

Amendment No. 948

Assembly Amendment to Senate Bill No. 259 First Reprint (BDR 43-606)

Proposed by: Assembly Committee on Judiciary

Amendment Box: Replaces Amendment No. 882.

Amends: Summary: No Title: No 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

VG/NCA



Date: 5/25/2017

S.B. No. 259—Revises provisions relating to driving under the influence of alcohol or a controlled substance. (BDR 43-606)



SENATE BILL NO. 259—SENATORS MANENDO, PARKS, CANNIZZARO, SEGERBLOM, GUSTAVSON; ATKINSON, CANCELA, DENIS, FARLEY, FORD, GANSERT, HAMMOND, HARDY, RATTI, SPEARMAN AND WOODHOUSE

MARCH 13, 2017

JOINT SPONSOR: ASSEMBLYMAN CARRILLO

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to driving under the influence of alcohol or a controlled substance. (BDR 43-606)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 motor vehicles; requiring certain persons to install an ignition interlock device following a revocation of a driver's license, permit or privilege to drive; revising the provisions governing the period of revocation of a driver's license, permit or privilege to drive related to certain offenses involving driving under the influence; requiring the court to order certain persons to install an ignition interlock device in certain circumstances; revising provisions governing the installation of an ignition interlock device following a conviction of driving under the influence of alcohol or a controlled substance; prohibiting a person from providing his or her breath for an ignition interlock device required to be installed in the vehicle of another person under certain circumstances; requiring the Committee on Testing for Intoxication to adopt certain regulations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the revocation of the driver's license, permit or privilege to drive of a person who: (1) has a concentration of alcohol of 0.08 or more in his or her blood or breath or who is found to have a detectable amount of a prohibited substance in his or her blood or urine for which he or she did not have a valid prescription or hold a valid registry identification card; or (2) fails to submit to an evidentiary test requested by a police officer. The driver's license, permit or privilege of the person is revoked for a period of: (1) 90 days for having a concentration of alcohol of 0.08 or more in his or her blood or breath or who is found to have a detectable amount of a prohibited substance in his or her blood or urine under certain circumstances; or (2) not less than 1 year, or 3 years under certain circumstances, for failing to submit to an evidentiary test. (NRS 484C.210, 484C.220) **Section 3** of this bill requires a person whose license, permit or privilege has been revoked for failure to submit to

an evidentiary test or for having a concentration of alcohol of 0.08 or more in his or her blood or breath to install, at his or her own expense, an ignition interlock device in each vehicle the person operates as a condition to obtaining a restricted license. ~~(Sections 1 and 3 of this bill also revise the period of revocation to not less than 185 days.)~~ Existing law further provides that the officer is required to advise the person of his or her right to administrative and judicial review of the revocation and to have a temporary license, valid for 7 days, which the officer must issue upon request. (NRS 484C.220) **Section 4** of this bill requires the officer to also advise the person that he or she is required to install an ignition interlock device, at his or her own expense, in each vehicle the person operates as a condition to obtaining a restricted license.

Under existing law, the driver's license, permit or privilege of a person convicted of an offense involving driving under the influence of alcohol or a controlled substance is revoked for a period of 90 days for a first offense. (NRS 483.460) Section 1 of this bill revises the period of revocation for such an offense to not less than 185 days.

With certain exceptions, 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. Existing law also authorizes a court to order a person to install an ignition interlock device if the person is convicted of a misdemeanor offense involving driving under the influence of alcohol or a controlled substance in which the concentration of alcohol in the person's blood or breath was less than 0.18. (NRS 484C.110, 484C.400, 484C.460) **Section 6** of this bill requires a court to order the installation of an ignition interlock device for all persons convicted of an offense involving driving under the influence of alcohol or a controlled substance. **Section 9** of this bill authorizes a juvenile court to order the installation of an ignition interlock device for a child convicted of an offense involving driving under the influence of alcohol or a controlled substance. **Section 3** authorizes the court to give the person day-for-day credit for any period during which the person installed a device as a condition to obtaining a restricted license before the issuance of an order from the court to do so. Further, **section 7** of this bill authorizes the court to extend the order of a person required to install an ignition interlock device if the court receives a report from the ~~(manufacturer of the device)~~ **Director of the Department of Public Safety** that the person has committed certain violations. Existing law authorizes a court to provide an exception to ordering a person to install an ignition interlock device to avoid undue hardship to the person. (NRS 484C.460) **Section 6** revises this exception and ~~(instead)~~ **additionally** authorizes the court **, in the interests of justice,** to not order a person to install an ignition interlock device if: (1) a person is unable to provide a deep lung sample for a device as certified in writing by a physician; **or** (2) a person resides more than 100 miles from a manufacturer of a device. ~~(, or (2) such an order would not serve the interests of justice.)~~

Section 2.5 of this bill prohibits a person from providing a sample of his or her breath for an ignition interlock device required to be installed in a vehicle of another person with the intent to enable the person who is required to install the device to start the vehicle. A person who provides such a sample of breath is guilty of a misdemeanor.

Section 8 of this bill requires the Committee on Testing for Intoxication to adopt certain regulations relating to the manufacturer of the ignition interlock device to: (1) prescribe the form and content of certain records; (2) prescribe certain standards and procedures related to the device; and (3) require certain discounts and waive certain costs for **certain persons,** ~~(whose income is at or below certain federal poverty levels.)~~

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 or her 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 6 of NRS 484B.653.

(2) A third or subsequent violation within 7 years of NRS 484C.110 or 484C.120.

(3) A violation of NRS 484C.110 or 484C.120 resulting in a felony conviction pursuant to NRS 484C.400 or 484C.410.

(4) 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.

➤ 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 when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.

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

(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484B.657, 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 crash 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 second violation within 7 years of NRS 484C.110 or 484C.120 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484B.550.

(c) For a period of ~~90 days~~ **not less than 185 days**, if the offense is a first violation within 7 years of NRS 484C.110 or 484C.120.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484C.110 or 484C.120 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 first violation within 7 years of NRS 484C.110 has been permitted to enter a program of treatment pursuant to NRS 484C.320, the Department shall reduce by one-half the period during which the person is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that the person 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 a device pursuant to NRS **484C.210 or** 484C.460 but who operates a motor vehicle without such a device:

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

(b) For 5 years, if it is his or her second such offense during the period of required use of the 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, 206.330 or 392.148, chapters 484A to 484E, inclusive, 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, "device" has the meaning ascribed to it in NRS 484C.450.

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 ~~second violation within 7 years of~~ **violation 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~~ **is required** to install a device in a motor vehicle pursuant to NRS **484C.210 or** 484C.460:

(a) Shall install the device not later than ~~14~~ **14** 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 the person is not eligible for a license, 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.410 or 484C.420; **or**

(2) After at least 180 days of the period during which the person is not eligible for a license, if the person was convicted of a violation of subsection 6 of NRS 484B.653. ~~;~~ **or**

~~(3) After at least 45 days of the period during which the person is not eligible for a license, 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 ~~+~~ **or following an order of revocation issued pursuant to 484C.220**, 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. Except as otherwise provided in NRS 62E.630, after a driver's license has been revoked or suspended pursuant to title 5 of NRS or NRS 392.148, 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. 2.5. Chapter 484C of NRS is hereby amended by adding thereto a new section to read as follows:

Any person who provides a sample of breath for a device, with the intent to start a motor vehicle of another and for the purpose of allowing a person required to install a device pursuant to NRS 484C.210 or 484C.460 to avoid providing a sample of his or her breath, is guilty of a misdemeanor.

Sec. 3. NRS 484C.210 is hereby amended to read as follows:

484C.210 1. If a person fails to submit to an evidentiary test as requested by a police officer pursuant to NRS 484C.160, the license, permit or privilege to drive of the person must be revoked as provided in NRS 484C.220, and the person is not eligible for a license, permit or privilege to drive for a period of:

- (a) One year; or
- (b) Three years, if the license, permit or privilege to drive of the person has been revoked during the immediately preceding 7 years for failure to submit to an evidentiary test.

2. If the result of a test given under NRS 484C.150 or 484C.160 shows that a person had a concentration of alcohol of 0.08 or more in his or her blood or breath or a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 453A.140, at the time of the test, the license, permit or privilege of the person to

drive must be revoked as provided in NRS 484C.220 and the person is not eligible for a license, permit or privilege for a period of 90 days, ~~not less than 185 days.~~

3. ~~4.4~~ Except as otherwise provided in subsection 1, at any time while a person is not eligible for a license, permit or privilege to drive following a revocation under subsection 1 or 2 which was based on the person having a concentration of alcohol of 0.08 or more in his or her blood or breath, the person shall install, at his or her own expense, a device in any motor vehicle which the person operates as a condition to obtaining a restricted license pursuant to NRS 483.490.

4. If a revocation of a person's license, permit or privilege to drive under NRS 62E.640 or 483.460 follows a revocation under subsection 2 which was based on the person having a concentration of alcohol of 0.08 or more in his or her blood or breath, the Department shall cancel the revocation under that subsection and give the person credit for any period during which the person was not eligible for a license, permit or privilege.

5. If an order to install a device pursuant to NRS 62E.640 or 484C.460 follows the installation of a device pursuant to subsection 3, the court may give the person day-for-day credit for any period during which the person installed a device as a condition to obtaining a restricted license.

~~4.4~~ 6. Periods of ineligibility for a license, permit or privilege to drive which are imposed pursuant to this section must run consecutively.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.

Sec. 4. NRS 484C.220 is hereby amended to read as follows:

484C.220 1. As agent for the Department, the officer who requested that a test be given pursuant to NRS 484C.150 or 484C.160 or who obtained the result of a test given pursuant to NRS 484C.150 or 484C.160 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who failed to submit to a test requested by the police officer pursuant to NRS 484C.150 or 484C.160 or who has a concentration of alcohol of 0.08 or more in his or her blood or breath or has a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 453A.140, if that person is present, and shall seize the license or permit to drive of the person. The officer shall then, unless the information is expressly set forth in the order of revocation, advise the person of his or her right to administrative and judicial review of the revocation pursuant to NRS 484C.230 and, except as otherwise provided in this subsection, that the person has a right to request a temporary license. The officer shall also, unless the information is expressly set forth in the order of revocation, advise the person that he or she is required to install a device pursuant to NRS 484C.210. If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484C.230, the person is not entitled to request an additional temporary license pursuant to this section or NRS 484C.230, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue the person a temporary license on a form approved by the Department if the person requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had

1 a concentration of alcohol of 0.08 or more in his or her blood or breath or had a
2 detectable amount of a controlled substance or prohibited substance in his or her
3 blood or urine for which he or she did not have a valid prescription, as defined in
4 NRS 453.128, or hold a valid registry identification card, as defined in NRS
5 453A.140, the officer shall immediately prepare and transmit to the Department,
6 together with the seized license or permit and a copy of the result of the test, if any,
7 a written certificate that the officer had reasonable grounds to believe that the
8 person had been driving or in actual physical control of a vehicle:

9 (a) With a concentration of alcohol of 0.08 or more in his or her blood or
10 breath or with a detectable amount of a controlled substance or prohibited substance
11 in his or her blood or urine for which he or she did not have a valid prescription, as
12 defined in NRS 453.128, or hold a valid registry identification card, as defined in
13 NRS 453A.140, as determined by a chemical test; or

14 (b) While under the influence of intoxicating liquor or a controlled substance
15 or with a prohibited substance in his or her blood or urine and the person refused to
16 submit to a required evidentiary test.

17 ➤ The certificate must also indicate whether the officer served an order of
18 revocation on the person and whether the officer issued the person a temporary
19 license.

20 3. The Department, upon receipt of such a certificate for which an order of
21 revocation has not been served, after examining the certificate and copy of the
22 result of the chemical test, if any, and finding that revocation is proper, shall issue
23 an order revoking the person's license, permit or privilege to drive by mailing the
24 order to the person at the person's last known address. The order must indicate the
25 grounds for the revocation and the period during which the person is not eligible for
26 a license, permit or privilege to drive and state that the person has a right to
27 administrative and judicial review of the revocation and to have a temporary
28 license. *The order must also indicate that the person is required to install a device*
29 *pursuant to NRS 484C.210.* The order of revocation becomes effective 5 days after
30 mailing.

31 4. Notice of an order of revocation and notice of the affirmation of a prior
32 order of revocation or the cancellation of a temporary license provided in NRS
33 484C.230 is sufficient if it is mailed to the person's last known address as shown by
34 any application for a license. The date of mailing may be proved by the certificate
35 of any officer or employee of the Department, specifying the time of mailing the
36 notice. The notice is presumed to have been received upon the expiration of 5 days
37 after it is deposited, postage prepaid, in the United States mail.

38 5. *As used in this section, "device" has the meaning ascribed to it in NRS*
39 *484C.450.*

40 **Sec. 5.** NRS 484C.230 is hereby amended to read as follows:

41 484C.230 1. At any time while a person is not eligible for a license, permit
42 or privilege to drive following an order of revocation issued pursuant to NRS
43 484C.220, the person may request in writing a hearing by the Department to review
44 the order of revocation, but the person is only entitled to one hearing. The hearing
45 must be conducted as soon as is practicable at any location, if the hearing officer
46 permits each party and witness to attend the hearing by telephone, videoconference
47 or other electronic means. The Director or agent of the Director may issue
48 subpoenas for the attendance of witnesses and the production of relevant books and
49 papers and may require a reexamination of the requester. Unless the person is
50 ineligible for a temporary license pursuant to NRS 484C.220, the Department shall
51 issue an additional temporary license for a period which is sufficient to complete
52 the administrative review. *A person who is issued a temporary license is not*

1 *subject to and is exempt from the requirement to install a device pursuant to NRS*
2 *484C.210.*

3 2. The scope of the hearing must be limited to the issue of whether the person:

4 (a) Failed to submit to a required test provided for in NRS 484C.150 or
5 484C.160; or

6 (b) At the time of the test, had a concentration of alcohol of 0.08 or more in his
7 or her blood or breath or a detectable amount of a controlled substance or
8 prohibited substance in his or her blood or urine for which he or she did not have a
9 valid prescription, as defined in NRS 453.128, or hold a valid registry identification
10 card, as defined in NRS 453A.140.

11 ➤ Upon an affirmative finding on either issue, the Department shall affirm the
12 order of revocation. Otherwise, the order of revocation must be rescinded.

13 3. *If, after the hearing, the order of revocation is affirmed, the person*
14 *whose license, permit or privilege to drive has been revoked shall, if not*
15 *previously installed, install a device pursuant to NRS 484C.210.*

16 4. If, after the hearing, the order of revocation is affirmed, the person whose
17 license, privilege or permit has been revoked is entitled to a review of the same
18 issues in district court in the same manner as provided by chapter 233B of NRS.
19 The court shall notify the Department upon the issuance of a stay, and the
20 Department shall issue an additional temporary license for a period which is
21 sufficient to complete the review. *A person who is issued a temporary license is*
22 *not subject to and is exempt from the requirement to install a device pursuant to*
23 *NRS 484C.210.*

24 ~~4.4~~ 5. If a hearing officer grants a continuance of a hearing at the request of
25 the person whose license was revoked, or a court does so after issuing a stay of the
26 revocation, the officer or court shall notify the Department, and the Department
27 shall cancel the temporary license and notify the holder by mailing the order of
28 cancellation to the person's last known address.

29 6. *As used in this section, "device" has the meaning ascribed to it in NRS*
30 *484C.450.*

31 **Sec. 5.5.** NRS 484C.450 is hereby amended to read as follows:

32 484C.450 As used in NRS 484C.450 to 484C.480, inclusive, *and section 2.5*
33 *of this act*, unless the context otherwise requires, "device" means a mechanism that:

34 1. Tests a person's breath to determine the concentration of alcohol in his or
35 her breath; and

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

39 **Sec. 6.** NRS 484C.460 is hereby amended to read as follows:

40 484C.460 1. Except as otherwise provided in subsections 2 and 5, a court ~~+~~

41 ~~— (a) May~~ *shall* order a person convicted of ~~1a~~ :

42 (a) A violation of NRS 484C.110 that is punishable pursuant to paragraph (a)
43 or (b) of subsection 1 of NRS 484C.400, if the person is found to have had a
44 concentration of alcohol of less than 0.18 in his or her blood or breath, ~~for a period~~
45 ~~of not less than 3 months nor more than 6 months,~~ to install , at his or her own
46 expense ~~and for a period of not less than 185 days~~, a device in any motor vehicle
47 which the person ~~owns or~~ operates as a condition to obtaining a restricted license
48 pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of
49 the person.

50 (b) ~~Shall order a person convicted of:~~

51 ~~— (1)~~ A violation of :

(1) 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 or more in his or her blood or breath;

(2) ~~1A violation of~~ NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to NRS 484C.400 or 484C.410; or

(3) ~~1A 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 *and for a period of not less than 12 months or more than 36 months,* 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 *in the interests of justice,* 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 ~~it, and makes written findings of fact,~~ 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; or*

(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, for*

(3) *Transport the person or another member of the person's immediate family to or from school;*

(c) *The person is unable to provide a deep lung breath sample for a device, as certified in writing by a physician of the person;*

~~it (b) or~~

(d) *The person resides more than 100 miles from a manufacturer of a device or its agent, it or*

(e) *Requiring the person to install a device pursuant to subsection 1 would not serve the interests of justice.*

3. 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. A person whose driving privilege is restricted pursuant to this section *or NRS 483.490* shall ~~it~~:

(a) ~~If the person was ordered to install a device pursuant to paragraph (a) of subsection 1,~~ have the device inspected, *calibrated, monitored and maintained* 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 ~~it~~

1 ~~→~~ during the period in which the person is required to use the device to
2 determine whether the device is operating properly. ~~Any~~ inspection ,
3 *calibration, monitoring or maintenance* required pursuant to this subsection must
4 be conducted in accordance with regulations adopted pursuant to NRS 484C.480.
5 The manufacturer or its agent shall submit a report to the ~~Director~~ ~~court~~
6 indicating whether the device is operating properly , *whether any of the incidents*
7 *listed in subsection 1 of NRS 484C.470 have occurred* and whether ~~the~~ *the device*
8 has been tampered with. *If the device has been tampered with, the Director shall*
9 *notify the court that ordered the installation of the device. Upon receipt of such*
10 *notification and before the court imposes a penalty pursuant to subsection 3 of*
11 *NRS 484C.470, the court shall afford any interested party an opportunity for a*
12 *hearing after reasonable notice.*

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

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

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

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

22 6. The running of the period during which a person is required to have a
23 device installed pursuant to this section commences when the Department issues a
24 restricted license to the person or reinstates the driving privilege of the person and
25 is tolled whenever and for as long as the person is, with regard to a violation of
26 NRS 484C.110, 484C.120, 484C.130 or 484C.430, imprisoned, serving a term of
27 residential confinement, placed under the supervision of a treatment provider, on
28 parole or on probation.

29 **Sec. 7.** NRS 484C.470 is hereby amended to read as follows:

30 484C.470 1. *The court may extend the order of a person who is required*
31 *to install a device pursuant to NRS 484C.210 or 484C.460, not to exceed one-half*
32 *of the period during which the person is required to have a device installed, if the*
33 *court receives from the ~~manufacturer of a device, or its agent,~~ Director of the*
34 *Department of Public Safety a report that 4 consecutive months prior to the date*
35 *of release any of the following incidents occurred:*

36 (a) *Any attempt by the person to start the vehicle with a concentration of*
37 *alcohol of 0.04 or more in his or her breath unless a subsequent test performed*
38 *within 10 minutes registers a concentration of alcohol lower than 0.04 and the*
39 *digital image confirms the same person provided both samples;*

40 (b) *Failure of the person to take any random test unless a review of the*
41 *digital image confirms that the vehicle was not occupied by the person at the time*
42 *of the missed test;*

43 (c) *Failure of the person to pass any random retest with a concentration of*
44 *alcohol of 0.025 or lower in his or her breath unless a subsequent test performed*
45 *within 10 minutes registers a concentration of alcohol lower than 0.025, and the*
46 *digital image confirms the same person provided both samples;*

47 (d) *Failure of the person to have the device inspected, calibrated, monitored*
48 *and maintained by the manufacturer or its agent pursuant to subsection 4 of NRS*
49 *484C.460; or*

50 (e) *Any attempt by the person to operate a motor vehicle without a device or*
51 *tamper with the device.*

2. A person required to install a device pursuant to NRS 484C.210 or 484C.460 shall not operate a motor vehicle without a device or tamper with the device.

~~2-1~~ 3. A person who violates any provision of subsection ~~H-1~~ 2:

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

(b) Shall be:

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

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

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

Sec. 8. NRS 484C.480 is hereby amended to read as follows:

484C.480 1. The Committee on Testing for Intoxication shall ~~on or before January 1, 1990,~~ adopt regulations which:

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

(b) Prescribe the form and content of records respecting the calibration of devices, which must be kept by the ~~Director~~ *manufacturer of the device* or ~~the~~ *its* agent, ~~of the Director,~~ and other records respecting the *installation, removal, inspection,* maintenance and operation of the devices which it finds should be kept by the ~~Director~~ *manufacturer* or ~~the~~ *its* agent.

(c) Prescribe standards and procedures for the proper installation, removal, inspection, calibration, maintenance and operation of a device installed by the manufacturer or its agent.

(d) Require the manufacturer or its agent to waive the cost of installing or removing the device and adjust the fee to lease, calibrate or monitor the device, if the person required to install a device pursuant to NRS 484C.210 or 484C.460 ;
~~*has an income which is at or below:*~~

(1) ~~One hundred~~ Has an income which is at or below 100 percent of the federally designated level signifying poverty, to 50 percent of the fee; or

(2) ~~One hundred and forty nine~~ Receives supplemental nutritional assistance pursuant to NRS 422A.072, was determined indigent pursuant to NRS 171.188 or has an income which is at or below 149 percent of the federally designated level signifying poverty, to 75 percent of the fee.

2. The Committee shall establish its own standards and procedures for evaluating the models of the devices and obtain evaluations of those models from the Director or *the manufacturer of the device or its* the agent.

3. If a model of a device has been certified by the Committee to be accurate and reliable pursuant to subsection 1, it is presumed that, as designed and manufactured, each device of that model is accurate and reliable to test a person's breath to determine the concentration of alcohol in the person's breath and, if the results of the test indicate that the person has a concentration of alcohol of 0.02 or

more in his or her breath, will prevent the motor vehicle in which it is installed from starting.

Sec. 9. NRS 62E.640 is hereby amended to read as follows:

62E.640 1. If a child is adjudicated delinquent for an unlawful act in violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, the juvenile court shall, if the child possesses a driver's license:

(a) Issue an order revoking the driver's license of the child for ~~90~~ 185 days and requiring the child to surrender the driver's license of the child to the juvenile court; and

(b) Not later than 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order and the driver's 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 484C.110, 484C.120, 484C.130 or 484C.430, the juvenile court shall order an additional period of revocation to apply consecutively with the previous order.

4. The juvenile court may ~~authorize~~ :

(a) *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 ~~+~~; and

(b) *Order the child to install, at his or her own expense, or at the expense of the parent or guardian of the child, a device in any motor vehicle the child operates as a condition to obtaining a restricted license pursuant to NRS 483.490.*

5. *As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.*

Sec. 10. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2018, for all other purposes.