

SENATE BILL NO. 166—SENATORS LESLIE AND MANENDO

FEBRUARY 17, 2011

Referred to Committee on Transportation

SUMMARY—Revises provisions governing the installation of an ignition interlock device following a conviction of driving under the influence of alcohol or a controlled substance. (BDR 43-27)

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 following a conviction of driving under the influence of alcohol or a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a court to order a person to install, at his or her own expense, an ignition interlock device in each vehicle the person owns or operates if the person is convicted of an offense involving driving under the influence of alcohol or a controlled substance which: (1) constitutes a felony; or (2) constitutes a misdemeanor, but the concentration of alcohol in the person's blood or breath was 0.18 or more. (NRS 484C.460) Under this bill, a court must order a person to install an ignition interlock device if the person is convicted of a misdemeanor offense, but the concentration of alcohol in the person's blood or breath was 0.15 or more.

With respect to a misdemeanor offense in which the concentration of alcohol in the person's blood or breath was 0.18 or more, to avoid undue hardship to a person, existing law authorizes the court to exempt the person from the requirement to install an ignition interlock device if the court determines that: (1) requiring installation of the device would cause economic hardship to the person; and (2) the person requires the use of a vehicle for certain activities, such as traveling to and from work, obtaining medicine, food or other necessities, or transporting himself or herself or another person to school. (NRS 484C.460) This bill removes the authority for the court to exempt a person from the requirement to install an ignition interlock device because of economic hardship.

With respect to any offense to which the requirement to install an ignition interlock device applies, if a person is required to operate a motor vehicle in the course of his or her employment and the vehicle is owned by his or her employer, existing law authorizes the person to operate the vehicle without installation of the



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device if: (1) the employee notifies his or her employer of the restriction on his or her driving privilege; and (2) the employee has proof of that notification in his or her possession. (NRS 484C.460) This bill prohibits such a person from operating the motor vehicle on a public road unless an ignition interlock device is installed in the vehicle.

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

Section 1. 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 second violation within 7 years of NRS 484C.110, 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 or her work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself, herself or a member of his or her 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 the applicant is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484C.460:

(a) Shall install the 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~~ **At** least 1 year of the period during which the person is not eligible for a license ~~has elapsed,~~ if the person was convicted of:

(I) A violation of NRS 484C.430 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 484C.110, 484C.130 or 484C.430; or

(II) A violation of NRS 484C.110 that is punishable as a felony pursuant to NRS **484C.400 or** 484C.410 ; ~~for 484C.420;~~



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(2) ~~After-at~~ At least 180 days of the period during which the person is not eligible for a license ~~have elapsed~~, if the person was convicted of a violation of subsection 5 of NRS 484B.653; or

(3) ~~After-at~~ At least 45 days of the period during which the person is not eligible for a license ~~have elapsed~~, if the person was convicted of a first violation within 7 years of NRS 484C.110.

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484C.460, 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 or her 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 or her work, or both;

(b) To receive regularly scheduled medical care for himself, herself or a member of his or her 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 484C.110, 484C.210 or 484C.430;

(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 484C.110, 484C.130 or 484C.430; 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 484C.210 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. 2. NRS 484C.460 is hereby amended to read as follows:

484C.460 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 484C.110 that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400, if the person is found to have had a concentration of alcohol of less than ~~[0.18]~~ **0.15** in his or her blood or breath, for a period of not less than 3 months nor more than 6 months, to install at his or her own expense a device in any motor vehicle which the person owns or operates as a condition to obtaining a restricted license pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of the person.

(b) Shall order a person convicted of:

(1) A violation of NRS 484C.110 that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400, if the person is found to have had a concentration of alcohol of ~~[0.18]~~ **0.15** or more in his or her blood or breath;

(2) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to NRS 484C.400 or 484C.410; or

(3) A violation of NRS 484C.130 or 484C.430,
↳ for a period of not less than 12 months nor more than 36 months, to install at his or her own expense a device in any motor vehicle which the person owns or operates as a condition to obtaining a restricted license pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of the person.

~~2. [A court may 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 484C.110 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400, 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 or her employment;~~

~~—(2) Obtain medicine, food or other necessities or to obtain health care services for the person or another member of the person's immediate family; or~~

~~—(3) Transport the person or another member of the person's immediate family to or from school.~~



~~3.1~~ If the court orders a person to install a 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 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 the person may receive a restricted license or before the driving privilege of the person 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.

~~4.1~~ 3. A person whose driving privilege is restricted pursuant to this section shall:

(a) If the person 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 the person is required to use the device; or

(b) If the person 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 484C.480. 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.

~~5.1~~ 4. If a person is required to operate a motor vehicle in the course and scope of his or her employment and the motor vehicle is owned by the person's employer, the person may operate that vehicle without the installation of a device, if:

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

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

(c) The employee does not operate the motor vehicle on a public road.



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~~{→ 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.]~~ 5. 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 the person or reinstates the driving privilege of the person and is tolled whenever and for as long as the person is, with regard to a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, imprisoned, serving a term of residential confinement, confined in a treatment facility, on parole or on probation.

6. *As used in this section:*

(a) *“Concentration of alcohol of 0.15 or more in his or her blood or breath” means 0.15 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.*

(b) *“Concentration of alcohol of less than 0.15 in his or her blood or breath” means less than 0.15 gram of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.*

(c) *“Public road” has the meaning ascribed to it in NRS 405.191.*

