

Amendment No. 623

Senate Amendment to Senate Bill No. 41

(BDR 43-267)

Proposed by: Senator Nolan**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

EAH/SGW



Date: 4/24/2007

S.B. No. 41—Revises provisions governing an ignition interlock device upon conviction for driving under the influence of intoxicating liquor or a controlled substance. (BDR 43-267)



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 ~~[an ignition interlock device upon]~~ **the monitoring of a person following a** conviction for driving under the influence of ~~[intoxicating liquor]~~ **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 ~~[installation of an ignition interlock device upon]~~ **monitoring of a person following a** conviction ~~[of]~~ **for** driving under the influence of ~~[intoxicating liquor]~~ **alcohol** or a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill makes it discretionary rather than mandatory for]~~ **Existing law requires** a court to order the installation of an ignition interlock device on the vehicle of a person who is convicted of driving under the influence of intoxicating liquor or a controlled substance when the offense is punishable as a misdemeanor and the person is found to have had a concentration of alcohol of 0.18 or more in his blood or breath. (NRS 484.3943) **This bill provides that a court must order certain monitoring of a person who is convicted of driving under the influence of alcohol or a controlled substance and who had: (1) twice the proscribed amount or more of a prohibited substance in his blood or urine; or (2) a concentration of alcohol of 0.18 or more in his blood or breath. A court has the discretion to determine whether to order monitoring if the person had: (1) less than twice the proscribed amount of a prohibited substance in his blood or urine; or (2) a concentration of alcohol of less than 0.18 in his blood or breath.**

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

1 his conviction of any of the following offenses, when that conviction has become
2 final, and the driver is not eligible for a license, permit or privilege to drive for the
3 period indicated:

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

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

6 (2) A violation of NRS 484.379 that is punishable as a felony pursuant to
7 NRS 484.3792.

8 (3) A violation of NRS 484.3795 or a homicide resulting from driving or
9 being in actual physical control of a vehicle while under the influence of
10 intoxicating liquor or a controlled substance or resulting from any other conduct
11 prohibited by NRS 484.379, 484.3795 or 484.37955.

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

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

17 (1) Any other manslaughter, including vehicular manslaughter as described
18 in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the
19 commission of which a motor vehicle is used, including the unlawful taking of a
20 motor vehicle.

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

24 (3) Perjury or the making of a false affidavit or statement under oath to the
25 Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any
26 other law relating to the ownership or driving of motor vehicles.

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

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

32 (6) A violation of NRS 484.348.

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

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

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

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

51 (a) For 3 years, if it is his first such offense during the period of required use of
52 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, ~~the~~ "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 expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

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

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

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

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

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

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

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

(I) 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; or

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

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

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

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

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, 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; 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.

~~[Section 1.]~~ 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 ~~to~~ 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 ~~to~~ 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 ~~to~~ ;

(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~~ ~~May~~ order a person convicted of ~~to~~

~~(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 ~~to~~

~~(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 ~~install~~ ;

(1) Install at his own expense ~~to~~ 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 ~~to~~ ;

(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 ~~to~~

~~(1) A~~ a violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792 ~~to~~ or

~~(3) (2) A~~ a violation of NRS 484.3795 or 484.37955,

~~to~~ for a period of not less than 12 months nor more than 36 months, to ~~install~~ ;

(1) Install at his own expense ~~to~~ 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 ~~to~~ ;

(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

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

5 2. A court may provide for an exception to the provisions of subparagraph (1)
6 or (2) of paragraph (b) of subsection 1 for a person who is convicted of a violation
7 of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of
8 NRS 484.3792, to avoid undue hardship to the person if the court determines that:

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

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

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

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

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

18 3. If the court orders a person to install ~~an~~ an ignition interlock device
19 pursuant to subsection 1:

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

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

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

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

35 (b) If he was ordered to install ~~an~~ an ignition interlock device pursuant to
36 paragraph (b) or (c) of subsection 1, have the ignition interlock device inspected by
37 the manufacturer of the ignition interlock device or its agent at least one time each
38 90 days,

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

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

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

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

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

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

9 7. As used in this section:

10 (a) "Concentration of alcohol of 0.18 or more in his blood or breath" means
11 0.18 gram or more of alcohol per 100 milliliters of the blood of a person or per 210
12 liters of his breath.

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

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

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

18 484.3945 1. A person required to install ~~✎~~ an ignition interlock device
19 pursuant to NRS 484.3943 shall not operate a motor vehicle without ~~✎~~ the ignition
20 interlock device or tamper with the ignition interlock device.

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

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

24 (b) Shall be:

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

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

29 ✎ No person who is punished pursuant to this section may be granted probation,
30 and no sentence imposed for such a violation may be suspended. No prosecutor
31 may dismiss a charge of such a violation in exchange for a plea of guilty or of nolo
32 contendere to a lesser charge or for any other reason unless, in his judgment, the
33 charge is not supported by probable cause or cannot be proved at trial.

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

35 484.3947 1. The Committee on Testing for Intoxication shall on or before
36 January 1, 1990, adopt regulations which:

37 (a) Provide for the certification of each model of those ignition interlock
38 devices, described by manufacturer and model, which it approves as designed and
39 manufactured to be accurate and reliable to test a person's breath to determine the
40 concentration of alcohol in the person's breath and, if the results of the test indicate
41 that the person has a concentration of alcohol of 0.02 or more in his breath, prevent
42 the motor vehicle in which it is installed from starting.

43 (b) Prescribe the form and content of records respecting the calibration of
44 ignition interlock devices, which must be kept by the Director or his agent, and
45 other records respecting the maintenance and operation of the ignition interlock
46 devices which it finds should be kept by the Director or his agent.

47 2. The Committee shall establish its own standards and procedures for
48 evaluating the models of the ignition interlock devices and obtain evaluations of
49 those models from the Director or his agent.

50 3. If a model of ~~✎~~ an ignition interlock device has been certified by the
51 Committee to be accurate and reliable pursuant to subsection 1, it is presumed that,
52 as designed and manufactured, each ignition interlock device of that model is
53 accurate and reliable to test a person's breath to determine the concentration of

1 alcohol in the person's breath and, if the results of the test indicate that the person
2 has a concentration of alcohol of 0.02 or more in his breath, will prevent the motor
3 vehicle in which it is installed from starting.