

SENATE BILL NO. 41—COMMITTEE ON TRANSPORTATION
AND HOMELAND SECURITY

(ON BEHALF OF THE NEVADA JUDGES ASSOCIATION)

PREFILED JANUARY 26, 2007

Referred to Committee on Transportation and Homeland Security

SUMMARY—Revises provisions governing the monitoring of a person following a conviction for driving under the influence of alcohol or a controlled substance. (BDR 43-267)

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

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

AN ACT relating to motor vehicles; revising provisions governing the monitoring of a person following a conviction for driving under the influence of alcohol or a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires a court to order the installation of an ignition interlock
2 device on the vehicle of a person who is convicted of driving under the influence of
3 intoxicating liquor or a controlled substance when the offense is punishable as a
4 misdemeanor and the person is found to have had a concentration of alcohol of 0.18
5 or more in his blood or breath. (NRS 484.3943) This bill provides that a court must
6 order certain monitoring of a person who is convicted of driving under the
7 influence of alcohol or a controlled substance and who had: (1) twice the proscribed
8 amount or more of a prohibited substance in his blood or urine; or (2) a
9 concentration of alcohol of 0.18 or more in his blood or breath. A court has the
10 discretion to determine whether to order monitoring if the person had: (1) less than
11 twice the proscribed amount of a prohibited substance in his blood or urine; or (2) a
12 concentration of alcohol of less than 0.18 in his blood or breath.



* S B 4 1 R 1 *

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

Section 1. 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 violation of NRS 484.379 that is punishable as a felony
pursuant to NRS 484.3792.

(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,
484.3795 or 484.37955.

➤ 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, including vehicular
manslaughter as described in NRS 484.3775, 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,
inclusive, or pursuant to any other law relating to the ownership or
driving of motor vehicles.

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

(5) A violation of NRS 484.379 that is punishable pursuant
to paragraph (b) of subsection 1 of NRS 484.3792 and the driver is
not eligible for a restricted license during any of that period.

(6) A violation of NRS 484.348.



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(c) For a period of 90 days, if the offense is a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.

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

3. When the Department is notified by a court that a person who has been convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install ~~fa~~ *an ignition interlock* device *in a motor vehicle* pursuant to NRS 484.3943 but who operates ~~fa~~ *the* motor vehicle without ~~such-a~~ *the ignition interlock* device:

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

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

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

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

7. As used in this section, ~~fi~~ *"ignition interlock* device" has the meaning ascribed to it in NRS 484.3941.

Sec. 2. 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 other than a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792, and one-half of the period during which the driver is not eligible for a license has



1 expired, the Department may, unless the statute authorizing the
2 suspension prohibits the issuance of a restricted license, issue a
3 restricted driver's license to an applicant permitting the applicant to
4 drive a motor vehicle:

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

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

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

14 2. A person who has been ordered to install ~~an~~ *an ignition*
15 *interlock* device in a motor vehicle pursuant to NRS 484.3943:

16 (a) Shall install the *ignition interlock* device not later than 21
17 days after the date on which the order was issued; and

18 (b) May not receive a restricted license pursuant to this section
19 until:

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

22 (I) A violation of NRS 484.3795 or a homicide resulting
23 from driving or being in actual physical control of a vehicle while
24 under the influence of intoxicating liquor or a controlled substance
25 or resulting from any other conduct prohibited by NRS 484.379,
26 484.3795 or 484.37955; or

27 (II) A violation of NRS 484.379 that is punishable as a
28 felony pursuant to NRS 484.3792;

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

32 (3) After at least 45 days of the period during which he is not
33 eligible for a license, if he was convicted of a violation of NRS
34 484.379 that is punishable pursuant to paragraph (a) of subsection 1
35 of NRS 484.3792.

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

(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; or

(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;

(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, 484.3795 or 484.37955; 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.

9. As used in this section, "ignition interlock device" has the meaning ascribed to it in NRS 484.3941.

Sec. 3. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. *As used in this section and NRS 484.3941 to 484.3947, inclusive, and section 5 of this act, unless the context otherwise requires, the words and terms defined in NRS 484.3941 and section 5 of this act have the meanings ascribed to them in those sections.*

Sec. 5. *"Monitoring device" means a mechanism other than an ignition interlock device which is approved by the court and*



which monitors the concentration of alcohol in the blood or breath of a person or the amount of any prohibited substance in the blood or urine of a person.

Sec. 6. NRS 484.3941 is hereby amended to read as follows:

484.3941 ~~[As used in NRS 484.3941 to 484.3947, inclusive, unless the context otherwise requires, “]~~ *“Ignition interlock device”*

means a mechanism that:

1. Tests a person’s breath to determine the concentration of alcohol in his breath; and

2. If the results of the test indicate that the person has a concentration of alcohol of 0.02 or more in his breath, prevents the motor vehicle in which it is installed from starting.

Sec. 7. NRS 484.3943 is hereby amended to read as follows:

484.3943 1. Except as otherwise provided in ~~[subsections 2 and 5,]~~ *subsection 4*, a court:

(a) May order a person convicted of 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 less than 0.18 in his blood or breath ~~[]~~ *or less than twice the proscribed amount of a prohibited substance in his blood or urine*, for a period of not less than 3 months nor more than 6 months, to ~~[install]~~ :

(1) Install at his own expense [a] an ignition interlock 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 [] ;

(2) Install at his own expense an ignition interlock 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 and submit to frequent testing, as directed by the court, to determine the concentration of alcohol in his blood or breath;

(3) Use a monitoring device in the manner prescribed by the court; or

(4) Use a monitoring device pursuant to subparagraph (3) and submit to frequent testing, as directed by the court, to determine the concentration of alcohol in his blood or breath or the amount of any prohibited substance in his blood or urine.

(b) Shall order a person convicted of ~~[]~~

~~—(1) A]~~ *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)~~ or twice the proscribed amount or more of a prohibited substance in his blood or urine, for a period of not less than 12 months nor more than 36 months, to:

(1) Install at his own expense an interlock ignition 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;

(2) Install at his own expense an ignition interlock 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 and submit to frequent testing, as directed by the court, to determine the concentration of alcohol in his blood or breath;

(3) Use a monitoring device in the manner prescribed by the court; or

(4) Use a monitoring device pursuant to subparagraph (3) and submit to frequent testing, as directed by the court, to determine the concentration of alcohol in his blood or breath or the amount of any prohibited substance in his blood or urine.

(c) Shall order a person convicted of ~~[A]~~ a violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792 ~~;~~ or

~~[(3)]~~ a violation of NRS 484.3795 or 484.37955, ~~[→]~~ for a period of not less than 12 months nor more than 36 months, to ~~[install]~~ :

(1) Install at his own expense ~~[a]~~ an interlock ignition 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 ~~;~~ ;

(2) Install at his own expense an ignition interlock 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 and submit to frequent testing, as directed by the court, to determine the concentration of alcohol in his blood or breath;

(3) Use a monitoring device in the manner prescribed by the court; or

(4) Use a monitoring device pursuant to subparagraph (3) and submit to frequent testing, as directed by the court, to determine the concentration of alcohol in his blood or breath or the amount of any prohibited substance in his blood or urine.

2. A court may provide for an exception to the provisions of subparagraph (1) or (2) 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 ~~an~~ *an ignition* 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 ~~an~~ *an ignition* *interlock* device pursuant to subsection 1:

(a) The court shall immediately prepare and transmit a copy of its order to the Director. The order must include a statement that ~~an~~ *an ignition interlock* 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 *ignition interlock* 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 ~~an~~ *an ignition interlock* 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 ~~an~~ *an ignition interlock* device pursuant to paragraph (a) of subsection 1, have the *ignition interlock* device inspected by the manufacturer of the *ignition interlock* device or its agent at least one time during the period in which he is required to use the *ignition interlock* device; or

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

↳ to determine whether the *ignition interlock* 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 *ignition interlock* device is operating properly and whether it has been tampered with. If the *ignition interlock* device has been tampered with, the Director shall



1 notify the court that ordered the installation of the *ignition interlock*
2 device.

3 5. If a person is required to operate a motor vehicle in the
4 course and scope of his employment and the motor vehicle is owned
5 by his employer, the person may operate that vehicle without the
6 installation of ~~an~~ *an ignition interlock* device ~~if~~ if:

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

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

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

14 6. The running of the period during which a person is required
15 to have ~~an~~ *an ignition interlock* device installed pursuant to this
16 section commences when the Department issues a restricted license
17 to him or reinstates his driving privilege and is tolled whenever and
18 for as long as the person is, with regard to a violation of NRS
19 484.379, 484.3795 or 484.37955, imprisoned, serving a term of
20 residential confinement, confined in a treatment facility, on parole
21 or on probation.

22 7. As used in this section:

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

26 (b) "Concentration of alcohol of less than 0.18 in his blood or
27 breath" means less than 0.18 gram of alcohol per 100 milliliters of
28 the blood of a person or per 210 liters of his breath.

29 (c) "Treatment facility" has the meaning ascribed to it in
30 NRS 484.3793.

31 **Sec. 8.** NRS 484.3945 is hereby amended to read as follows:

32 484.3945 1. A person required to install ~~an~~ *an ignition*
33 *interlock* device pursuant to NRS 484.3943 shall not operate a
34 motor vehicle without ~~an~~ *the ignition interlock* device or tamper
35 with the *ignition interlock* device.

36 2. A person who violates any provision of subsection 1:

37 (a) Must have his driving privilege revoked in the manner set
38 forth in subsection 4 of NRS 483.460; and

39 (b) Shall be:

40 (1) Punished by imprisonment in jail for not less than 30
41 days nor more than 6 months; or

42 (2) Sentenced to a term of not less than 60 days in residential
43 confinement nor more than 6 months, and by a fine of not less than
44 \$500 nor more than \$1,000.



1 ➡ No person who is punished pursuant to this section may be
2 granted probation, and no sentence imposed for such a violation
3 may be suspended. No prosecutor may dismiss a charge of such a
4 violation in exchange for a plea of guilty or of nolo contendere to a
5 lesser charge or for any other reason unless, in his judgment, the
6 charge is not supported by probable cause or cannot be proved at
7 trial.

8 **Sec. 9.** NRS 484.3947 is hereby amended to read as follows:

9 484.3947 1. The Committee on Testing for Intoxication shall
10 on or before January 1, 1990, adopt regulations which:

11 (a) Provide for the certification of each model of those *ignition*
12 *interlock* devices, described by manufacturer and model, which it
13 approves as designed and manufactured to be accurate and reliable
14 to test a person's breath to determine the concentration of alcohol in
15 the person's breath and, if the results of the test indicate that the
16 person has a concentration of alcohol of 0.02 or more in his breath,
17 prevent the motor vehicle in which it is installed from starting.

18 (b) Prescribe the form and content of records respecting the
19 calibration of *ignition interlock* devices, which must be kept by the
20 Director or his agent, and other records respecting the maintenance
21 and operation of the *ignition interlock* devices which it finds should
22 be kept by the Director or his agent.

23 2. The Committee shall establish its own standards and
24 procedures for evaluating the models of the *ignition interlock*
25 devices and obtain evaluations of those models from the Director or
26 his agent.

27 3. If a model of ~~an~~ *an ignition interlock* device has been
28 certified by the Committee to be accurate and reliable pursuant to
29 subsection 1, it is presumed that, as designed and manufactured,
30 each *ignition interlock* device of that model is accurate and reliable
31 to test a person's breath to determine the concentration of alcohol in
32 the person's breath and, if the results of the test indicate that the
33 person has a concentration of alcohol of 0.02 or more in his breath,
34 will prevent the motor vehicle in which it is installed from starting.

