complete the course within the specified time;

39 (2) Unless the sentence is reduced pursuant to NRS
40 484.37937, sentence him to imprisonment for not less than 2 days
41 nor more than 6 months in jail, or to perform not less than 48 hours,
42 but not more than 96 hours, of community service while dressed in
43 distinctive garb that identifies him as having violated the provisions
44 of NRS 484.379; *and*

45 (3) Fine him not less than \$400 nor more than \$1,000. ~~§; and~~



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

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

(1) Sentence him to:

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

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

(2) Fine him not less than \$750 nor more than \$1,000, or order him to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 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 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 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 when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

3. A person convicted of violating the provisions of NRS 484.379 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that



1 portion of the sentence imposed that exceeds the mandatory
2 minimum. A prosecuting attorney shall not dismiss a charge of
3 violating the provisions of NRS 484.379 in exchange for a plea of
4 guilty or nolo contendere to a lesser charge or for any other reason
5 unless he knows or it is obvious that the charge is not supported by
6 probable cause or cannot be proved at the time of trial.

7 4. A term of confinement imposed pursuant to the provisions
8 of this section may be served intermittently at the discretion of the
9 judge or justice of the peace, except that a person who is convicted
10 of a second or subsequent offense within 7 years must be confined
11 for at least one segment of not less than 48 consecutive hours. This
12 discretion must be exercised after considering all the circumstances
13 surrounding the offense, and the family and employment of the
14 offender, but any sentence of 30 days or less must be served within
15 6 months after the date of conviction or, if the offender was
16 sentenced pursuant to NRS 484.37937 or 484.3794 and the
17 suspension of his sentence was revoked, within 6 months after the
18 date of revocation. Any time for which the offender is confined
19 must consist of not less than 24 consecutive hours.

20 5. Jail sentences simultaneously imposed pursuant to this
21 section and NRS 482.456, 483.560 or 485.330 must run
22 consecutively.

23 6. If the person who violated the provisions of NRS 484.379
24 possesses a driver's license issued by a state other than the State of
25 Nevada and does not reside in the State of Nevada, in carrying out
26 the provisions of subparagraph (1) of paragraph (a) of subsection 1,
27 the court shall:

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

32 (b) Order him to complete an educational course by
33 correspondence on the abuse of alcohol and controlled substances
34 approved by the Department within the time specified in the order,
35 and the court shall notify the Department if the person fails to
36 complete the assigned course within the specified time.

37 7. If the defendant was transporting a person who is less than
38 15 years of age in the motor vehicle at the time of the violation, the
39 court shall consider that fact as an aggravating factor in determining
40 the sentence of the defendant.

41 8. As used in this section, unless the context otherwise requires

42 f:

43 ~~—(a) “Concentration of alcohol of 0.18 or more in his blood or~~
44 ~~breath” means 0.18 gram or more of alcohol per 100 milliliters of~~
45 ~~the blood of a person or per 210 liters of his breath.~~



~~(b) "Offense" means:~~

~~(1)~~, "offense" means:

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

~~(2)~~ *or section 14 of this act;*

(b) 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~~

~~(3)~~ *or section 14 of this act; or*

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in ~~[subparagraph (1) or (2).]~~ *paragraph (a) or (b).*

Sec. 21. NRS 484.37937 is hereby amended to read as follows:

484.37937 1. Except as otherwise provided in subsection 2, a person who is found guilty of a first violation of NRS 484.379 ~~;~~ ~~other than a person who is found to have a concentration of alcohol of 0.18 or more in his blood or breath,]~~ may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Human Resources for at least 6 months. The court shall authorize that treatment if:

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

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

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

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

(c) He has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 24 hours of community service.

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

(a) A violation of NRS 484.3795 ~~;~~ *or section 14 of this act;*

(b) 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 14 of this act;* or

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



3. For the purposes of subsection 1, a violation of a law of any other jurisdiction that prohibits the same or similar conduct as NRS 484.379 *or section 14 of this act* constitutes a violation of NRS 484.379 *[] or section 14 of this act, respectively.*

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

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

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

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

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

(c) Advise the offender that:

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

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

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

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



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

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

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

Sec. 22. NRS 484.3794 is hereby amended to read as follows:

484.3794 1. Except as otherwise provided in subsection 2, a person who is found guilty of a second violation of NRS 484.379 *or section 14 of this act* within 7 years may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Human Resources for at least 1 year if:

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

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

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

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

(c) He has served or will serve a term of imprisonment in jail of 5 days, and if required pursuant to NRS 484.3792 ~~§~~ *or section 15 of this act*, has performed or will perform not less than one-half of the hours of community service.

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

(a) A violation of NRS 484.3795;

(b) 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 14 of this act*; or

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

3. For the purposes of subsection 1, a violation of a law of any other jurisdiction that prohibits the same or similar conduct as NRS 484.379 *or section 14 of this act* constitutes a violation of NRS 484.379 ~~§~~ *or section 14 of this act, respectively.*

4. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on



1 the application upon the request of the prosecuting attorney or may
2 order a hearing on its own motion.

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

8 6. If the court determines that an application for treatment
9 should be granted, the court shall:

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

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

16 (c) Advise the offender that:

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

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

27 (3) If he completes the treatment satisfactorily, his sentence
28 will be reduced to a term of imprisonment which is no longer than
29 that provided for the offense in paragraph (c) of subsection 1 and a
30 fine of not more than the minimum provided for the offense in NRS
31 484.3792 ~~§~~ *or section 15 of this act*, but the conviction must
32 remain on his record of criminal history.

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

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

39 (b) May immediately revoke the suspension of sentence for a
40 violation of a condition of the suspension.

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



1 **Sec. 23.** NRS 484.37943 is hereby amended to read as
2 follows:

3 484.37943 1. If a person is found guilty of a ~~first violation,~~
4 ~~if the concentration of alcohol in the defendant's blood or breath at~~
5 ~~the time of the offense was 0.18 or more.] violation of section 14 of~~
6 ~~this act~~, or any second violation of NRS 484.379 within 7 years, the
7 court shall, before sentencing the offender, require an evaluation of
8 the offender pursuant to subsection 3, 4 or 5 to determine whether
9 he is an abuser of alcohol or other drugs.

10 2. If a person is convicted of a first violation of NRS 484.379
11 ~~or section 14 of this act~~ and he is under 21 years of age at the time
12 of the violation, the court shall, before sentencing the offender,
13 require an evaluation of the offender pursuant to subsection 3, 4 or 5
14 to determine whether he is an abuser of alcohol or other drugs.

15 3. Except as otherwise provided in subsection 4 or 5, the
16 evaluation of an offender pursuant to this section must be conducted
17 at an evaluation center by:

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

21 (b) A physician who is certified to make that evaluation by the
22 Board of Medical Examiners,

23 ➤ who shall report to the court the results of the evaluation and
24 make a recommendation to the court concerning the length and type
25 of treatment required for the offender.

26 4. The evaluation of an offender who resides more than 30
27 miles from an evaluation center may be conducted outside an
28 evaluation center by a person who has the qualifications set forth in
29 subsection 3. The person who conducts the evaluation shall report to
30 the court the results of the evaluation and make a recommendation
31 to the court concerning the length and type of treatment required for
32 the offender.

33 5. The evaluation of an offender who resides in another state
34 may, upon approval of the court, be conducted in the state where the
35 offender resides by a physician or other person who is authorized by
36 the appropriate governmental agency in that state to conduct such an
37 evaluation. The offender shall ensure that the results of the
38 evaluation and the recommendation concerning the length and type
39 of treatment for the offender are reported to the court.

40 6. An offender who is evaluated pursuant to this section shall
41 pay the cost of the evaluation. An evaluation center or a person who
42 conducts an evaluation in this State outside an evaluation center
43 shall not charge an offender more than \$100 for the evaluation.



1 **Sec. 24.** NRS 484.37945 is hereby amended to read as
2 follows:

3 484.37945 1. When a program of treatment is ordered
4 pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792 ~~or~~
5 *or paragraph (a) or (b) of subsection 1 of section 15 of this act*, the
6 court shall place the offender under the clinical supervision of a
7 treatment facility for treatment for a period not to exceed 1 year, in
8 accordance with the report submitted to the court pursuant to
9 subsection 3, 4 or 5 of NRS 484.37943. The court shall:

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

12 (b) Release the offender for treatment in the community,
13 ➔ for the period of supervision ordered by the court.

14 2. The court shall:

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

17 (b) Order the offender, to the extent of his financial resources, to
18 pay any charges for his treatment pursuant to this section. If the
19 offender does not have the financial resources to pay all those
20 charges, the court shall, to the extent possible, arrange for the
21 offender to obtain his treatment from a treatment facility that
22 receives a sufficient amount of federal or state money to offset the
23 remainder of the charges.

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

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

29 (b) Engages in any other conduct prohibited by NRS 484.379,
30 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 ,
31 *or section 14 or 41 of this act* or a law of any other jurisdiction that
32 prohibits the same or similar conduct,

33 ➔ after the treatment facility has certified to his successful
34 completion of a program of treatment ordered pursuant to paragraph
35 (a) or (b) of subsection 1 of NRS 484.3792 ~~or~~ *or paragraph (a) or*
36 *(b) of subsection 1 of section 15 of this act.*

37 **Sec. 25.** NRS 484.3796 is hereby amended to read as follows:

38 484.3796 1. Before sentencing an offender pursuant to NRS
39 484.3795 or paragraph (c) of subsection 1 of NRS 484.3792 ~~or~~ *or*
40 *paragraph (c) or (d) of subsection 1 of section 15 of this act*, the
41 court shall require that the offender be evaluated to determine
42 whether he is an abuser of alcohol or drugs and whether he can be
43 treated successfully for his condition.

44 2. The evaluation must be conducted by:



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

4 (b) A physician who is certified to make such an evaluation by
5 the Board of Medical Examiners; or

6 (c) A psychologist who is certified to make such an evaluation
7 by the Board of Psychological Examiners.

8 3. The alcohol and drug abuse counselor, physician or
9 psychologist who conducts the evaluation shall immediately forward
10 the results of the evaluation to the Director of the Department of
11 Corrections.

12 **Sec. 26.** NRS 484.3797 is hereby amended to read as follows:

13 484.3797 1. The judge or judges in each judicial district shall
14 cause the preparation and maintenance of a list of the panels of
15 persons who:

16 (a) Have been injured or had members of their families or close
17 friends injured or killed by a person who was driving or in actual
18 physical control of a vehicle while under the influence of
19 intoxicating liquor or a controlled substance or who was engaging in
20 any other conduct prohibited by NRS 484.379 or 484.3795 *or*
21 *section 14 of this act* or a law of any other jurisdiction that prohibits
22 the same or similar conduct; and

23 (b) Have, by contacting the judge or judges in the district,
24 expressed their willingness to discuss collectively the personal
25 effect of those crimes.

26 ➤ The list must include the name and telephone number of the
27 person to be contacted regarding each such panel and a schedule of
28 times and locations of the meetings of each such panel. The judge or
29 judges shall establish, in cooperation with representatives of the
30 members of the panels, a fee, if any, to be paid by defendants who
31 are ordered to attend a meeting of the panel. The amount of the fee,
32 if any, must be reasonable. The panel may not be operated for profit.

33 2. Except as otherwise provided in this subsection, if a
34 defendant pleads guilty to or is found guilty of any violation of NRS
35 484.379 or 484.3795, *or section 14 of this act*, the court shall, in
36 addition to imposing any other penalties provided by law, order the
37 defendant to:

38 (a) Attend, at the defendant's expense, a meeting of a panel of
39 persons who have been injured or had members of their families or
40 close friends injured or killed by a person who was driving or in
41 actual physical control of a vehicle while under the influence of
42 intoxicating liquor or a controlled substance or who was engaging in
43 any other conduct prohibited by NRS 484.379 or 484.3795 *or*
44 *section 14 of this act* or a law of any other jurisdiction that prohibits



1 the same or similar conduct, in order to have the defendant
2 understand the effect such a crime has on other persons; and

3 (b) Pay the fee, if any, established by the court pursuant to
4 subsection 1.

5 ➡ The court may, but is not required to, order the defendant to
6 attend such a meeting if one is not available within 60 miles of the
7 defendant's residence.

8 3. A person ordered to attend a meeting pursuant to subsection
9 2 shall, after attending the meeting, present evidence or other
10 documentation satisfactory to the court that he attended the meeting
11 and remained for its entirety.

12 **Sec. 27.** NRS 484.37975 is hereby amended to read as
13 follows:

14 484.37975 1. If a person is convicted of a second or
15 subsequent violation of NRS 484.379 or 484.3795 *or section 14 of*
16 *this act* within 7 years, the court shall issue an order directing the
17 Department to suspend the registration of each motor vehicle that is
18 registered to or owned by the person for 5 days.

19 2. If a court issues an order directing the Department to
20 suspend the registration of a motor vehicle pursuant to subsection 1,
21 the court shall forward a copy of the order to the Department within
22 5 days after issuing the order. The order must include, without
23 limitation, information concerning each motor vehicle that is
24 registered to or owned by the person, including, without limitation,
25 the registration number of the motor vehicle, if such information is
26 available.

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

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

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

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

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

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

43 **Sec. 28.** NRS 484.3798 is hereby amended to read as follows:

44 484.3798 1. If a defendant pleads guilty to or is found guilty
45 of any violation of NRS 484.379 or 484.3795 *or section 14 of this*



1 **act** and a chemical analysis of his blood, urine, breath or other
2 bodily substance was conducted, the court shall, in addition to any
3 penalty provided by law, order the defendant to pay the sum of \$60
4 as a fee for the chemical analysis. Except as otherwise provided in
5 this subsection, any money collected for the chemical analysis must
6 not be deducted from, and is in addition to, any fine otherwise
7 imposed by the court and must be:

8 (a) Collected from the defendant before or at the same time that
9 the fine is collected.

10 (b) Stated separately in the judgment of the court or on the
11 court's docket.

12 2. All money collected pursuant to subsection 1 must be paid
13 by the clerk of the court to the county or city treasurer, as
14 appropriate, on or before the fifth day of each month for the
15 preceding month.

16 3. The treasurer shall deposit all money received by him
17 pursuant to subsection 2 in the county or city treasury, as
18 appropriate, for credit to the fund for forensic services created
19 pursuant to NRS 453.575. The money must be accounted for
20 separately within the fund.

21 4. Except as otherwise provided in subsection 5, each month
22 the treasurer shall, from the money credited to the fund pursuant to
23 subsection 3, pay any amount owed for forensic services and deposit
24 any remaining money in the county or city general fund, as
25 appropriate.

26 5. In counties that do not receive forensic services under a
27 contract with the State, the money credited to the fund pursuant to
28 subsection 3:

29 (a) Except as otherwise provided in paragraph (b), must be:

30 (1) Expended to pay for the chemical analyses performed
31 within the county;

32 (2) Expended to purchase and maintain equipment to conduct
33 such analyses;

34 (3) Expended for the training and continuing education of the
35 employees who conduct such analyses; and

36 (4) Paid to law enforcement agencies which conduct such
37 analyses to be used by those agencies in the manner provided in this
38 subsection.

39 (b) May only be expended to cover the costs of chemical
40 analyses conducted by, equipment used by, or training for
41 employees of an analytical laboratory that is approved by the
42 Committee on Testing for Intoxication created ~~in~~ by NRS 484.388.

43 **Sec. 29.** NRS 484.382 is hereby amended to read as follows:

44 484.382 1. Any person who drives or is in actual physical
45 control of a vehicle on a highway or on premises to which the public



1 has access shall be deemed to have given his consent to a
2 preliminary test of his breath to determine the concentration of
3 alcohol in his breath when the test is administered at the direction of
4 a police officer at the scene of a vehicle accident or collision or
5 where he stops a vehicle, if the officer has reasonable grounds to
6 believe that the person to be tested was:

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

9 (b) Engaging in any other conduct prohibited by NRS 484.379
10 or 484.3795 ~~H~~ *or section 14 of this act.*

11 2. If the person fails to submit to the test, the officer shall seize
12 his license or permit to drive as provided in NRS 484.385 and arrest
13 him and take him to a convenient place for the administration of a
14 reasonably available evidentiary test under NRS 484.383.

15 3. The result of the preliminary test must not be used in any
16 criminal action, except to show there were reasonable grounds to
17 make an arrest.

18 **Sec. 30.** NRS 484.383 is hereby amended to read as follows:

19 484.383 1. Except as otherwise provided in subsections 3 and
20 4, any person who drives or is in actual physical control of a vehicle
21 on a highway or on premises to which the public has access shall be
22 deemed to have given his consent to an evidentiary test of his blood,
23 urine, breath or other bodily substance to determine the
24 concentration of alcohol in ~~to~~ his blood or breath or to determine
25 whether a controlled substance, chemical, poison, organic solvent or
26 another prohibited substance is present, if such a test is administered
27 at the direction of a police officer having reasonable grounds to
28 believe that the person to be tested was:

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

31 (b) Engaging in any other conduct prohibited by NRS 484.379
32 or 484.3795 ~~H~~ *or section 14 of this act.*

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

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

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



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

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

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

11 (1) Caused death or substantial bodily harm to another
12 person as a result of driving or being in actual physical control of a
13 vehicle while under the influence of intoxicating liquor or a
14 controlled substance or as a result of engaging in any other conduct
15 prohibited by NRS 484.379 or 484.3795 **or section 14 of this act;**
16 or

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

18 (I) A violation of NRS 484.379, 484.3795, subsection 2
19 of NRS 488.400, NRS 488.410 or 488.420 **or section 14 or 41 of**
20 **this act** or a law of another jurisdiction that prohibits the same or
21 similar conduct; or

22 (II) Any other offense in this State or another jurisdiction
23 in which death or substantial bodily harm to another person resulted
24 from conduct prohibited by a law set forth in sub-subparagraph (I).

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

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

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

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

36 (b) Engaging in any other conduct prohibited by NRS 484.379
37 or 484.3795 **or section 14 of this act,**

38 ➔ the officer may direct that reasonable force be used to the extent
39 necessary to obtain samples of blood from the person to be tested.
40 Not more than three such samples may be taken during the 5-hour
41 period immediately following the time of the initial arrest. In such a
42 circumstance, the officer is not required to provide the person with a
43 choice of tests for determining the concentration of alcohol or
44 presence of a controlled substance or another prohibited substance
45 in his blood.



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

Sec. 31. NRS 484.389 is hereby amended to read as follows:

484.389 1. If a person refuses to submit to a required chemical test provided for in NRS 484.382 or 484.383, evidence of that refusal is admissible in any criminal or administrative action arising out of acts alleged to have been committed while the person 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 **or section 14 of this act.**

2. Except as otherwise provided in subsection 3 of NRS 484.382, a court or hearing officer may not exclude evidence of a required test or failure to submit to such a test if the police officer or other person substantially complied with the provisions of NRS 484.382 to 484.393, inclusive.

3. If a person submits to a chemical test provided for in NRS 484.382 or 484.383, full information concerning that test must be made available, upon his request, to him or his attorney.

4. Evidence of a required test is not admissible in a criminal or administrative proceeding unless it is shown by documentary or other evidence that the law enforcement agency calibrated the breath-testing device and otherwise maintained it as required by the regulations of the Committee on Testing for Intoxication.

Sec. 32. NRS 484.391 is hereby amended to read as follows:

484.391 1. A person who is arrested for driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or for engaging in any other conduct prohibited by NRS 484.379 or 484.3795 **or section 14 of this act** must be permitted, upon his request and at his expense, reasonable opportunity to have a qualified person of his own choosing administer a chemical test or tests to determine:

(a) The concentration of alcohol in his blood or breath; or

(b) Whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present in his blood or urine.

2. The failure or inability to obtain such a test or tests by such a person does not preclude the admission of evidence relating to the refusal to submit to a test or relating to a test taken upon the request of a police officer.



3. A test obtained under the provisions of this section may not be substituted for or stand in lieu of the test required by NRS 484.383.

Sec. 33. NRS 484.393 is hereby amended to read as follows:

484.393 1. The results of any blood test administered under the provisions of NRS 484.383 or 484.391 are not admissible in any hearing or criminal action arising out of acts alleged to have been committed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379 or 484.3795 *or section 14 of this act* unless:

(a) The blood tested was withdrawn by a physician, physician assistant, registered nurse, licensed practical nurse, emergency medical technician or a technician, technologist or assistant employed in a medical laboratory;

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma; and

(c) The person who withdrew the blood was authorized to do so by the appropriate medical licensing or certifying agency.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a police officer or the person to be tested to administer the test.

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

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

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

(b) Shall order a person convicted of a third or subsequent violation of NRS 484.379 or a violation of NRS 484.3795 *or section 14 of this act*, 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.

2. A court may order a person convicted of a violation of NRS 484.379 or 484.3795 *or section 14 of this act*, for a period determined by the court, to install at his own expense a device in



1 any motor vehicle which he owns or operates as a condition of
2 reinstatement of his driving privilege.

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

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

11 (b) The person who is required to install the device shall provide
12 proof of compliance to the Department before he may receive a
13 restricted license or before his driving privilege may be reinstated,
14 as applicable. Each model of a device installed pursuant to this
15 section must have been certified by the Committee on Testing for
16 Intoxication.

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

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

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

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

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

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

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

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



1 **Sec. 35.** NRS 484.778 is hereby amended to read as follows:
2 484.778 The governing body of each city may enact an
3 ordinance adopting the penalties set forth for misdemeanors in NRS
4 484.3792 *and section 15 of this act* for similar offenses under city
5 ordinance.

6 **Sec. 36.** NRS 484.791 is hereby amended to read as follows:
7 484.791 1. Any peace officer may, without a warrant, arrest a
8 person if the officer has reasonable cause for believing that the
9 person has committed any of the following offenses:

- 10 (a) Homicide by vehicle;
11 (b) A violation of NRS 484.379;
12 (c) A violation of NRS 484.3795;
13 (d) *A violation of section 14 of this act*;
14 (e) Failure to stop, give information or render reasonable
15 assistance in the event of an accident resulting in death or personal
16 injuries in violation of NRS 484.219 or 484.223;

17 ~~(e)~~ (f) Failure to stop or give information in the event of an
18 accident resulting in damage to a vehicle or to other property legally
19 upon or adjacent to a highway in violation of NRS 484.221 or
20 484.225;

21 ~~(f)~~ (g) Reckless driving;

22 ~~(g)~~ (h) Driving a motor vehicle on a highway or on premises
23 to which the public has access at a time when his driver's license
24 has been cancelled, revoked or suspended; or

25 ~~(h)~~ (i) Driving a motor vehicle in any manner in violation of
26 the restrictions imposed in a restricted license issued to him
27 pursuant to NRS 483.490.

28 2. Whenever any person is arrested as authorized in this
29 section, he must be taken without unnecessary delay before the
30 proper magistrate as specified in NRS 484.803, except that in the
31 case of either of the offenses designated in paragraphs ~~(e) and~~ (f)
32 *and (g)* of subsection 1 a peace officer has the same discretion as is
33 provided in other cases in NRS 484.795.

34 **Sec. 37.** NRS 484.795 is hereby amended to read as follows:
35 484.795 Whenever any person is halted by a peace officer for
36 any violation of this chapter and is not required to be taken before a
37 magistrate, the person may, in the discretion of the peace officer,
38 either be given a traffic citation, or be taken without unnecessary
39 delay before the proper magistrate. He must be taken before the
40 magistrate in any of the following cases:

41 1. When the person does not furnish satisfactory evidence of
42 identity or when the peace officer has reasonable and probable
43 grounds to believe the person will disregard a written promise to
44 appear in court;



2. When the person is charged with a violation of NRS 484.701, relating to the refusal of a driver of a vehicle to submit the vehicle to an inspection and test;

3. When the person is charged with a violation of NRS 484.755, relating to the failure or refusal of a driver of a vehicle to submit the vehicle and load to a weighing or to remove excess weight therefrom; or

4. When the person is charged with a violation of NRS 484.379 ~~§~~ *or section 14 of this act*, unless he is incapacitated and is being treated for injuries at the time the peace officer would otherwise be taking him before the magistrate.

Sec. 38. NRS 484.801 is hereby amended to read as follows:

484.801 Except for felonies and those offenses set forth in paragraphs (a) to ~~[(d)]~~ (e), inclusive, of subsection 1 of NRS 484.791, a peace officer at the scene of a traffic accident may issue a traffic citation, as provided in NRS 484.799, or a misdemeanor citation, as provided in NRS 171.1773, to any person involved in the accident when, based upon personal investigation, the peace officer has reasonable and probable grounds to believe that the person has committed any offense pursuant to the provisions of this chapter or of chapter 482, 483, 485, 486 or 706 of NRS in connection with the accident.

Sec. 39. NRS 484.805 is hereby amended to read as follows:

484.805 Whenever any person is taken into custody by a peace officer for the purpose of taking him before a magistrate or court as authorized or required in this chapter upon any charge other than a felony or the offenses enumerated in paragraphs (a) to ~~[(d)]~~ (e), inclusive, of subsection 1 of NRS 484.791, and no magistrate is available at the time of arrest, and there is no bail schedule established by the magistrate or court and no lawfully designated court clerk or other public officer who is available and authorized to accept bail upon behalf of the magistrate or court, the person must be released from custody upon the issuance to him of a misdemeanor citation or traffic citation and his signing a promise to appear, as provided in NRS 171.1773 or 484.799, respectively.

Sec. 40. Chapter 488 of NRS is hereby amended by adding thereto the provisions set forth as sections 41 and 42 of this act.

Sec. 41. 1. *It is unlawful for any person who:*

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

(b) Has a concentration of alcohol of 0.18 or more in his blood or breath; or

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel to have a concentration of alcohol of 0.18 or more in his blood or breath,



1 ↪ to operate or be in actual physical control of a vessel under
2 power or sail on the waters of this State.

3 2. If consumption is proven by a preponderance of the
4 evidence, it is an affirmative defense under paragraph (c) of
5 subsection 1 that the defendant consumed a sufficient quantity of
6 alcohol after operating or being in actual physical control of the
7 vessel, and before his blood was tested, to cause him to have a
8 concentration of 0.18 or more of alcohol in his blood or breath. A
9 defendant who intends to offer this defense at a trial or
10 preliminary hearing must, not less than 14 days before the trial or
11 hearing or at such other time as the court may direct, file and
12 serve on the prosecuting attorney a written notice of that intent.

13 **Sec. 42.** Unless a greater penalty is provided pursuant to
14 NRS 488.420, a person who violates the provisions of section 41 of
15 this act is guilty of a misdemeanor. The court shall:

16 1. Sentence him to imprisonment for not less than 6 days nor
17 more than 6 months in jail, or to perform not less than 72 hours,
18 but not more than 144 hours, of community service; and

19 2. Fine him not less than \$400 nor more than \$1,000.

20 **Sec. 43.** NRS 488.405 is hereby amended to read as follows:

21 488.405 As used in NRS ~~[488.410 and 488.420, the]~~ 488.400
22 to 488.520, inclusive, and sections 41 and 42 of this act:

23 1. The phrase "concentration of alcohol of 0.08 or more in his
24 blood or breath" means 0.08 gram or more per 100 milliliters of the
25 blood of a person or per 210 liters of his breath.

26 2. The phrase "concentration of alcohol of 0.18 or more in
27 his blood or breath" means 0.18 gram or more of alcohol per 100
28 milliliters of the blood of a person or per 210 liters of his breath.

29 **Sec. 44.** NRS 488.405 is hereby amended to read as follows:

30 488.405 As used in NRS ~~[488.410 and 488.420, the]~~ 488.400
31 to 488.520, inclusive, and sections 41 and 42 of this act:

32 1. The phrase "concentration of alcohol of 0.10 or more in his
33 blood or breath" means 0.10 gram or more per 100 milliliters of the
34 blood of a person or per 210 liters of his breath.

35 2. The phrase "concentration of alcohol of 0.18 or more in
36 his blood or breath" means 0.18 gram or more of alcohol per 100
37 milliliters of the blood of a person or per 210 liters of his breath.

38 **Sec. 45.** NRS 488.430 is hereby amended to read as follows:

39 488.430 1. Before sentencing a defendant pursuant to NRS
40 488.420 ~~[§]~~ or section 42 of this act, the court shall require that the
41 defendant be evaluated to determine whether he is an abuser of
42 alcohol or drugs and whether he can be treated successfully for his
43 condition.

44 2. The evaluation must be conducted by:



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

4 (b) A physician who is certified to make such an evaluation by
5 the Board of Medical Examiners; or

6 (c) A psychologist who is certified to make such an evaluation
7 by the Board of Psychological Examiners.

8 3. The alcohol and drug abuse counselor, physician or
9 psychologist who conducts the evaluation shall immediately forward
10 the results of the evaluation to the Director of the Department of
11 Corrections.

12 **Sec. 46.** NRS 488.440 is hereby amended to read as follows:

13 488.440 1. If a defendant pleads guilty to or is found guilty
14 of, a violation of NRS 488.410 or 488.420 *or section 41 of this act*
15 and a chemical analysis of his blood, urine, breath or other bodily
16 substance was conducted, the court shall, in addition to any penalty
17 provided by law, order the defendant to pay the sum of \$60 as a fee
18 for the chemical analysis. Except as otherwise provided in this
19 subsection, any money collected for the chemical analysis must not
20 be deducted from, and is in addition to, any fine otherwise imposed
21 by the court and must be:

22 (a) Collected from the defendant before or at the same time that
23 the fine is collected.

24 (b) Stated separately in the judgment of the court or on the
25 court's docket.

26 2. All money collected pursuant to subsection 1 must be paid
27 by the clerk of the court to the county or city treasurer, as
28 appropriate, on or before the fifth day of each month for the
29 preceding month.

30 3. The treasurer shall deposit all money received by him
31 pursuant to subsection 2 in the county or city treasury, as
32 appropriate, for credit to the fund for forensic services created
33 pursuant to NRS 453.575. The money must be accounted for
34 separately within the fund.

35 4. Except as otherwise provided in subsection 5, each month
36 the treasurer shall, from the money credited to the fund pursuant to
37 subsection 3, pay any amount owed for forensic services and deposit
38 any remaining money in the county or city general fund, as
39 appropriate.

40 5. In counties that do not receive forensic services under a
41 contract with the State, the money credited to the fund pursuant to
42 subsection 3:

43 (a) Except as otherwise provided in paragraph (b), must be:

44 (1) Expended to pay for the chemical analyses performed
45 within the county;



(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created ~~in~~ *by* NRS 484.388.

Sec. 47. NRS 488.450 is hereby amended to read as follows:

488.450 1. Any person who operates or is in actual physical control of a vessel under power or sail on the waters of this State shall be deemed to have given his consent to a preliminary test of his breath to determine the concentration of alcohol in his breath when the test is administered at the direction of a peace officer after a vessel accident or collision or where an officer stops a vessel, if the officer has reasonable grounds to believe that the person to be tested was:

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

(b) Engaging in any other conduct prohibited by NRS 488.410 or 488.420 ~~or~~ *or section 41 of this act.*

2. If the person fails to submit to the test, the officer shall arrest him and take him to a convenient place for the administration of a reasonably available evidentiary test under NRS 488.460.

3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

Sec. 48. NRS 488.460 is hereby amended to read as follows:

488.460 1. Except as otherwise provided in subsections 3 and 4, a person who operates or is in actual physical control of a vessel under power or sail on the waters of this State 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 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 peace officer having reasonable grounds to believe that the person to be tested was:

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



(b) Engaging in any other conduct prohibited by NRS 488.410 or 488.420 ~~or~~ *or section 41 of this act.*

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 of 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 peace 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 operating or being in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or as a result of engaging in any other conduct prohibited by NRS 488.410 or 488.420 ~~or~~ *or section 41 of this act;* or

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

(I) A violation of NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 *or section 14 or 41 of this act* or a law of another jurisdiction that prohibits the same or similar conduct; or

(II) Any other offense in this State or another jurisdiction in which death or substantial bodily harm to another person resulted from conduct prohibited by a law set forth in sub-subparagraph (I).

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

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



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

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

(b) Engaging in any other conduct prohibited by NRS 488.410 or 488.420 ~~or~~ *or section 41 of this act,*

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

Sec. 49. NRS 488.480 is hereby amended to read as follows:

488.480 1. If a person refuses to submit to a required chemical test provided for in NRS 488.450 or 488.460, evidence of that refusal is admissible in any criminal action arising out of acts alleged to have been committed while the person was:

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

(b) Engaging in any other conduct prohibited by NRS 488.410 or 488.420 ~~or~~ *or section 41 of this act.*

2. Except as otherwise provided in subsection 3 of NRS 488.450, a court may not exclude evidence of a required test or failure to submit to such a test if the peace officer or other person substantially complied with the provisions of NRS 488.450 to 488.500, inclusive.

3. If a person submits to a chemical test provided for in NRS 488.450 or 488.460, full information concerning that test must be made available, upon his request, to him or his attorney.

4. Evidence of a required test is not admissible in a criminal proceeding unless it is shown by documentary or other evidence that the device for testing breath was certified pursuant to NRS 484.3882 and was calibrated, maintained and operated as provided by the regulations of the Committee on Testing for Intoxication adopted pursuant to NRS 484.3884, 484.3886 or 484.3888.

5. If the device for testing breath has been certified by the Committee on Testing for Intoxication to be accurate and reliable pursuant to NRS 484.3882, it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath.



6. A court shall take judicial notice of the certification by the Director of a person to operate testing devices of one of the certified types. If a test to determine the amount of alcohol in a person's breath has been performed with a certified type of device by a person who is certified pursuant to NRS 484.3886 or 484.3888, it is presumed that the person operated the device properly.

7. This section does not preclude the admission of evidence of a test of a person's breath where the:

(a) Information is obtained through the use of a device other than one of a type certified by the Committee on Testing for Intoxication.

(b) Test has been performed by a person other than one who is certified by the Director.

Sec. 50. NRS 488.490 is hereby amended to read as follows:

488.490 1. A person who is arrested for operating or being in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or for engaging in any other conduct prohibited by NRS 488.410 or 488.420 *or section 41 of this act* must be permitted, upon his request and at his expense, reasonable opportunity to have a qualified person of his own choosing administer a chemical test to determine:

(a) The concentration of alcohol in his blood or breath; or

(b) Whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present in his blood or urine.

2. The failure or inability to obtain such a test does not preclude the admission of evidence relating to the refusal to submit to a test or relating to a test taken upon the request of a peace officer.

3. A test obtained under the provisions of this section may not be substituted for or stand in lieu of the test required by NRS 488.460.

Sec. 51. NRS 488.500 is hereby amended to read as follows:

488.500 1. The results of any blood test administered under the provisions of NRS 488.460 or 488.490 are not admissible in any criminal action arising out of acts alleged to have been committed by a person who was operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 488.410 or 488.420 *or section 41 of this act* unless:

(a) The blood tested was withdrawn by a physician, registered nurse, licensed practical nurse, emergency medical technician or a



1 technician, technologist or assistant employed in a medical
2 laboratory;

3 (b) The test was performed on whole blood, except if the sample
4 was clotted when it was received by the laboratory, the test may be
5 performed on blood serum or plasma; and

6 (c) The person who withdrew the blood was authorized to do so
7 by the appropriate licensing or certifying agency.

8 2. The limitation contained in paragraph (a) of subsection 1
9 does not apply to the taking of a chemical test of the urine, breath or
10 other bodily substance.

11 3. No person listed in paragraph (a) of subsection 1 incurs any
12 civil or criminal liability as a result of the administering of a blood
13 test when requested by a peace officer or the person to be tested to
14 administer the test.

15 **Sec. 52.** NRS 4.355 is hereby amended to read as follows:

16 4.355 1. A justice of the peace in a township whose
17 population is 40,000 or more may appoint a referee to take
18 testimony and recommend orders and a judgment:

19 (a) In any action filed pursuant to NRS 73.010;

20 (b) In any action filed pursuant to NRS 33.200 to 33.360,
21 inclusive ; ~~§~~

22 (c) In any action for a misdemeanor constituting a violation of
23 chapter 484 of NRS, except NRS 484.379 ~~[and 484.3795;]~~ *or*
24 *484.3795 or section 14 of this act;* or

25 (d) In any action for a misdemeanor constituting a violation of a
26 county traffic ordinance.

27 2. The referee must meet the qualifications of a justice of the
28 peace as set forth in subsections 1 and 2 of NRS 4.010.

29 3. The referee:

30 (a) Shall take testimony;

31 (b) Shall make findings of fact, conclusions of law and
32 recommendations for an order or judgment;

33 (c) May, subject to confirmation by the justice of the peace,
34 enter an order or judgment; and

35 (d) Has any other power or duty contained in the order of
36 reference issued by the justice of the peace.

37 4. The findings of fact, conclusions of law and
38 recommendations of the referee must be furnished to each party or
39 his attorney at the conclusion of the proceeding or as soon thereafter
40 as possible. Within 5 days after receipt of the findings of fact,
41 conclusions of law and recommendations, a party may file a written
42 objection. If no objection is filed, the court shall accept the findings,
43 unless clearly erroneous, and the judgment may be entered thereon.
44 If an objection is filed within the 5-day period, the justice of the



1 peace shall review the matter by trial de novo, except that if all of
2 the parties so stipulate, the review must be confined to the record.

3 5. A referee must be paid one-half of the hourly compensation
4 of a justice of the peace.

5 **Sec. 53.** NRS 4.3762 is hereby amended to read as follows:

6 4.3762 1. Except as otherwise provided in subsection 7, in
7 lieu of imposing any punishment other than a minimum sentence
8 required by statute, a justice of the peace may sentence a person
9 convicted of a misdemeanor to a term of residential confinement. In
10 making this determination, the justice of the peace shall consider the
11 criminal record of the convicted person and the seriousness of the
12 crime committed.

13 2. In sentencing a convicted person to a term of residential
14 confinement, the justice of the peace shall:

15 (a) Require the convicted person to be confined to his residence
16 during the time he is away from his employment, public service or
17 other activity authorized by the justice of the peace; and

18 (b) Require intensive supervision of the convicted person,
19 including, without limitation, electronic surveillance and
20 unannounced visits to his residence or other locations where he is
21 expected to be to determine whether he is complying with the terms
22 of his sentence.

23 3. In sentencing a convicted person to a term of residential
24 confinement, the justice of the peace may, when the circumstances
25 warrant, require the convicted person to submit to:

26 (a) A search and seizure by the chief of a department of
27 alternative sentencing, an assistant alternative sentencing officer or
28 any other law enforcement officer at any time of the day or night
29 without a search warrant; and

30 (b) Periodic tests to determine whether the offender is using a
31 controlled substance or consuming alcohol.

32 4. Except as otherwise provided in subsection 5, an electronic
33 device may be used to supervise a convicted person sentenced to a
34 term of residential confinement. The device must be minimally
35 intrusive and limited in capability to recording or transmitting
36 information concerning the presence of the person at his residence,
37 including, but not limited to, the transmission of still visual images
38 which do not concern the activities of the person while inside his
39 residence. A device which is capable of recording or transmitting:

40 (a) Oral or wire communications or any auditory sound; or

41 (b) Information concerning the activities of the person while
42 inside his residence,

43 ➤ must not be used.

44 5. An electronic device must be used in the manner set forth in
45 subsection 4 to supervise a person who is sentenced pursuant to



1 paragraph (b) of subsection 1 of NRS 484.3792 *or paragraph (b) of*
2 *subsection 1 of section 15 of this act* for a second violation within 7
3 years of driving under the influence of intoxicating liquor or a
4 controlled substance.

5 6. A term of residential confinement, together with the term of
6 any minimum sentence required by statute, may not exceed the
7 maximum sentence which otherwise could have been imposed for
8 the offense.

9 7. The justice of the peace shall not sentence a person
10 convicted of committing a battery which constitutes domestic
11 violence pursuant to NRS 33.018 to a term of residential
12 confinement in lieu of imprisonment unless the justice of the peace
13 makes a finding that the person is not likely to pose a threat to the
14 victim of the battery.

15 8. The justice of the peace may issue a warrant for the arrest of
16 a convicted person who violates or fails to fulfill a condition of
17 residential confinement.

18 **Sec. 54.** NRS 5.076 is hereby amended to read as follows:

19 5.076 1. Except as otherwise provided in subsection 7, in lieu
20 of imposing any punishment other than a minimum sentence
21 required by statute, a municipal judge may sentence a person
22 convicted of a misdemeanor to a term of residential confinement. In
23 making this determination, the municipal judge shall consider the
24 criminal record of the convicted person and the seriousness of the
25 crime committed.

26 2. In sentencing a convicted person to a term of residential
27 confinement, the municipal judge shall:

28 (a) Require the convicted person to be confined to his residence
29 during the time he is away from his employment, public service or
30 other activity authorized by the municipal judge; and

31 (b) Require intensive supervision of the convicted person,
32 including, without limitation, electronic surveillance and
33 unannounced visits to his residence or other locations where he is
34 expected to be in order to determine whether he is complying with
35 the terms of his sentence.

36 3. In sentencing a convicted person to a term of residential
37 confinement, the municipal judge may, when the circumstances
38 warrant, require the convicted person to submit to:

39 (a) A search and seizure by the chief of a department of
40 alternative sentencing, an assistant alternative sentencing officer or
41 any other law enforcement officer at any time of the day or night
42 without a search warrant; and

43 (b) Periodic tests to determine whether the offender is using a
44 controlled substance or consuming alcohol.



4. Except as otherwise provided in subsection 5, an electronic device may be used to supervise a convicted person sentenced to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the person at his residence, including, but not limited to, the transmission of still visual images which do not concern the activities of the person while inside his residence. A device which is capable of recording or transmitting:

- (a) Oral or wire communications or any auditory sound; or
 - (b) Information concerning the activities of the person while inside his residence,
- ↪ must not be used.

5. An electronic device must be used in the manner set forth in subsection 4 to supervise a person who is sentenced pursuant to paragraph (b) of subsection 1 of NRS 484.3792 *or paragraph (b) of subsection 1 of section 15 of this act* for a second violation within 7 years of driving under the influence of intoxicating liquor or a controlled substance.

6. A term of residential confinement, together with the term of any minimum sentence required by statute, may not exceed the maximum sentence which otherwise could have been imposed for the offense.

7. The municipal judge shall not sentence a person convicted of committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement in lieu of imprisonment unless the municipal judge makes a finding that the person is not likely to pose a threat to the victim of the battery.

8. The municipal judge may issue a warrant for the arrest of a convicted person who violates or fails to fulfill a condition of residential confinement.

Sec. 55. NRS 42.010 is hereby amended to read as follows:

42.010 1. In an action for the breach of an obligation, where the defendant caused an injury by the operation of a motor vehicle in violation of NRS 484.379 or 484.3795 *or section 14 of this act* after willfully consuming or using alcohol or another substance, knowing that he would thereafter operate the motor vehicle, the plaintiff, in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant.

2. The provisions of NRS 42.005 do not apply to any cause of action brought pursuant to this section.

Sec. 56. NRS 50.325 is hereby amended to read as follows:

50.325 1. If a person is charged with an offense listed in subsection 4, and it is necessary to prove:

- (a) The existence of any alcohol;



(b) The quantity of a controlled substance; or
(c) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance, the prosecuting attorney may request that the affidavit or declaration of an expert or other person described in NRS 50.315 and 50.320 be admitted into evidence at the trial or preliminary hearing concerning the offense. Except as otherwise provided in NRS 50.315 and 50.320, the affidavit or declaration must be admitted into evidence.

2. If the request is to have the affidavit or declaration admitted into evidence at a preliminary hearing or hearing before a grand jury, the affidavit or declaration must be admitted into evidence upon submission. If the request is to have the affidavit or declaration admitted into evidence at trial, the request must be:

(a) Made at least 10 days before the date set for the trial;
(b) Sent to the defendant's counsel and to the defendant, by registered or certified mail by the prosecuting attorney; and
(c) Accompanied by a copy of the affidavit or declaration and the name, address and telephone number of the affiant or declarant.

3. The provisions of this section do not prohibit either party from producing any witness to offer testimony at trial.

4. The provisions of this section apply to any of the following offenses:

(a) An offense punishable pursuant to NRS 202.257, 455A.170, 455B.080, 493.130 or 639.283.

(b) An offense punishable pursuant to chapter 453, 484 or 488 of NRS.

(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 ~~H~~ *or section 14 or 41 of this act.*

(d) Any other offense for which it is necessary to prove, as an element of the offense:

(1) The existence of any alcohol;
(2) The quantity of a controlled substance; or
(3) The existence or identity of a controlled substance, chemical, poison, organic solvent or another prohibited substance.

Sec. 57. NRS 62A.220 is hereby amended to read as follows:

62A.220 "Minor traffic offense" means a violation of any state or local law or ordinance governing the operation of a motor vehicle upon any highway within this State other than:

1. A violation of chapter 484 or 706 of NRS that causes the death of a person;



2. A violation of NRS 484.379 ~~or~~ *or section 14 of this act*; or
3. A violation declared to be a felony.

Sec. 58. NRS 62E.620 is hereby amended to read as follows:

62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:

(a) An unlawful act in violation of NRS 484.379 or 484.3795 ~~or~~ *or section 14 of this act*;

(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or

(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.

2. The evaluation of the child must be conducted by:

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

(b) A physician who is certified to make that classification by the Board of Medical Examiners.

3. The evaluation of the child may be conducted at an evaluation center.

4. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.

5. The juvenile court shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:

(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and

(2) The juvenile court may order the child, in lieu of paying the charges relating to his evaluation and treatment, to perform community service.

6. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this



1 section, the treatment facility is not liable for any damages to person
2 or property caused by a child who:

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

6 (b) Engages in any other conduct prohibited by NRS 484.379,
7 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420
8 *or section 14 or 41 of this act* or a law of any other jurisdiction that
9 prohibits the same or similar conduct.

10 7. The provisions of this section do not prohibit the juvenile
11 court from:

12 (a) Requiring an evaluation to be conducted by a person who is
13 employed by a private company if the company meets the standards
14 of the Health Division of the Department of Human Resources. The
15 evaluation may be conducted at an evaluation center.

16 (b) Ordering the child to attend a program of treatment which is
17 administered by a private company.

18 8. All information relating to the evaluation or treatment of a
19 child pursuant to this section is confidential and, except as otherwise
20 authorized by the provisions of this title or the juvenile court, must
21 not be disclosed to any person other than:

22 (a) The juvenile court;

23 (b) The child;

24 (c) The attorney for the child, if any;

25 (d) The parents or guardian of the child;

26 (e) The district attorney; and

27 (f) Any other person for whom the communication of that
28 information is necessary to effectuate the evaluation or treatment of
29 the child.

30 9. A record of any finding that a child has violated the
31 provisions of NRS 484.379 or 484.3795 *or section 14 of this act*
32 must be included in the driver's record of that child for 7 years after
33 the date of the offense.

34 **Sec. 59.** NRS 62E.640 is hereby amended to read as follows:

35 62E.640 1. If a child is adjudicated delinquent for an
36 unlawful act in violation of NRS 484.379 or 484.3795 ~~§~~ *or section*
37 *14 of this act*, the juvenile court shall, if the child possesses a
38 driver's license:

39 (a) Issue an order revoking the driver's license of the child for
40 90 days and requiring the child to surrender his driver's license to
41 the juvenile court; and

42 (b) Not later than 5 days after issuing the order, forward to the
43 Department of Motor Vehicles a copy of the order and the driver's
44 license of the child.



2. The Department of Motor Vehicles shall order the child to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement of the driver's license of the child.

3. If the child is adjudicated delinquent for a subsequent unlawful act in violation of NRS 484.379 or 484.3795 ~~§~~ *or section 14 of this act*, the juvenile court shall order an additional period of revocation to apply consecutively with the previous order.

4. The juvenile court may authorize the Department of Motor Vehicles to issue a restricted driver's license pursuant to NRS 483.490 to a child whose driver's license is revoked pursuant to this section.

Sec. 60. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 179.259 and 453.3365, a person may petition the court in which he was convicted for the sealing of all records relating to a conviction of:

(a) A category A or B felony after 15 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(b) A category C or D felony after 12 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(c) A category E felony after 10 years from the date of his release from actual custody or discharge from parole or probation, whichever occurs later;

(d) Any gross misdemeanor after 7 years from the date of his release from actual custody or discharge from probation, whichever occurs later;

(e) A violation of NRS 484.379 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later; or

(f) Any other misdemeanor after 3 years from the date of his release from actual custody or from the date when he is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

(a) Be accompanied by current, verified records of the petitioner's criminal history received from:

(1) The Central Repository for Nevada Records of Criminal History; and

(2) The local law enforcement agency of the city or county in which the conviction was entered;



(b) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice's court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

➡ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private agency, company or official in the State of Nevada, and may also order all such criminal identification records of the petitioner returned to the file of the court where the proceeding was commenced from, including, but not limited to, the Federal Bureau of Investigation, the California Bureau of Identification and Information, sheriffs' offices and all other law enforcement agencies reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to *a violation of section 14 of this act or* a conviction of a crime against a child or a sexual offense.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.210.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or



1 sexual molestation of a child less than 14 years of age pursuant to
2 paragraph (b) of subsection 1 of NRS 200.030.

3 (2) Sexual assault pursuant to NRS 200.366.

4 (3) Statutory sexual seduction pursuant to NRS 200.368, if
5 punishable as a felony.

6 (4) Battery with intent to commit sexual assault pursuant to
7 NRS 200.400.

8 (5) An offense involving the administration of a drug to
9 another person with the intent to enable or assist the commission of
10 a felony pursuant to NRS 200.405, if the felony is an offense listed
11 in this paragraph.

12 (6) An offense involving the administration of a controlled
13 substance to another person with the intent to enable or assist the
14 commission of a crime of violence pursuant to NRS 200.408, if the
15 crime of violence is an offense listed in this paragraph.

16 (7) Abuse of a child pursuant to NRS 200.508, if the abuse
17 involved sexual abuse or sexual exploitation.

18 (8) An offense involving pornography and a minor pursuant
19 to NRS 200.710 to 200.730, inclusive.

20 (9) Incest pursuant to NRS 201.180.

21 (10) Solicitation of a minor to engage in acts constituting the
22 infamous crime against nature pursuant to NRS 201.195.

23 (11) Open or gross lewdness pursuant to NRS 201.210, if
24 punishable as a felony.

25 (12) Indecent or obscene exposure pursuant to NRS 201.220,
26 if punishable as a felony.

27 (13) Lewdness with a child pursuant to NRS 201.230.

28 (14) Sexual penetration of a dead human body pursuant to
29 NRS 201.450.

30 (15) Luring a child or mentally ill person pursuant to NRS
31 201.560, if punishable as a felony.

32 (16) An attempt to commit an offense listed in subparagraphs
33 (1) to (15), inclusive.

34 **Sec. 61.** NRS 179A.070 is hereby amended to read as follows:

35 179A.070 1. "Record of criminal history" means information
36 contained in records collected and maintained by agencies of
37 criminal justice, the subject of which is a natural person, consisting
38 of descriptions which identify the subject and notations of summons
39 in a criminal action, warrants, arrests, citations for misdemeanors
40 issued pursuant to NRS 171.1773, citations issued for violations of
41 NRS 484.379 ~~and~~ or 484.3795, *or section 14 of this act*,
42 detentions, decisions of a district attorney or the Attorney General
43 not to prosecute the subject, indictments, informations or other
44 formal criminal charges and dispositions of charges, including,
45 without limitation, dismissals, acquittals, convictions, sentences,



1 information set forth in NRS 209.353 concerning an offender in
2 prison, any postconviction relief, correctional supervision occurring
3 in Nevada, information concerning the status of an offender on
4 parole or probation, and information concerning a convicted person
5 who has registered as such pursuant to chapter 179C of NRS. The
6 term includes only information contained in a record, maintained in
7 written or electronic form, of a formal transaction between a person
8 and an agency of criminal justice in this State, including, without
9 limitation, the fingerprints of a person who is arrested and taken into
10 custody and of a person who is placed on parole or probation and
11 supervised by the Division of Parole and Probation of the
12 Department.

13 2. "Record of criminal history" does not include:

14 (a) Investigative or intelligence information, reports of crime or
15 other information concerning specific persons collected in the
16 course of the enforcement of criminal laws;

17 (b) Information concerning juveniles;

18 (c) Posters, announcements or lists intended to identify fugitives
19 or wanted persons and aid in their apprehension;

20 (d) Original records of entry maintained by agencies of criminal
21 justice if the records are chronological and not cross-indexed;

22 (e) Records of application for and issuance, suspension,
23 revocation or renewal of occupational licenses, including, without
24 limitation, permits to work in the gaming industry;

25 (f) Except as otherwise provided in subsection 1, court indexes
26 and records of public judicial proceedings, court decisions and
27 opinions, and information disclosed during public judicial
28 proceedings;

29 (g) Except as otherwise provided in subsection 1, records of
30 traffic violations constituting misdemeanors;

31 (h) Records of traffic offenses maintained by the Department to
32 regulate the issuance, suspension, revocation or renewal of drivers'
33 or other operators' licenses;

34 (i) Announcements of actions by the State Board of Pardons
35 Commissioners and the State Board of Parole Commissioners,
36 except information concerning the status of an offender on parole or
37 probation; or

38 (j) Records which originated in an agency other than an agency
39 of criminal justice in this State.

40 **Sec. 62.** NRS 202.3657 is hereby amended to read as follows:

41 202.3657 1. Any person who is a resident of this State may
42 apply to the sheriff of the county in which he resides for a permit on
43 a form prescribed by regulation of the Department. Any person who
44 is not a resident of this State may apply to the sheriff of any county
45 in this State for a permit on a form prescribed by regulation of the



1 Department. Application forms for permits must be furnished by the
2 sheriff of each county upon request.

3 2. Except as otherwise provided in this section, the sheriff shall
4 issue a permit for one or more specific firearms to any person who is
5 qualified to possess each firearm under state and federal law, who
6 submits an application in accordance with the provisions of this
7 section and who:

8 (a) Is 21 years of age or older;

9 (b) Is not prohibited from possessing a firearm pursuant to NRS
10 202.360; and

11 (c) Demonstrates competence with each firearm by presenting a
12 certificate or other documentation to the sheriff which shows that
13 he:

14 (1) Successfully completed a course in firearm safety
15 approved by a sheriff in this State; or

16 (2) Successfully completed a course in firearm safety offered
17 by a federal, state or local law enforcement agency, community
18 college, university or national organization that certifies instructors
19 in firearm safety.

20 ➤ Such a course must include instruction in the use of each firearm
21 to which the application pertains and in the laws of this State
22 relating to the use of a firearm. A sheriff may not approve a course
23 in firearm safety pursuant to subparagraph (1) unless he determines
24 that the course meets any standards that are established by the
25 Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs'
26 and Chiefs' Association ceases to exist, its legal successor.

27 3. The sheriff shall deny an application or revoke a permit if he
28 determines that the applicant or permittee:

29 (a) Has an outstanding warrant for his arrest.

30 (b) Has been judicially declared incompetent or insane.

31 (c) Has been voluntarily or involuntarily admitted to a mental
32 health facility during the immediately preceding 5 years.

33 (d) Has habitually used intoxicating liquor or a controlled
34 substance to the extent that his normal faculties are impaired. For
35 the purposes of this paragraph, it is presumed that a person has so
36 used intoxicating liquor or a controlled substance if, during the
37 immediately preceding 5 years, he has been:

38 (1) Convicted of violating the provisions of NRS 484.379 ~~§~~
39 or *section 14 of this act; or*

40 (2) Committed for treatment pursuant to NRS 458.290 to
41 458.350, inclusive.

42 (e) Has been convicted of a crime involving the use or
43 threatened use of force or violence punishable as a misdemeanor
44 under the laws of this or any other state, or a territory or possession



1 of the United States at any time during the immediately preceding 3
2 years.

3 (f) Has been convicted of a felony in this State or under the laws
4 of any state, territory or possession of the United States.

5 (g) Has been convicted of a crime involving domestic violence
6 or stalking, or is currently subject to a restraining order, injunction
7 or other order for protection against domestic violence.

8 (h) Is currently on parole or probation from a conviction
9 obtained in this State or in any other state or territory or possession
10 of the United States.

11 (i) Has, within the immediately preceding 5 years, been subject
12 to any requirements imposed by a court of this State or of any other
13 state or territory or possession of the United States, as a condition to
14 the court's:

15 (1) Withholding of the entry of judgment for his conviction
16 of a felony; or

17 (2) Suspension of his sentence for the conviction of a felony.

18 (j) Has made a false statement on any application for a permit or
19 for the renewal of a permit.

20 4. The sheriff may deny an application or revoke a permit if he
21 receives a sworn affidavit stating articulable facts based upon
22 personal knowledge from any natural person who is 18 years of age
23 or older that the applicant or permittee has or may have committed
24 an offense or engaged in any other activity specified in subsection 3
25 which would preclude the issuance of a permit to the applicant or
26 require the revocation of a permit pursuant to this section.

27 5. If the sheriff receives notification submitted by a court or
28 law enforcement agency of this or any other state, the United States
29 or a territory or possession of the United States that a permittee or
30 an applicant for a permit has been charged with a crime involving
31 the use or threatened use of force or violence, the conviction for
32 which would require the revocation of a permit or preclude the
33 issuance of a permit to the applicant pursuant to this section, the
34 sheriff shall suspend the person's permit or the processing of his
35 application until the final disposition of the charges against him. If a
36 permittee is acquitted of the charges against him, or if the charges
37 are dropped, the sheriff shall restore his permit without imposing a
38 fee.

39 6. An application submitted pursuant to this section must be
40 completed and signed under oath by the applicant. The applicant's
41 signature must be witnessed by an employee of the sheriff or
42 notarized by a notary public. The application must include:

43 (a) The name, address, place and date of birth, social security
44 number, occupation and employer of the applicant and any other
45 names used by the applicant;



(b) A complete set of the applicant's fingerprints taken by the sheriff or his agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) The make, model and caliber of each firearm to which the application pertains;

(g) A nonrefundable fee in the amount necessary to obtain the report required pursuant to subsection 1 of NRS 202.366; and

(h) A nonrefundable fee set by the sheriff not to exceed \$60.

Sec. 63. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

(a) Established a position of employment in the community;

(b) Enrolled in a program for education or rehabilitation; or

(c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

➤ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.



3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

(a) Is not eligible for parole or release from prison within a reasonable period;

(b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;

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

(d) Has ever been convicted of:

(1) Any crime involving the use or threatened use of force or violence against the victim; or

(2) A sexual offense;

(e) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379 or 484.3795 ~~or~~ *or section 14 of this act;*

(f) Has escaped or attempted to escape from any jail or correctional institution for adults; or

(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,

is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,



1 ↳ except that the offender is not entitled to obtain any benefits or to
2 participate in any programs provided to offenders in the custody of
3 the Department.

4 6. An offender does not have a right to be assigned to the
5 custody of the Division of Parole and Probation pursuant to this
6 section, or to remain in that custody after such an assignment, and it
7 is not intended that the provisions of this section or of NRS 213.371
8 to 213.410, inclusive, create any right or interest in liberty or
9 property or establish a basis for any cause of action against the
10 State, its political subdivisions, agencies, boards, commissions,
11 departments, officers or employees.

12 **Sec. 64.** NRS 209.425 is hereby amended to read as follows:

13 209.425 1. The Director shall, with the approval of the
14 Board, establish a program for the treatment of an abuser of alcohol
15 or drugs who is imprisoned pursuant to paragraph (c) of subsection
16 1 of NRS 484.3792 or NRS 484.3795 ~~or~~ *or paragraph (c) or (d) of*
17 *subsection 1 of section 15 of this act.* The program must include an
18 initial period of intensive mental and physical rehabilitation in a
19 facility of the Department, followed by regular sessions of
20 education, counseling and any other necessary or desirable
21 treatment.

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

29 (a) Offset the costs, as reflected in the budget of the Department,
30 to maintain the offender in a facility or institution of the Department
31 and in the program of treatment established pursuant to this section;
32 and

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

35 **Sec. 65.** NRS 209.481 is hereby amended to read as follows:

36 209.481 1. The Director shall not assign any prisoner to an
37 institution or facility of minimum security if the prisoner:

38 (a) Except as otherwise provided in NRS 484.3792 and
39 484.3795, *and section 15 of this act*, is not eligible for parole or
40 release from prison within a reasonable period;

41 (b) Has recently committed a serious infraction of the rules of an
42 institution or facility of the Department;

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

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



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

(f) Has attempted to escape or has escaped from an institution of the Department.

2. The Director shall, by regulation, establish procedures for classifying and selecting qualified prisoners.

Sec. 66. NRS 217.070 is hereby amended to read as follows:

217.070 “Victim” means:

1. A person who is physically injured or killed as the direct result of a criminal act;

2. A minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730;

3. A minor who was sexually abused, as “sexual abuse” is defined in NRS 432B.100;

4. A person who is physically injured or killed as the direct result of a violation of NRS 484.379 *or section 14 of this act* or any act or neglect of duty punishable pursuant to NRS 484.3795;

5. A pedestrian who is physically injured or killed as the direct result of a driver of a motor vehicle who failed to stop at the scene of an accident involving the driver and the pedestrian in violation of NRS 484.219; or

6. A resident who is physically injured or killed as the direct result of an act of international terrorism as defined in 18 U.S.C. § 2331(1).

➡ The term includes a person who was harmed by any of these acts whether the act was committed by an adult or a minor.

Sec. 67. NRS 217.220 is hereby amended to read as follows:

217.220 1. Except as otherwise provided in subsections 2 and 3, compensation must not be awarded if the victim:

(a) Was injured or killed as a result of the operation of a motor vehicle, boat or airplane unless the vehicle, boat or airplane was used as a weapon in a deliberate attempt to harm the victim or unless the driver of the vehicle injured a pedestrian, violated any of the provisions of NRS 484.379 *or section 14 of this act* or the use of the vehicle was punishable pursuant to NRS 484.3795;

(b) Was not a citizen of the United States or was not lawfully entitled to reside in the United States at the time the incident upon which the claim is based occurred or he is unable to provide proof that he was a citizen of the United States or was lawfully entitled to reside in the United States at that time;

(c) Was a coconspirator, codefendant, accomplice or adult passenger of the offender whose crime caused the victim’s injuries;

(d) Was injured or killed while serving a sentence of imprisonment in a prison or jail;



(e) Was injured or killed while living in a facility for the commitment or detention of children who are adjudicated delinquent pursuant to title 5 of NRS; or

(f) Fails to cooperate with law enforcement agencies. Such cooperation does not require prosecution of the offender.

2. Paragraph (a) of subsection 1 does not apply to a minor who was physically injured or killed while being a passenger in the vehicle of an offender who violated NRS 484.379 *or section 14 of this act* or is punishable pursuant to NRS 484.3795.

3. A victim who is a relative of the offender or who, at the time of the personal injury or death of the victim, was living with the offender in a continuing relationship may be awarded compensation if the offender would not profit by the compensation of the victim.

4. The compensation officer may deny an award if he determines that the applicant will not suffer serious financial hardship. In determining whether an applicant will suffer serious financial hardship, the compensation officer shall not consider:

(a) The value of the victim's dwelling;

(b) The value of one motor vehicle owned by the victim; or

(c) The savings and investments of the victim up to an amount equal to the victim's annual salary.

Sec. 68. NRS 453A.300 is hereby amended to read as follows:

453A.300 1. A person who holds a registry identification card issued to him pursuant to NRS 453A.220 or 453A.250 is not exempt from state prosecution for, nor may he establish an affirmative defense to charges arising from, any of the following acts:

(a) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.

(b) Engaging in any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 493.130 *or section 14 or 41 of this act.*

(c) Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.

(d) Possessing marijuana in violation of NRS 453.336 or possessing drug paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or drug paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

(1) Any public place or in any place open to the public or exposed to public view; or

(2) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.



(e) Delivering marijuana to another person who he knows does not lawfully hold a registry identification card issued by the Department or its designee pursuant to NRS 453A.220 or 453A.250.

(f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card issued by the Department or its designee pursuant to NRS 453A.220 or 453A.250.

2. In addition to any other penalty provided by law, if the Department determines that a person has willfully violated a provision of this chapter or any regulation adopted by the Department or Division to carry out the provisions of this chapter, the Department may, at its own discretion, prohibit the person from obtaining or using a registry identification card for a period of up to 6 months.

Sec. 69. NRS 458.260 is hereby amended to read as follows:

458.260 1. Except as otherwise provided in subsection 2, the use of alcohol, the status of drunkard and the fact of being found in an intoxicated condition are not:

(a) Public offenses and shall not be so treated in any ordinance or resolution of a county, city or town.

(b) Elements of an offense giving rise to a criminal penalty or civil sanction.

2. The provisions of subsection 1 do not apply to:

(a) A civil or administrative violation for which intoxication is an element of the violation pursuant to the provisions of a specific statute or regulation;

(b) A criminal offense for which intoxication is an element of the offense pursuant to the provisions of a specific statute or regulation;

(c) A homicide resulting from driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 ~~or~~ *or section 14 or 41 of this act;* and

(d) Any offense or violation which is similar to an offense or violation described in paragraph (a), (b) or (c) and which is set forth in an ordinance or resolution of a county, city or town.

3. This section does not make intoxication an excuse or defense for any criminal act.

Sec. 70. NRS 458.270 is hereby amended to read as follows:

458.270 1. Except as otherwise provided in subsection 7, a person who is found in any public place under the influence of alcohol, in such a condition that he is unable to exercise care for his



1 health or safety or the health or safety of other persons, must be
2 placed under civil protective custody by a peace officer.

3 2. A peace officer may use upon such a person the kind and
4 degree of force which would be lawful if he were effecting an arrest
5 for a misdemeanor with a warrant.

6 3. If a licensed facility for the treatment of persons who abuse
7 alcohol exists in the community where the person is found, he must
8 be delivered to the facility for observation and care. If no such
9 facility exists in the community, the person so found may be placed
10 in a county or city jail or detention facility for shelter or supervision
11 for his health and safety until he is no longer under the influence of
12 alcohol. He may not be required against his will to remain in a
13 licensed facility, jail or detention facility longer than 48 hours.

14 4. An intoxicated person taken into custody by a peace officer
15 for a public offense must immediately be taken to a secure
16 detoxification unit or other appropriate medical facility if his
17 condition appears to require emergency medical treatment. Upon
18 release from the detoxification unit or medical facility, the person
19 must immediately be remanded to the custody of the apprehending
20 peace officer and the criminal proceedings proceed as prescribed by
21 law.

22 5. The placement of a person found under the influence of
23 alcohol in civil protective custody must be:

24 (a) Recorded at the facility, jail or detention facility to which he
25 is delivered; and

26 (b) Communicated at the earliest practical time to his family or
27 next of kin if they can be located.

28 6. Every peace officer and other public employee or agency
29 acting pursuant to this section is performing a discretionary function
30 or duty.

31 7. The provisions of this section do not apply to a person who
32 is apprehended or arrested for:

33 (a) A civil or administrative violation for which intoxication is
34 an element of the violation pursuant to the provisions of a specific
35 statute or regulation;

36 (b) A criminal offense for which intoxication is an element of
37 the offense pursuant to the provisions of a specific statute or
38 regulation;

39 (c) A homicide resulting from driving, operating or being in
40 actual physical control of a vehicle or a vessel under power or sail
41 while under the influence of intoxicating liquor or a controlled
42 substance or resulting from any other conduct prohibited by NRS
43 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or
44 488.420 **[H] or section 14 or 41 of this act;** and



(d) Any offense or violation which is similar to an offense or violation described in paragraph (a), (b) or (c) and which is set forth in an ordinance or resolution of a county, city or town.

Sec. 71. NRS 458.300 is hereby amended to read as follows:

458.300 Subject to the provisions of NRS 458.290 to 458.350, inclusive, an alcoholic or a drug addict who has been convicted of a crime is eligible to elect to be assigned by the court to a program of treatment for the abuse of alcohol or drugs pursuant to NRS 453.580 before he is sentenced unless:

1. The crime is a crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS or the crime is an act which constitutes domestic violence as set forth in NRS 33.018;

2. The crime is that of trafficking of a controlled substance;

3. The crime is a violation of NRS 484.379 or 484.3795 ~~or~~ *section 14 of this act;*

4. The alcoholic or drug addict has a record of two or more convictions of a crime described in subsection 1 or 2, a similar crime in violation of the laws of another state, or of three or more convictions of any felony;

5. Other criminal proceedings alleging commission of a felony are pending against the alcoholic or drug addict;

6. The alcoholic or drug addict is on probation or parole and the appropriate parole or probation authority does not consent to the election; or

7. The alcoholic or drug addict elected and was admitted, pursuant to NRS 458.290 to 458.350, inclusive, to a program of treatment not more than twice within the preceding 5 years.

Sec. 72. NRS 629.065 is hereby amended to read as follows:

629.065 1. Each provider of health care shall, upon request, make available to a law enforcement agent or district attorney the health care records of a patient which relate to a test of his blood, breath or urine if:

(a) The patient is suspected of having violated NRS 484.379, 484.3795, subsection 2 of NRS 488.400, NRS 488.410 or 488.420 ~~or~~ *section 14 or 41 of this act;* and

(b) The records would aid in the related investigation.

➡ To the extent possible, the provider of health care shall limit the inspection to the portions of the records which pertain to the presence of alcohol or a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood, breath or urine of the patient.

2. The records must be made available at a place within the depository convenient for physical inspection. Inspection must be permitted at all reasonable office hours and for a reasonable length



1 of time. The provider of health care shall also furnish a copy of the
2 records to each law enforcement agent or district attorney described
3 in subsection 1 who requests the copy and pays the costs of
4 reproducing the copy.

5 3. Records made available pursuant to this section may be
6 presented as evidence during a related administrative or criminal
7 proceeding against the patient.

8 4. A provider of health care and his agents and employees are
9 immune from any civil action for any disclosures made in
10 accordance with the provisions of this section or any consequential
11 damages.

12 5. As used in this section, "prohibited substance" has the
13 meaning ascribed to it in NRS 484.1245.

14 **Sec. 73.** NRS 690B.029 is hereby amended to read as follows:

15 690B.029 1. A policy of insurance against liability arising
16 out of the ownership, maintenance or use of a motor vehicle
17 delivered or issued for delivery in this State to a person who is 55
18 years of age or older must contain a provision for the reduction in
19 the premiums for 3-year periods if the insured:

20 (a) Successfully completes, after attaining 55 years of age and
21 every 3 years thereafter, a course of traffic safety approved by the
22 Department of Motor Vehicles; and

23 (b) For the 3-year period before completing the course of traffic
24 safety and each 3-year period thereafter:

25 (1) Is not involved in an accident involving a motor vehicle
26 for which the insured is at fault;

27 (2) Maintains a driving record free of violations; and

28 (3) Has not been convicted of or entered a plea of guilty or
29 nolo contendere to a moving traffic violation or an offense
30 involving:

31 (I) The operation of a motor vehicle while under the
32 influence of intoxicating liquor or a controlled substance; or

33 (II) Any other conduct prohibited by NRS 484.379 or
34 484.3795 *or section 14 of this act* or a law of any other jurisdiction
35 that prohibits the same or similar conduct.

36 2. The reduction in the premiums provided for in subsection 1
37 must be based on the actuarial and loss experience data available to
38 each insurer and must be approved by the Commissioner. Each
39 reduction must be calculated based on the amount of the premium
40 before any reduction in that premium is made pursuant to this
41 section, and not on the amount of the premium once it has been
42 reduced.

43 3. A course of traffic safety that an insured is required to
44 complete as the result of moving traffic violations must not be used
45 as the basis for a reduction in premiums pursuant to this section.



4. The organization that offers a course of traffic safety approved by the Department of Motor Vehicles shall issue a certificate to each person who successfully completes the course. A person must use the certificate to qualify for the reduction in the premiums pursuant to this section.

5. The Commissioner shall review and approve or disapprove a policy of insurance that offers a reduction in the premiums pursuant to subsection 1. An insurer must receive written approval from the Commissioner before delivering or issuing a policy with a provision containing such a reduction.

Sec. 74. NRS 706.8841 is hereby amended to read as follows:

706.8841 1. The Administrator shall issue a driver's permit to qualified persons who wish to be employed by certificate holders as taxicab drivers. Before issuing a driver's permit, the Administrator shall:

(a) Require the applicant to submit a complete set of his fingerprints which the Administrator may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to ascertain whether the applicant has a criminal record and the nature of any such record, and shall further investigate the applicant's background; and

(b) Require proof that the applicant:

(1) Has been a resident of the State for 30 days before his application for a permit;

(2) Can read and orally communicate in the English language; and

(3) Has a valid license issued under NRS 483.325 which authorizes him to drive a taxicab in this State.

2. The Administrator may refuse to issue a driver's permit if the applicant has been convicted of:

(a) A felony relating to the practice of taxicab drivers in this State or any other jurisdiction at any time before the date of the application;

(b) A felony involving any sexual offense in this State or any other jurisdiction at any time before the date of the application; or

(c) A violation of NRS 484.379 or 484.3795 *or section 14 of this act* or a law of any other jurisdiction that prohibits the same or similar conduct within 3 years before the date of the application.

3. The Administrator may refuse to issue a driver's permit if the Administrator, after the background investigation of the applicant, determines that the applicant is morally unfit or if the issuance of the driver's permit would be detrimental to public health, welfare or safety.

4. A taxicab driver shall pay to the Administrator, in advance, \$40 for an original driver's permit and \$10 for a renewal.



1 **Sec. 75.** 1. This section and section 1 to 6, inclusive, 8 to 43,
2 inclusive, and 45 to 74, inclusive, become effective on October 1,
3 2005.

4 2. Sections 6 and 43 expire by limitation on the date of the
5 repeal of the federal law requiring each state to make it unlawful for
6 a person to operate a motor vehicle with a blood alcohol
7 concentration of 0.08 percent or greater as a condition to receiving
8 federal funding for the construction of highways in this State.

9 3. Sections 7 and 44 become effective on the date of the repeal
10 of the federal law requiring each state to make it unlawful for a
11 person to operate a motor vehicle with a blood alcohol concentration
12 of 0.08 percent or greater as a condition to receiving federal funding
13 for the construction of highways in this State.



