

Assembly Bill No. 534—Committee on Judiciary

CHAPTER.....

AN ACT relating to statutes; ratifying the correction of certain clerical errors and the resolution of certain statutory conflicts in legislative enactments from previous sessions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill corrects an error in the amendment of NRS 108.290 by section 1 of chapter 282, Statutes of Nevada 2005 (S.B. 41), at page 1001. Section 1 of S.B. 41, the source of paragraph (b) of subsection 1 of NRS 108.290, was inadvertently drafted in a manner that was inconsistent with the provisions of paragraph (c) of that subsection and ambiguous in the treatment of liens for the exact amount of \$1,000 or \$2,500. Paragraph (b) of subsection 1 of section 1 of S.B. 41 has therefore been revised as necessary to resolve that ambiguity in a manner that is consistent with the provisions of paragraph (c) of that subsection.

Section 2 of this bill corrects an error in the amendment of NRS 205.134 by section 8 of chapter 318, Statutes of Nevada 2005 (S.B. 520), at page 1081. Section 8 of S.B. 520 inadvertently neglected to correct an outstanding grammatical error occurring in subsection 1 of that section and has therefore been revised accordingly.

Section 3 of this bill corrects an error in section 12 of chapter 421, Statutes of Nevada 2005 (S.B. 515), at page 1769, the source of NRS 360B.450. Section 12 of S.B. 515, which was intended to duplicate a definition required to carry out the Streamlined Sales and Use Tax Agreement, inadvertently indicated that the defined term did not include a clause which the Streamlined Sales and Use Tax Agreement included in the defined term. Section 12 of S.B. 515 has therefore been revised to indicate that the defined term includes that clause, which is set forth in paragraph (c) of subsection 1 of that section.

Section 4 of this bill corrects an error in the amendment of NRS 649.095 by section 61 of chapter 427, Statutes of Nevada 2005 (S.B. 431), at page 1868. Section 60 of S.B. 431, which also amends NRS 649.095 and expires by limitation when section 61 of S.B. 431 becomes effective, contains an amendment that was not intended to expire but was inadvertently not included in section 61 of S.B. 431. Section 61 of S.B. 431 has therefore been revised to include the relevant amendment, which is set forth as subsection 3 of NRS 649.095.

Section 5 of this bill corrects an error in section 71 of chapter 427, Statutes of Nevada 2005 (S.B. 431), at page 1873, the source of NRS 673.117. Section 71 of S.B. 431 inadvertently failed to account for an existing, conflicting provision of NRS. Subsection 1 of section 71 of S.B. 431 has therefore been revised to provide an exception for that conflicting provision.

Section 6 of this bill corrects an error in section 13 of chapter 455, Statutes of Nevada 2005 (A.B. 42), at page 2093, the source of NRS 432B.4655. Section 13 of A.B. 42 was inadvertently drafted in a manner that failed to reflect accurately the specific terms of an amendment to A.B. 42 adopted before its enactment, and has therefore been revised as necessary to set forth those terms correctly.

Section 7 of this bill corrects an error in the amendment of NRS 179D.550 by section 24 of chapter 507, Statutes of Nevada 2005 (S.B. 341), at page 2872. Section 24 of S.B. 341, which was intended to increase the criminal penalty imposed against a person who commits a second or subsequent violation within 7 years of subsection 1 of NRS 179D.550, inadvertently referred to such a person by a term used in NRS 179D.290, which was amended by section 23 of S.B. 341, that



does not apply to NRS 179D.550. Section 24 of S.B. 341 has therefore been revised to use the appropriate term.

Section 8 of this bill corrects an error in the amendment of NRS 484.3943 by section 17 of chapter 6, Statutes of Nevada 2005, 22nd Special Session (A.B. 1 of the 22nd Special Session), at page 105. NRS 484.3943 was amended during the 2005 Legislative Session by:

Section 27 of chapter 63, Statutes of Nevada 2005 (A.B. 256), at page 151;

Section 8 of chapter 193, Statutes of Nevada 2005 (A.B. 421), at page 613; and

Section 3 of chapter 443, Statutes of Nevada 2005 (A.B. 550), at page 2042.

Section 17 of A.B. 1 of the 22nd Special Session inadvertently failed to account accurately for all the amendments of NRS 484.3943 enacted during the 2005 Legislative Session. Section 17 of A.B. 1 of the 22nd Special Session has therefore been revised as necessary for consistency with all of those earlier amendments.

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

Section 1. Section 1 of chapter 282, Statutes of Nevada 2005, at page 1001, is hereby amended to read as follows:

Section 1. NRS 108.290 is hereby amended to read as follows:

108.290 1. If property that is the subject of a lien which is acquired as provided in NRS 108.270 to 108.360, inclusive, is the subject of a secured transaction in accordance with the laws of this State, the lien:

(a) In the case of a lien acquired pursuant to NRS 108.315, is a first lien . ~~{-and}~~

(b) *In the case of a lien on a motor vehicle for charges for towing, storing and any related administrative fees:*

(1) For the first 30 days of the lien:

(I) If the amount of the lien does not exceed \$1,000, is a first lien.

(II) If the amount of the lien exceeds \$1,000, is a second lien.

(2) After the first 30 days of the lien:

(I) If the amount of the lien does not exceed \$2,500, is a first lien.

(II) If the amount of the lien exceeds \$2,500, is a second lien.

(c) In all other cases, if the amount of the lien:

(1) Does not exceed \$1,000, is a first lien.

(2) Exceeds \$1,000, is a second lien.

2. The lien of a landlord may not exceed \$2,000 or the total amount due and unpaid for rentals and utilities, whichever is the lesser.



Sec. 2. Section 8 of chapter 318, Statutes of Nevada 2005, at page 1081, is hereby amended to read as follows:

Sec. 8. NRS 205.134 is hereby amended to read as follows:

205.134 1. A notice in boldface type which is clearly legible and is in substantially the following form must be posted in a conspicuous place in every principal and branch office of every bank and in every place of business in which retail selling is conducted:

The issuance of a check or draft without sufficient money or with intent to defraud is punishable by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment, and the issuance of such a check or draft in an amount of \$250 or more or by a person who previously has been convicted three times of this or a similar offense is ~~{guilty of}~~ **punishable as** a category D felony ~~{and may be punished}~~ as provided in NRS 193.130.

2. ~~{The Superintendent of the State Printing Division of the Department of Administration shall prepare the notice and supply copies of it on demand. The Superintendent may charge a fee based on the cost for each copy of the notice which is supplied.}~~

~~—3.1~~ Failure of the owner, operator or manager of a bank or other place of business to post the sign required by this section is not a defense to charge of a violation of NRS 205.130.

Sec. 3. Section 12 of chapter 421, Statutes of Nevada 2005, at page 1769, is hereby amended to read as follows:

Sec. 12. 1. ***Except as otherwise provided in this section, "lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. The term:***

(a) Includes future options to purchase or extend;

(b) Excludes:

(1) A transfer of possession or control under a security agreement or plan for deferred payment that requires the transfer of title upon completion of the required payments;



(2) A transfer of possession or control under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of \$100 or 1 percent of the total required payments; and

(3) The provision of tangible personal property together with an operator for a fixed or indeterminate period, if the operator:

(I) Is necessary for the property to perform as designed; and

(II) Does anything more than maintain, inspect and set up the property; and

(c) Includes agreements covering motor vehicles and trailers pursuant to which the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property, as described in 26 U.S.C. § 7701(h)(1).

2. The provisions of subsection 1:

(a) Apply regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Uniform Commercial Code or any other provisions of federal, state or local law.

(b) Do not apply to any leases or rentals existing on June 15, 2005.

Sec. 4. Section 61 of chapter 427, Statutes of Nevada 2005, at page 1868, is hereby amended to read as follows:

Sec. 61. NRS 649.095 is hereby amended to read as follows:

649.095 1. An application for a license must be in writing and filed with the Commissioner on a form provided for that purpose.

2. The application must state:

(a) The name of the applicant and the name under which the applicant does business or expects to do business.

(b) The address of the applicant's business and residence, including street and number.

(c) The character of the business sought to be carried on.

(d) The locations by street and number where the business will be transacted.

(e) In the case of a firm or partnership, the full names and residential addresses of all members or partners and the name and residential address of the manager.



(f) In the case of a corporation or voluntary association, the name and residential address of each of the directors and officers and the name and residential address of the manager.

(g) Any other information reasonably related to the applicant's qualifications for the license which the Commissioner determines to be necessary.

3. *In addition to any other requirements, each applicant or member, partner, director, officer or manager of an applicant shall submit to the Commissioner a complete set of his fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

4. The application must be subscribed by the applicant and acknowledged.

~~14.1~~ 5. Every applicant may be examined concerning his competency, experience, character and qualifications by the Commissioner or his authorized agent, and if the examination reveals that the applicant lacks any of the required qualifications, issuance of the license must be denied. Every application must have attached to it a financial statement showing the assets, liabilities and net worth of the applicant.

6. *The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees.*

Sec. 5. Section 71 of chapter 427, Statutes of Nevada 2005, at page 1873, is hereby amended to read as follows:

Sec. 71. 1. *Except as otherwise provided in NRS 673.110, a licensee must obtain the approval of the Commissioner before using or changing a business name.*

2. *A licensee shall not:*



(a) Use any business name which is identical or similar to a business name used by another licensee under this chapter or which may mislead or confuse the public.

(b) Use any printed forms which may mislead or confuse the public.

Sec. 6. Section 13 of chapter 455, Statutes of Nevada 2005, at page 2093, is hereby amended to read as follows:

Sec. 13. A court may issue an order to join any governmental entity or other person as a party in any proceeding concerning the protection of the child to enforce a legal obligation of the entity or person to the child if, before issuing the order, the court provides notice and an opportunity to be heard to the governmental entity or person.

Sec. 7. Section 24 of chapter 507, Statutes of Nevada 2005, at page 2872, is hereby amended to read as follows:

Sec. 24. NRS 179D.550 is hereby amended to read as follows:

179D.550 ~~{A}~~

1. Except as otherwise provided in subsection 2, a sex offender who:

~~{1}~~ *(a) Fails to register with a local law enforcement agency;*

~~{2}~~ *(b) Fails to notify the local law enforcement agency of a change of address;*

~~{3}~~ *(c) Provides false or misleading information to the Central Repository or a local law enforcement agency; or*

~~{4}~~ *(d) Otherwise violates the provisions of NRS 179D.350 to 179D.550, inclusive,*

↪ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. A sex offender who commits a second or subsequent violation of subsection 1 within 7 years after the first violation is guilty of a category C felony and shall be punished as provided in NRS 193.130. A court shall not grant probation to or suspend the sentence of a person convicted pursuant to this subsection.



Sec. 8. Section 17 of chapter 6, Statutes of Nevada 2005, 22nd Special Session, at page 105, is hereby amended to read as follows:

Sec. 17. Section 3 of Assembly Bill No. 550 of the 73rd Session of the Nevada Legislature is hereby amended to read as follows:

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

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

(a) May order a person convicted of a ~~[first]~~ violation of NRS 484.379 ~~[.]~~ *that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792, if the person is found to have had a concentration of alcohol of less than 0.18 in his blood or breath*, for a period of not less than 3 months nor more than 6 months ~~[.]~~ *and*, *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 NRS 483.490 or as a condition of reinstatement of his driving privilege.*

(b) Shall order a person convicted of ~~[a third or subsequent]~~ :

(1) A violation of NRS 484.379 that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792, if the person is found to have had a concentration of alcohol of 0.18 or more in his blood or breath;

(2) A violation of NRS 484.379 ~~[or a]~~ that is punishable as a felony pursuant to NRS 484.3792; or

(3) A violation of NRS 484.3795 ~~[.]~~ or section 10 of Assembly Bill No. 256 of the 73rd Session of the Nevada Legislature,

↪ 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 ~~[.]~~ or as a condition of reinstatement of his driving privilege.

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



provide for an exception to the provisions of subparagraph (1) of paragraph (b) of subsection 1 for a person who is convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792, to avoid undue hardship to the person if the court determines that:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

6. The running of the period during which a person is required to have a device installed pursuant to this section commences when the Department issues a restricted license to him or reinstates his driving privilege and is tolled whenever and for as long as the person is, with regard to a violation of NRS 484.379 or 484.3795 or section 10 of Assembly Bill No. 256 of the 73rd Session of the Nevada Legislature, imprisoned, serving a term of residential confinement, confined in a treatment facility, on parole or on probation.

7. As used in this section:

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

(b) "Concentration of alcohol of less than 0.18 in his blood or breath" means less than 0.18 gram of alcohol



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

(c) “Treatment facility” has the meaning ascribed to it in NRS 484.3793.

Sec. 9. This act becomes effective upon passage and approval.

