

SENATE BILL NO. 378—COMMITTEE ON JUDICIARY

MARCH 20, 2017

Referred to Committee on Judiciary

**SUMMARY—Revises provisions relating to controlled substances.
(BDR 14-559)****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 governmental administration; providing that the holder of a valid registry identification card is not deemed to be an unlawful user of or addicted to a controlled substance for purposes of the prohibition on the possession, custody or control of a firearm by certain persons or to have habitually used a controlled substance to the extent that his or her normal faculties are impaired for purposes of holding a permit to carry a concealed firearm; requiring the sealing of all records relating to certain convictions concerning the possession of a controlled substance; authorizing the holder of a valid registry identification card to engage in the medical use of marijuana while completing treatment for the abuse of alcohol or drugs; prohibiting the eviction or penalization of a tenant of real property or a mobile home who holds a valid registry identification card or letter of approval for engaging in the medical use of marijuana; providing that the holder of a valid registry identification card or letter of approval must not be prohibited from engaging or assisting in the medical use of marijuana while on certain property; requiring the Division of Public and Behavioral Health of the Department of Health and Human Services to provide training to certain persons concerning the rights of persons holding a registry identification card or letter of approval and to adopt regulations necessary to provide such training; requiring certain persons to complete such training annually; providing that the odor of marijuana upon certain persons does not alone constitute probable cause to search the person or the person's property or subject the person or the person's property to inspection; revising provisions relating to prohibited acts by a person while driving or being in actual physical control of a vehicle or commercial motor vehicle on a highway or on premises to which the public has access or while operating or being in actual physical control of a vessel under power or sail on the waters of this State; providing for the testing of the saliva of the holder of a valid registry identification card to determine the presence of marijuana therein under certain circumstances; requiring the Committee on Testing for Intoxication to certify a device used for testing the saliva of a person; authorizing the Committee to adopt regulations relating to such devices; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Existing law prohibits a person from owning or having in his or her possession or under his or her custody or control any firearm if the person is an unlawful user of, or addicted to, any controlled substance. (NRS 202.360) **Section 12** of this bill provides that a person who holds a valid registry identification card shall not be deemed to be an unlawful user of, or addicted to, a controlled substance solely because he or she engages in the medical use of marijuana.

Existing law requires a sheriff to deny an application for a permit to carry a concealed firearm or to revoke an existing permit in certain circumstances, including if the applicant or permittee has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. (NRS 202.3657) **Section 13** of this bill provides that a person who holds a valid registry identification card shall not be deemed to have habitually used a controlled substance to the extent that his or her normal faculties are impaired solely because he or she engages in the medical use of marijuana.

Existing law establishes a process for sealing certain records of criminal proceedings. (NRS 179.245-179.301) With certain limited exceptions, if the court orders a person's record of criminal history sealed, all proceedings recounted in the record are deemed never to have occurred. (NRS 179.285) **Section 14** of this bill authorizes a person who has been convicted of the possession of a controlled substance which is punishable as a misdemeanor or gross misdemeanor to petition the court in which he or she was convicted to seal all documents relating to the case. If the court makes certain findings after a hearing on the petition, the court is required to order sealed all such documents. **Sections 3-6** of this bill make conforming changes.

Existing law authorizes a court to assign certain persons to an appropriate treatment program for the abuse of alcohol or drugs or to an appropriate treatment provider. In addition to or as part of any treatment program, if the offense with which such a person was charged involved the use or possession of a controlled substance, the court must require random testing or screening to determine that the person is not using a controlled substance. (NRS 453.580) **Section 16** of this bill authorizes a person who is assigned to a treatment program or treatment provider and who holds a valid registry identification card to continue to engage in the medical use of marijuana while completing the period of treatment and provides that such a person shall not be deemed to be using a controlled substance solely because he or she engages in the medical use of marijuana.

Section 18 of this bill provides that a tenant of real property or a mobile home who holds a valid registry identification card or letter of approval must not be evicted from such real property or a mobile home or otherwise subject to any penalty for engaging in the medical use of marijuana.

Section 19 of this bill provides that a person who holds a valid registry identification card or letter of approval must not be prohibited from engaging or assisting in the medical use of marijuana while on the property of an assisted living facility or a facility for hospice care, hospital or school. **Section 21** of this bill removes the provision of existing law providing that a person who holds a registry identification card or letter of approval is not exempt from state prosecution for, and cannot establish an affirmative defense to any charges arising from, the possession of marijuana or paraphernalia in violation of certain provisions of law if the possession of marijuana or paraphernalia occurs on school property.

Section 20 of this bill: (1) requires the Division of Public and Behavioral Health of the Department of Health and Human Services to provide training to certain persons concerning the rights granted to a person who holds a registry identification card or letter of approval and to adopt regulations necessary to provide such training; and (2) specifies the persons who are required to complete such training on an annual basis.



Existing law provides that the fact that a person possesses a registry identification card or letter of approval, a medical marijuana establishment registration certificate or a medical marijuana establishment agent registration card does not alone constitute probable cause to search the person or the person's property or subject the person or the person's property to inspection by any governmental agency. (NRS 453A.400) **Section 22** of this bill additionally provides that the odor of marijuana being present upon any such person does not alone constitute probable cause for such a search or subject the person or the person's property to such an inspection.

Existing law provides that it is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access if the person is under the influence of a controlled substance or has certain specified amounts of a prohibited substance in his or her blood or urine, including marijuana and marijuana metabolite. (NRS 484C.110) **Section 23** of this bill removes the specified amounts of marijuana and marijuana metabolite in a person's urine, thereby providing that the amount of marijuana or marijuana metabolite in a person's system may only be measured through his or her blood. **Sections 24 and 33** of this bill make the same changes to similar provisions of existing law relating to a person driving or being in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access or operating or being in actual physical control of a vessel under power or sail on the waters of this State, respectively. **Sections 1, 2, 7-11, 25, 27, 34, 35, 37 and 40** of this bill make conforming changes.

Existing law provides that any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to a preliminary test of his or her breath to determine the concentration of alcohol therein if the test is administered at the request of a police officer: (1) at the scene of a vehicle crash; or (2) when the police officer stops a vehicle and has reasonable grounds to believe that the person to be tested has violated certain provisions of law. If the person fails to submit to such a test and reasonable grounds exist, the police officer is required to arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test of the person's blood, urine, breath or other bodily substance. (NRS 484C.150, 484C.160) **Section 26** of this bill provides that any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access and who holds a valid registry identification card shall be deemed to have given his or her consent to a preliminary test of his or her saliva to determine the presence of marijuana therein. **Section 27** of this bill provides that if a person upon whom an evidentiary test is to be administered holds a valid registry identification card and the presence of marijuana in the blood of the person is in issue, the person must be given the opportunity to submit to a test of his or her saliva before the person is requested to submit to a blood test. **Section 27** also provides that such a person may only be requested to submit to a blood test if the person refuses to submit to a test of his or her saliva or the results of a test of his or her saliva indicate the presence of marijuana therein. **Sections 36 and 37** of this bill make the same changes to similar provisions of existing law relating to a person who operates or is in actual physical control of a vessel under power or sail on the waters of this State. **Sections 28, 38 and 39** of this bill make conforming changes.

Existing law creates the Committee on Testing for Intoxication, which is required to certify a device that the Committee determines is designed and manufactured to be accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol therein and to create, maintain and make available to the public a list of such devices. (NRS 484C.600, 484C.610) Existing law also authorizes the Committee to adopt regulations regarding the certification



of persons who operate certain devices and prescribing the essential procedures for the proper operation of such devices. (NRS 484C.640) **Section 31** of this bill requires the Committee to certify a device that the Committee determines is designed and manufactured to be accurate, reliable and capable of providing results within a reasonable time for the purpose of testing the saliva of a person to determine the presence of marijuana in the person's saliva. **Section 32** of this bill authorizes the Committee to adopt regulations regarding the certification of persons who operate devices for testing a person's saliva and prescribing the essential procedures for the proper operation of such devices. **Section 29** of this bill makes conforming changes.

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

Section 1. NRS 171.1225 is hereby amended to read as follows:

171.1225 1. When investigating an act of domestic violence, a peace officer shall:

(a) Make a good faith effort to explain the provisions of NRS 171.137 pertaining to domestic violence and advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community.

(b) Provide a person suspected of being the victim of an act of domestic violence with a written copy of the following statements:

(1) My name is Officer (naming the investigating officer). Nevada law requires me to inform you of the following information.

(2) If I have probable cause to believe that a battery has been committed against you, your minor child or the minor child of the person believed to have committed the battery in the last 24 hours by your spouse, your former spouse, any other person to whom you are related by blood or marriage, a person with whom you are or were actually residing, a person with whom you have had or are having a dating relationship or a person with whom you have a child in common, I am required, unless mitigating circumstances exist, to arrest the person suspected of committing the battery.

(3) If I am unable to arrest the person suspected of committing the battery, you have the right to request that the prosecutor file a criminal complaint against the person. I can provide you with information on this procedure. If convicted, the person who committed the battery may be placed on probation, ordered to see a counselor, put in jail or fined.

(4) The law provides that you may seek a court order for the protection of you, your minor children or any animal that is owned or kept by you, by the person who committed or threatened the act



1 of domestic violence or by the minor child of either such person
2 against further threats or acts of domestic violence. You do not need
3 to hire a lawyer to obtain such an order for protection.

4 (5) An order for protection may require the person who
5 committed or threatened the act of domestic violence against you to:

6 (I) Stop threatening, harassing or injuring you or your
7 children;

8 (II) Move out of your residence;

9 (III) Stay away from your place of employment;

10 (IV) Stay away from the school attended by your
11 children;

12 (V) Stay away from any place you or your children
13 regularly go;

14 (VI) Avoid or limit all communication with you or your
15 children;

16 (VII) Stop physically injuring, threatening to injure or
17 taking possession of any animal that is owned or kept by you or
18 your children, either directly or through an agent; and

19 (VIII) Stop physically injuring or threatening to injure
20 any animal that is owned or kept by the person who committed or
21 threatened the act or his or her children, either directly or through an
22 agent.

23 (6) A court may make future orders for protection which
24 award you custody of your children and require the person who
25 committed or threatened the act of domestic violence against you to:

26 (I) Pay the rent or mortgage due on the place in which
27 you live;

28 (II) Pay the amount of money necessary for the support of
29 your children;

30 (III) Pay part or all of the costs incurred by you in
31 obtaining the order for protection; and

32 (IV) Comply with the arrangements specified for the
33 possession and care of any animal owned or kept by you or your
34 children or by the person who committed or threatened the act or his
35 or her children.

36 (7) To get an order for protection, go to room number
37 (state the room number of the office at the court) at the court, which
38 is located at (state the address of the court). Ask the
39 clerk of the court to provide you with the forms for an order of
40 protection.

41 (8) If the person who committed or threatened the act of
42 domestic violence against you violates the terms of an order for
43 protection, the person may be arrested and, if:

44 (I) The arresting officer determines that such a violation
45 is accompanied by a direct or indirect threat of harm;



(II) The person has previously violated a temporary or extended order for protection; or

(III) At the time of the violation or within 2 hours after the violation, the person has a concentration of alcohol of 0.08 or more in the person's blood or breath or an amount of a prohibited substance in the person's blood or urine, *as applicable*, that is equal to or greater than the amount set forth in subsection 3 *or* 4 of NRS 484C.110,

➔ the person will not be admitted to bail sooner than 12 hours after arrest.

(9) You may obtain emergency assistance or shelter by contacting your local program against domestic violence at (state name, address and telephone number of local program) or you may call, without charge to you, the Statewide Program Against Domestic Violence at (state toll-free telephone number of Statewide Program).

2. The failure of a peace officer to carry out the requirements set forth in subsection 1 is not a defense in a criminal prosecution for the commission of an act of domestic violence, nor may such an omission be considered as negligence or as causation in any civil action against the peace officer or the officer's employer.

3. As used in this section:

(a) "Act of domestic violence" means any of the following acts committed by a person against his or her spouse, former spouse, any other person to whom he or she is related by blood or marriage, a person with whom he or she is or was actually residing, a person with whom he or she has had or is having a dating relationship, a person with whom he or she has a child in common, the minor child of any of those persons or his or her minor child:

(1) A battery.

(2) An assault.

(3) Compelling the other by force or threat of force to perform an act from which he or she has the right to refrain or to refrain from an act which he or she has the right to perform.

(4) A sexual assault.

(5) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(I) Stalking.

(II) Arson.

(III) Trespassing.

(IV) Larceny.

(V) Destruction of private property.

(VI) Carrying a concealed weapon without a permit.

(VII) Injuring or killing an animal.



(6) False imprisonment.

(7) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 2. NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail;

(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or

(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail; or

(b) A department of alternative sentencing directs the detention facility to admit the person to bail.

4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.

5. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on the person's own recognizance unless the person has a concentration of alcohol of less than 0.04 in his or her breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his or her breath as a condition of admission to bail or release is not admissible as evidence against the person.



6. A person arrested for a violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle or vessel under power or sail must not be admitted to bail or released on the person's own recognizance sooner than 12 hours after arrest.

7. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after arrest. If the person is admitted to bail more than 12 hours after arrest, without appearing personally before a magistrate or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation;

(b) Five thousand dollars, if the person has:

(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(c) Fifteen thousand dollars, if the person has:

(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which the person has been arrested resulted in substantial bodily harm or was committed by strangulation; or

(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.

➔ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount



1 of bail. For the purposes of this subsection, a person shall be
2 deemed to have a previous conviction of battery that constitutes
3 domestic violence pursuant to NRS 33.018 if the person has been
4 convicted of such an offense in this State or has been convicted of
5 violating a law of any other jurisdiction that prohibits the same or
6 similar conduct.

7 8. A person arrested for violating a temporary or extended
8 order for protection against domestic violence issued pursuant to
9 NRS 33.017 to 33.100, inclusive, or for violating a restraining order
10 or injunction that is in the nature of a temporary or extended order
11 for protection against domestic violence issued in an action or
12 proceeding brought pursuant to title 11 of NRS, or for violating a
13 temporary or extended order for protection against stalking,
14 aggravated stalking or harassment issued pursuant to NRS 200.591,
15 or for violating a temporary or extended order for protection against
16 sexual assault pursuant to NRS 200.378 must not be admitted to bail
17 sooner than 12 hours after arrest if:

18 (a) The arresting officer determines that such a violation is
19 accompanied by a direct or indirect threat of harm;

20 (b) The person has previously violated a temporary or extended
21 order for protection of the type for which the person has been
22 arrested; or

23 (c) At the time of the violation or within 2 hours after the
24 violation, the person has:

25 (1) A concentration of alcohol of 0.08 or more in the
26 person's blood or breath; or

27 (2) An amount of a prohibited substance in the person's
28 blood or urine , *as applicable*, that is equal to or greater than the
29 amount set forth in subsection 3 *or 4* of NRS 484C.110.

30 9. If a person is admitted to bail more than 12 hours after
31 arrest, pursuant to subsection 8, without appearing personally before
32 a magistrate or without the amount of bail having been otherwise set
33 by a magistrate or a court, the amount of bail must be:

34 (a) Three thousand dollars, if the person has no previous
35 convictions of violating a temporary or extended order for
36 protection against domestic violence issued pursuant to NRS 33.017
37 to 33.100, inclusive, or of violating a restraining order or injunction
38 that is in the nature of a temporary or extended order for protection
39 against domestic violence issued in an action or proceeding brought
40 pursuant to title 11 of NRS, or of violating a temporary or extended
41 order for protection against stalking, aggravated stalking or
42 harassment issued pursuant to NRS 200.591, or of violating a
43 temporary or extended order for protection against sexual assault
44 pursuant to NRS 200.378;



(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378; or

(c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378.

➤ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591, or of violating a temporary or extended order for protection against sexual assault pursuant to NRS 200.378, if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

10. The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.

11. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems



1 necessary to protect the health, safety and welfare of the community
2 and to ensure that the person will appear at all times and places
3 ordered by the court, including, without limitation:

4 (a) Requiring the person to remain in this State or a certain
5 county within this State;

6 (b) Prohibiting the person from contacting or attempting to
7 contact a specific person or from causing or attempting to cause
8 another person to contact that person on the person's behalf;

9 (c) Prohibiting the person from entering a certain geographic
10 area; or

11 (d) Prohibiting the person from engaging in specific conduct
12 that may be harmful to the person's own health, safety or welfare, or
13 the health, safety or welfare of another person.

14 ➤ In determining whether a condition is reasonable, the court shall
15 consider the factors listed in NRS 178.4853.

16 12. If a person fails to comply with a condition imposed
17 pursuant to subsection 11, the court may, after providing the person
18 with reasonable notice and an opportunity for a hearing:

19 (a) Deem such conduct a contempt pursuant to NRS 22.010; or

20 (b) Increase the amount of bail pursuant to NRS 178.499.

21 13. An order issued pursuant to this section that imposes a
22 condition on a person admitted to bail must include a provision
23 ordering any law enforcement officer to arrest the person if the
24 officer has probable cause to believe that the person has violated a
25 condition of bail.

26 14. Before a person may be admitted to bail, the person must
27 sign a document stating that:

28 (a) The person will appear at all times and places as ordered by
29 the court releasing the person and as ordered by any court before
30 which the charge is subsequently heard;

31 (b) The person will comply with the other conditions which
32 have been imposed by the court and are stated in the document; and

33 (c) If the person fails to appear when so ordered and is taken
34 into custody outside of this State, the person waives all rights
35 relating to extradition proceedings.

36 ➤ The signed document must be filed with the clerk of the court of
37 competent jurisdiction as soon as practicable, but in no event later
38 than the next business day.

39 15. If a person admitted to bail fails to appear as ordered by a
40 court and the jurisdiction incurs any cost in returning the person to
41 the jurisdiction to stand trial, the person who failed to appear is
42 responsible for paying those costs as restitution.

43 16. For the purposes of subsections 8 and 9, an order or
44 injunction is in the nature of a temporary or extended order for
45 protection against domestic violence if it grants relief that might be



1 given in a temporary or extended order issued pursuant to NRS
2 33.017 to 33.100, inclusive.

3 17. As used in this section, "strangulation" has the meaning
4 ascribed to it in NRS 200.481.

5 **Sec. 3.** NRS 179.245 is hereby amended to read as follows:

6 179.245 1. Except as otherwise provided in subsection 5 and
7 NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, *and*
8 *section 14 of this act*, a person may petition the court in which the
9 person was convicted for the sealing of all records relating to a
10 conviction of:

11 (a) A category A or B felony after 15 years from the date of
12 release from actual custody or discharge from parole or probation,
13 whichever occurs later;

14 (b) A category C or D felony after 12 years from the date of
15 release from actual custody or discharge from parole or probation,
16 whichever occurs later;

17 (c) A category E felony after 7 years from the date of release
18 from actual custody or discharge from parole or probation,
19 whichever occurs later;

20 (d) Except as otherwise provided in paragraph (e), any gross
21 misdemeanor after 5 years from the date of release from actual
22 custody or discharge from probation, whichever occurs later;

23 (e) A violation of NRS 422.540 to 422.570, inclusive, other than
24 a felony, a violation of NRS 484C.110 or 484C.120 other than a
25 felony, or a battery which constitutes domestic violence pursuant to
26 NRS 33.018 other than a felony, after 7 years from the date of
27 release from actual custody or from the date when the person is no
28 longer under a suspended sentence, whichever occurs later; or

29 (f) Any other misdemeanor after 2 years from the date of release
30 from actual custody or from the date when the person is no longer
31 under a suspended sentence, whichever occurs later.

32 2. A petition filed pursuant to subsection 1 must:

33 (a) Be accompanied by the petitioner's current, verified records
34 received from:

35 (1) The Central Repository for Nevada Records of Criminal
36 History; and

37 (2) All agencies of criminal justice which maintain such
38 records within the city or county in which the conviction was
39 entered;

40 (b) If the petition references NRS 453.3365 or 458.330, include
41 a certificate of acknowledgment or the disposition of the
42 proceedings for the records to be sealed from all agencies of
43 criminal justice which maintain such records;

44 (c) Include a list of any other public or private agency, company,
45 official or other custodian of records that is reasonably known to the



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petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(d) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

(1) Date of birth of the petitioner;

(2) Specific conviction to which the records to be sealed pertain; and

(3) Date of arrest relating to the specific conviction to which the records to be sealed pertain.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and the prosecuting attorney, including, without limitation, the Attorney General, who prosecuted the petitioner for the crime. The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. ~~FF~~ *Except as otherwise provided in section 14 of this act,* after the hearing, *if* the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner returned to the file of the court where the proceeding was commenced from, including, without limitation, the Federal Bureau of Investigation, the California Bureau of Criminal Identification and Information and all other agencies of criminal justice which maintain such records and which are reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of:

(a) A crime against a child;

(b) A sexual offense;

(c) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to paragraph (c) of subsection 1 of NRS 484C.400;

(d) A violation of NRS 484C.430;

(e) 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;



(f) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS 488.427; or

(g) A violation of NRS 488.420 or 488.425.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(12) Lewdness with a child pursuant to NRS 201.230.

(13) Sexual penetration of a dead human body pursuant to NRS 201.450.

(14) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(15) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.



(16) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

(17) An attempt to commit an offense listed in this paragraph.

Sec. 4. NRS 179.275 is hereby amended to read as follows:

179.275 Where the court orders the sealing of a record pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330, *or section 14 of this act*, a copy of the order must be sent to:

1. The Central Repository for Nevada Records of Criminal History; and

2. Each agency of criminal justice and each public or private company, agency, official or other custodian of records named in the order, and that person shall seal the records in his or her custody which relate to the matters contained in the order, shall advise the court of compliance and shall then seal the order.

Sec. 5. NRS 179.285 is hereby amended to read as follows:

179.285 Except as otherwise provided in NRS 179.301:

1. If the court orders a record sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or 458.330 *or section 14 of this act*:

(a) All proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including, without limitation, an inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

(b) The person is immediately restored to the following civil rights if the person's civil rights previously have not been restored:

- (1) The right to vote;
- (2) The right to hold office; and
- (3) The right to serve on a jury.

2. Upon the sealing of the person's records, a person who is restored to his or her civil rights pursuant to subsection 1 must be given:

(a) An official document which demonstrates that the person has been restored to the civil rights set forth in paragraph (b) of subsection 1; and

(b) A written notice informing the person that he or she has not been restored to the right to bear arms, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms.

3. A person who has had his or her records sealed in this State or any other state and whose official documentation of the



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1 restoration of civil rights is lost, damaged or destroyed may file a
2 written request with a court of competent jurisdiction to restore his
3 or her civil rights pursuant to this section. Upon verification that the
4 person has had his or her records sealed, the court shall issue an
5 order restoring the person to the civil rights to vote, to hold office
6 and to serve on a jury. A person must not be required to pay a fee to
7 receive such an order.

8 4. A person who has had his or her records sealed in this State
9 or any other state may present official documentation that the person
10 has been restored to his or her civil rights or a court order restoring
11 civil rights as proof that the person has been restored to the right to
12 vote, to hold office and to serve as a juror.

13 **Sec. 6.** NRS 179.295 is hereby amended to read as follows:

14 179.295 1. The person who is the subject of the records that
15 are sealed pursuant to NRS 176A.265, 176A.295, 179.245, 179.255,
16 179.259, 453.3365 or 458.330 *or section 14 of this act* may petition
17 the court that ordered the records sealed to permit inspection of the
18 records by a person named in the petition, and the court may order
19 such inspection. Except as otherwise provided in this section,
20 subsection 8 of NRS 179.255 and NRS 179.259 and 179.301, *and*
21 *section 14 of this act*, the court may not order the inspection of the
22 records under any other circumstances.

23 2. If a person has been arrested, the charges have been
24 dismissed and the records of the arrest have been sealed, the court
25 may order the inspection of the records by a prosecuting attorney
26 upon a showing that as a result of newly discovered evidence, the
27 person has been arrested for the same or a similar offense and that
28 there is sufficient evidence reasonably to conclude that the person
29 will stand trial for the offense.

30 3. The court may, upon the application of a prosecuting
31 attorney or an attorney representing a defendant in a criminal action,
32 order an inspection of such records for the purpose of obtaining
33 information relating to persons who were involved in the incident
34 recorded.

35 4. This section does not prohibit a court from considering a
36 conviction for which records have been sealed pursuant to NRS
37 176A.265, 176A.295, 179.245, 179.255, 179.259, 453.3365 or
38 458.330 *or section 14 of this act* in determining whether to grant a
39 petition pursuant to NRS 176A.265, 176A.295, 179.245, 179.255,
40 179.259, 453.3365 or 458.330 for a conviction of another offense.

41 **Sec. 7.** NRS 33.030 is hereby amended to read as follows:

42 33.030 1. The court by a temporary order may:

43 (a) Enjoin the adverse party from threatening, physically
44 injuring or harassing the applicant or minor child, either directly or
45 through an agent;



(b) Exclude the adverse party from the applicant's place of residence;

(c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order the adverse party to stay away from any specified place frequented regularly by them;

(d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant;

(e) Enjoin the adverse party from physically injuring, threatening to injure or taking possession of any animal that is owned or kept by the applicant or minor child, either directly or through an agent;

(f) Enjoin the adverse party from physically injuring or threatening to injure any animal that is owned or kept by the adverse party, either directly or through an agent; and

(g) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

(a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary;

(b) Specify arrangements for the possession and care of any animal owned or kept by the adverse party, applicant or minor child; and

(c) Order the adverse party to:

(1) Avoid or limit communication with the applicant or minor child;

(2) Pay rent or make payments on a mortgage on the applicant's place of residence;

(3) Pay for the support of the applicant or minor child, including, without limitation, support of a minor child for whom a guardian has been appointed pursuant to chapter 159 of NRS or a minor child who has been placed in protective custody pursuant to chapter 432B of NRS, if the adverse party is found to have a duty to support the applicant or minor child;

(4) Pay all costs and fees incurred by the applicant in bringing the action; and

(5) Pay monetary compensation to the applicant for lost earnings and expenses incurred as a result of the applicant attending any hearing concerning an application for an extended order.

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken



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1 without bond, but its taking does not stay the effect or enforcement
2 of the order.

3 4. A temporary or extended order must specify, as applicable,
4 the county and city, if any, in which the residence, school, child care
5 facility or other provider of child care, and place of employment of
6 the applicant or minor child are located.

7 5. A temporary or extended order must provide notice that a
8 person who is arrested for violating the order will not be admitted to
9 bail sooner than 12 hours after the person's arrest if:

10 (a) The arresting officer determines that such a violation is
11 accompanied by a direct or indirect threat of harm;

12 (b) The person has previously violated a temporary or extended
13 order for protection; or

14 (c) At the time of the violation or within 2 hours after the
15 violation, the person has:

16 (1) A concentration of alcohol of 0.08 or more in the
17 person's blood or breath; or

18 (2) An amount of a prohibited substance in the person's
19 blood or urine, *as applicable*, that is equal to or greater than the
20 amount set forth in subsection 3 *or 4* of NRS 484C.110.

21 **Sec. 8.** NRS 62C.020 is hereby amended to read as follows:

22 62C.020 1. A child must not be released from custody sooner
23 than 12 hours after the child is taken into custody if the child is
24 taken into custody for committing a battery that constitutes domestic
25 violence pursuant to NRS 33.018, unless the peace officer or
26 probation officer who has taken the child into custody determines
27 that the child does not otherwise meet the criteria for secure
28 detention and:

29 (a) Respite care or another out-of-home alternative to secure
30 detention is available for the child;

31 (b) An out-of-home alternative to secure detention is not
32 necessary to protect the victim from injury; or

33 (c) Family services are available to maintain the child in the
34 home and the parents or guardians of the child agree to receive those
35 family services and to allow the child to return to the home.

36 2. A child must not be released from custody sooner than 12
37 hours after the child is taken into custody if the child is taken into
38 custody for violating a temporary or extended order for protection
39 against domestic violence issued pursuant to NRS 33.017 to 33.100,
40 inclusive, or for violating a restraining order or injunction that is in
41 the nature of a temporary or extended order for protection against
42 domestic violence issued in an action or proceeding brought
43 pursuant to title 11 of NRS, or for violating a temporary or extended
44 order for protection against stalking, aggravated stalking or
45 harassment issued pursuant to NRS 200.591 or for violating a



1 temporary or extended order for protection against sexual assault
2 issued pursuant to NRS 200.378 and:

3 (a) The peace officer or probation officer who has taken the
4 child into custody determines that such a violation is accompanied
5 by a direct or indirect threat of harm;

6 (b) The child has previously violated a temporary or extended
7 order for protection of the type for which the child has been taken
8 into custody; or

9 (c) At the time of the violation or within 2 hours after the
10 violation, the child has:

11 (1) A concentration of alcohol of 0.08 or more in his or her
12 blood or breath; or

13 (2) An amount of a prohibited substance in his or her blood
14 or urine, *as applicable*, that is equal to or greater than the amount
15 set forth in subsection 3 *or 4* of NRS 484C.110.

16 3. For the purposes of this section, an order or injunction is in
17 the nature of a temporary or extended order for protection against
18 domestic violence if it grants relief that might be given in a
19 temporary or extended order issued pursuant to NRS 33.017 to
20 33.100, inclusive.

21 **Sec. 9.** NRS 125.555 is hereby amended to read as follows:

22 125.555 1. A restraining order or injunction that is in the
23 nature of a temporary or extended order for protection against
24 domestic violence which is issued in an action or proceeding
25 brought pursuant to this title must provide notice that a person who
26 is arrested for violating the order or injunction will not be admitted
27 to bail sooner than 12 hours after the person's arrest if:

28 (a) The arresting officer determines that such a violation is
29 accompanied by a direct or indirect threat of harm;

30 (b) The person has previously violated a temporary or extended
31 order for protection; or

32 (c) At the time of the violation or within 2 hours after the
33 violation, the person has:

34 (1) A concentration of alcohol of 0.08 or more in his or her
35 blood or breath; or

36 (2) An amount of a prohibited substance in his or her blood
37 or urine, *as applicable*, that is equal to or greater than the amount
38 set forth in subsection 3 *or 4* of NRS 484C.110.

39 2. For the purposes of this section, an order or injunction is in
40 the nature of a temporary or extended order for protection against
41 domestic violence if it grants relief that might be given in a
42 temporary or extended order issued pursuant to NRS 33.017 to
43 33.100, inclusive.



Sec. 10. NRS 200.378 is hereby amended to read as follows:

200.378 1. In addition to any other remedy provided by law, a person who reasonably believes that the crime of sexual assault has been committed against him or her by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who allegedly committed the sexual assault to:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged sexual assault and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged sexual assault and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged sexual assault or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.

2. If a defendant charged with a crime involving sexual assault is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged sexual assault and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged sexual assault and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged sexual assault or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.

3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm,



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1 modify or vacate the order in question. The appeal may be taken
2 without bond, but its taking does not stay the effect or enforcement
3 of the order.

4 5. Unless a more severe penalty is prescribed by law for the act
5 that constitutes the violation of the order, any person who
6 intentionally violates:

7 (a) A temporary order is guilty of a gross misdemeanor.

8 (b) An extended order is guilty of a category C felony and shall
9 be punished as provided in NRS 193.130.

10 6. Any court order issued pursuant to this section must:

11 (a) Be in writing;

12 (b) Be personally served on the person to whom it is directed;
13 and

14 (c) Contain the warning that violation of the order:

15 (1) Subjects the person to immediate arrest.

16 (2) Is a gross misdemeanor if the order is a temporary order.

17 (3) Is a category C felony if the order is an extended order.

18 7. A temporary or extended order issued pursuant to this
19 section must provide notice that a person who is arrested for
20 violating the order will not be admitted to bail sooner than 12 hours
21 after the arrest if:

22 (a) The arresting officer determines that such a violation is
23 accompanied by a direct or indirect threat of harm;

24 (b) The person has previously violated a temporary or extended
25 order for protection; or

26 (c) At the time of the violation or within 2 hours after the
27 violation, the person has:

28 (1) A concentration of alcohol of 0.08 or more in his or her
29 blood or breath; or

30 (2) An amount of a prohibited substance in his or her blood
31 or urine, *as applicable*, that is equal to or greater than the amount
32 set forth in subsection 3 *or 4* of NRS 484C.110.

33 **Sec. 11.** NRS 200.591 is hereby amended to read as follows:

34 200.591 1. In addition to any other remedy provided by law,
35 a person who reasonably believes that the crime of stalking,
36 aggravated stalking or harassment is being committed against him or
37 her by another person may petition any court of competent
38 jurisdiction for a temporary or extended order directing the person
39 who is allegedly committing the crime to:

40 (a) Stay away from the home, school, business or place of
41 employment of the victim of the alleged crime and any other
42 location specifically named by the court.

43 (b) Refrain from contacting, intimidating, threatening or
44 otherwise interfering with the victim of the alleged crime and any
45 other person named in the order, including, without limitation, a



1 member of the family or the household of the victim of the alleged
2 crime.

3 (c) Comply with any other restriction which the court deems
4 necessary to protect the victim of the alleged crime or to protect any
5 other person named in the order, including, without limitation, a
6 member of the family or the household of the victim of the alleged
7 crime.

8 2. If a defendant charged with a crime involving harassment,
9 stalking or aggravated stalking is released from custody before trial
10 or is found guilty at the trial, the court may issue a temporary or
11 extended order or provide as a condition of the release or sentence
12 that the defendant:

13 (a) Stay away from the home, school, business or place of
14 employment of the victim of the alleged crime and any other
15 location specifically named by the court.

16 (b) Refrain from contacting, intimidating, threatening or
17 otherwise interfering with the victim of the alleged crime and any
18 other person named in the order, including, without limitation, a
19 member of the family or the household of the victim of the alleged
20 crime.

21 (c) Comply with any other restriction which the court deems
22 necessary to protect the victim of the alleged crime or to protect any
23 other person named in the order, including, without limitation, a
24 member of the family or the household of the victim of the alleged
25 crime.

26 3. A temporary order may be granted with or without notice to
27 the adverse party. An extended order may be granted only after:

28 (a) Notice of the petition for the order and of the hearing thereon
29 is served upon the adverse party pursuant to the Nevada Rules of
30 Civil Procedure; and

31 (b) A hearing is held on the petition.

32 4. If an extended order is issued by a justice court, an
33 interlocutory appeal lies to the district court, which may affirm,
34 modify or vacate the order in question. The appeal may be taken
35 without bond, but its taking does not stay the effect or enforcement
36 of the order.

37 5. Unless a more severe penalty is prescribed by law for the act
38 that constitutes the violation of the order, any person who
39 intentionally violates:

40 (a) A temporary order is guilty of a gross misdemeanor.

41 (b) An extended order is guilty of a category C felony and shall
42 be punished as provided in NRS 193.130.

43 6. Any court order issued pursuant to this section must:

44 (a) Be in writing;



(b) Be personally served on the person to whom it is directed;
and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the person's arrest if:

(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his or her blood or breath; or

(2) An amount of a prohibited substance in his or her blood or urine, *as applicable*, that is equal to or greater than the amount set forth in subsection 3 *or 4* of NRS 484C.110.

Sec. 12. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33);

(b) Has been convicted of a felony in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(c) Is a fugitive from justice;

(d) Is an unlawful user of, or addicted to, any controlled substance; or

(e) Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.

➤ A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:



1 (a) Has been adjudicated as mentally ill or has been committed
2 to any mental health facility by a court of this State, any other state
3 or the United States;

4 (b) Has entered a plea of guilty but mentally ill in a court of this
5 State, any other state or the United States;

6 (c) Has been found guilty but mentally ill in a court of this State,
7 any other state or the United States;

8 (d) Has been acquitted by reason of insanity in a court of this
9 State, any other state or the United States; or

10 (e) Is illegally or unlawfully in the United States.

11 ➤ A person who violates the provisions of this subsection is guilty
12 of a category D felony and shall be punished as provided in
13 NRS 193.130.

14 3. *For the purposes of paragraph (d) of subsection 1, a*
15 *person who holds a valid registry identification card issued to him*
16 *or her pursuant to NRS 453A.220 or 453A.250 shall not be*
17 *deemed to be an unlawful user of, or addicted to, a controlled*
18 *substance solely because the person engages in the medical use of*
19 *marijuana pursuant to chapter 453A of NRS.*

20 4. As used in this section:

21 (a) "Controlled substance" has the meaning ascribed to it in 21
22 U.S.C. § 802(6).

23 (b) "Firearm" includes any firearm that is loaded or unloaded
24 and operable or inoperable.

25 (c) *"Medical use of marijuana" has the meaning ascribed to it*
26 *in NRS 453A.120.*

27 **Sec. 13.** NRS 202.3657 is hereby amended to read as follows:

28 202.3657 1. Any person who is a resident of this State may
29 apply to the sheriff of the county in which he or she resides for a
30 permit on a form prescribed by regulation of the Department. Any
31 person who is not a resident of this State may apply to the sheriff of
32 any county in this State for a permit on a form prescribed by
33 regulation of the Department. Application forms for permits must be
34 furnished by the sheriff of each county upon request.

35 2. A person applying for a permit may submit one application
36 and obtain one permit to carry all handguns owned by the person.
37 The person must not be required to list and identify on the
38 application each handgun owned by the person. A permit is valid for
39 any handgun which is owned or thereafter obtained by the person to
40 whom the permit is issued.

41 3. Except as otherwise provided in this section, the sheriff shall
42 issue a permit to any person who is qualified to possess a handgun
43 under state and federal law, who submits an application in
44 accordance with the provisions of this section and who:



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- 1 (a) Is 21 years of age or older;
- 2 (b) Is not prohibited from possessing a firearm pursuant to
- 3 NRS 202.360; and
- 4 (c) Demonstrates competence with handguns by presenting a
- 5 certificate or other documentation to the sheriff which shows that
- 6 the applicant:
 - 7 (1) Successfully completed a course in firearm safety
 - 8 approved by a sheriff in this State; or
 - 9 (2) Successfully completed a course in firearm safety offered
 - 10 by a federal, state or local law enforcement agency, community
 - 11 college, university or national organization that certifies instructors
 - 12 in firearm safety.
 - 13 ➤ Such a course must include instruction in the use of handguns
 - 14 and in the laws of this State relating to the use of a firearm. A sheriff
 - 15 may not approve a course in firearm safety pursuant to subparagraph
 - 16 (1) unless the sheriff determines that the course meets any standards
 - 17 that are established by the Nevada Sheriffs' and Chiefs' Association
 - 18 or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist,
 - 19 its legal successor.
- 20 4. The sheriff shall deny an application or revoke a permit if
- 21 the sheriff determines that the applicant or permittee:
 - 22 (a) Has an outstanding warrant for his or her arrest.
 - 23 (b) Has been judicially declared incompetent or insane.
 - 24 (c) Has been voluntarily or involuntarily admitted to a mental
 - 25 health facility during the immediately preceding 5 years.
 - 26 (d) Has habitually used intoxicating liquor or a controlled
 - 27 substance to the extent that his or her normal faculties are impaired.
 - 28 For the purposes of this paragraph, it is presumed that a person has
 - 29 so used intoxicating liquor or a controlled substance if, during the
 - 30 immediately preceding 5 years, the person has been:
 - 31 (1) Convicted of violating the provisions of NRS 484C.110;
 - 32 or
 - 33 (2) Committed for treatment pursuant to NRS 458.290 to
 - 34 458.350, inclusive.
 - 35 (e) Has been convicted of a crime involving the use or
 - 36 threatened use of force or violence punishable as a misdemeanor
 - 37 under the laws of this or any other state, or a territory or possession
 - 38 of the United States at any time during the immediately preceding 3
 - 39 years.
 - 40 (f) Has been convicted of a felony in this State or under the laws
 - 41 of any state, territory or possession of the United States.
 - 42 (g) Has been convicted of a crime involving domestic violence
 - 43 or stalking, or is currently subject to a restraining order, injunction
 - 44 or other order for protection against domestic violence.



(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

5. *For the purposes of paragraph (d) of subsection 4, a person who holds a valid registry identification card issued to him or her pursuant to NRS 453A.220 or 453A.250 shall not be deemed to have habitually used a controlled substance to the extent that his or her normal faculties are impaired solely because the person engages in the medical use of marijuana pursuant to chapter 453A of NRS. As used in this subsection, "medical use of marijuana" has the meaning ascribed to it in NRS 453A.120.*

6. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 4 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

~~16-1~~ 7. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

~~17-1~~ 8. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:



(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) A nonrefundable fee equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain the reports required pursuant to subsection 1 of NRS 202.366; and

(g) A nonrefundable fee set by the sheriff not to exceed \$60.

Sec. 14. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person has been convicted of the possession of a controlled substance in violation of NRS 453.336 which is punishable as a misdemeanor or gross misdemeanor, the person may, in accordance with NRS 179.245, petition the court in which he or she was convicted to seal all documents, papers and exhibits in the person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. If, after a hearing on the petition, the court makes the finding set forth in subsection 4 of NRS 179.245, the court shall order sealed all such documents.

2. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

Sec. 15. NRS 453.011 is hereby amended to read as follows:

453.011 1. NRS 453.011 to 453.348, inclusive, *and section 14 of this act* may be cited as the Uniform Controlled Substances Act.

2. The Uniform Controlled Substances Act (1990) is substituted in a continuing way for the provisions of NRS 453.011 to 453.348, inclusive, *and section 14 of this act* except as those provisions are specifically amended.



1 **Sec. 16.** NRS 453.580 is hereby amended to read as follows:

2 453.580 1. A court may establish an appropriate treatment
3 program to which it may assign a person pursuant to subsection 4 of
4 NRS 453.336, NRS 453.3363 or 458.300, or it may assign such a
5 person to an appropriate treatment provider. The assignment must
6 include the terms and conditions for successful completion of the
7 program and provide for progress reports at intervals set by the court
8 to ensure that the person is making satisfactory progress toward
9 completion of the program.

10 2. A program to which a court assigns a person pursuant to
11 subsection 1 must include:

12 (a) Information and encouragement for the participant to cease
13 abusing alcohol or using controlled substances through educational,
14 counseling and support sessions developed with the cooperation of
15 various community, health, substance abuse, religious, social service
16 and youth organizations;

17 (b) The opportunity for the participant to understand the
18 medical, psychological and social implications of substance abuse;
19 and

20 (c) Alternate courses within the program based on the different
21 substances abused and the addictions of participants.

22 3. If the offense with which the person was charged involved
23 the use or possession of a controlled substance, in addition to the
24 program or as a part of the program, the court must also require
25 random testing or screening to determine that the person is not using
26 a controlled substance. *If the person holds a valid registry*
27 *identification card issued to him or her pursuant to NRS 453A.220*
28 *or 453A.250, the person shall not be deemed to be using a*
29 *controlled substance solely because he or she engages in the*
30 *medical use of marijuana pursuant to chapter 453A of NRS.*

31 4. Before the court assigns a person to a program pursuant to
32 this section, the person must agree to pay the cost of the program to
33 which the person is assigned and the cost of any additional
34 supervision required pursuant to subsection 3, to the extent of the
35 financial resources of the person. If the person does not have the
36 financial resources to pay all of the related costs, the court shall, to
37 the extent practicable, arrange for the person to be assigned to a
38 program with a treatment provider that receives a sufficient amount
39 of federal or state funding to offset the remainder of the costs.

40 5. If a court places a person under the supervision of a
41 treatment provider to receive treatment for the abuse of alcohol or
42 use of controlled substances pursuant to this section, the court may
43 authorize the person to complete any period of treatment remaining
44 under the supervision of a treatment provider in another jurisdiction
45 if the court determines that:



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(a) The person is eligible to receive treatment under a program of treatment in the other jurisdiction; and

(b) The program of treatment in the other jurisdiction is substantially similar to the program of treatment to which the person is assigned in this State.

6. *If a person is assigned to a treatment program or treatment provider pursuant to this section and the person holds a valid registry identification card issued to him or her pursuant to NRS 453A.220 or 453A.250, the person may continue to engage in the medical use of marijuana pursuant to chapter 453A of NRS while completing the period of treatment.*

7. As used in this section:

(a) *“Medical use of marijuana” has the meaning ascribed to it in NRS 453A.120.*

(b) “Treatment provider” has the meaning ascribed to it in NRS 458.010.

~~(b)~~ (c) “Treatment provider in another jurisdiction” means a person or a public or private agency, residential treatment center, facility for the treatment of abuse of alcohol or drugs, or voluntary organization which holds a license, certificate or other credential issued by a regulatory agency in another jurisdiction.

Sec. 17. Chapter 453A of NRS is hereby amended by adding thereto the provisions set forth as sections 18, 19 and 20 of this act.

Sec. 18. *Notwithstanding any other provision of law, a tenant of real property or a mobile home who holds a valid registry identification card or letter of approval issued to him or her pursuant to NRS 453A.220 or 453A.250 must not be evicted from such real property or a mobile home or otherwise subject to any penalty for engaging in the medical use of marijuana pursuant to this chapter. As used in this section, “tenant” means any person entitled under a written or oral rental agreement to occupy real property or a mobile home to the exclusion of others.*

Sec. 19. 1. *A person who holds a valid registry identification card or letter of approval issued to him or her pursuant to NRS 453A.220 or 453A.250 must not be prohibited from engaging in or assisting in, as applicable, the medical use of marijuana in accordance with the provisions of this chapter while on the property of:*

(a) *An assisted living facility;*

(b) *A facility for hospice care;*

(c) *A hospital; or*

(d) *A school.*

2. *As used in this section:*



(a) "Assisted living facility" has the meaning ascribed to it in NRS 422.3962.

(b) "Facility for hospice care" has the meaning ascribed to it in NRS 449.0033.

(c) "Hospital" has the meaning ascribed to it in NRS 449.012.

(d) "School" means any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

Sec. 20. 1. The Division shall provide training concerning the rights granted to a person who holds a registry identification card or letter of approval pursuant to this chapter to those persons required by subsection 2 to complete such training.

2. The following persons shall complete, on an annual basis, the training provided by the Division pursuant to subsection 1:

(a) All employees of the Department of Public Safety;

(b) All employees of a local law enforcement agency;

(c) All peace officers, firefighters and emergency medical attendants; and

(d) All treatment providers and persons involved in providing instruction or treatment as part of a treatment program to which a person is assigned pursuant to NRS 453.580.

3. The Division shall adopt regulations necessary to carry out the provisions of this section.

4. As used in this section:

(a) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS.

(b) "Firefighter" means a person who holds a license pursuant to chapter 450B of NRS and is employed by or serving as a volunteer with a fire-fighting agency.

(c) "Fire-fighting agency" means a fire department or fire protection district of the State or a political subdivision which holds a permit issued pursuant to chapter 450B of NRS.

(d) "Local law enforcement agency" means:

(1) The sheriff's office of a county;

(2) A metropolitan police department; or

(3) A police department of an incorporated city.

(e) "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.

(f) "Treatment provider" has the meaning ascribed to it in NRS 458.010.



1 **Sec. 21.** NRS 453A.300 is hereby amended to read as follows:

2 453A.300 1. A person who holds a registry identification
3 card or letter of approval issued to him or her pursuant to NRS
4 453A.220 or 453A.250 is not exempt from state prosecution for, nor
5 may the person establish an affirmative defense to charges arising
6 from, any of the following acts:

7 (a) Driving, operating or being in actual physical control of a
8 vehicle or a vessel under power or sail while under the influence of
9 marijuana.

10 (b) Engaging in any other conduct prohibited by NRS 484C.110,
11 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS
12 488.410, 488.420, 488.425 or 493.130.

13 (c) Possessing a firearm in violation of paragraph (b) of
14 subsection 1 of NRS 202.257.

15 (d) Possessing marijuana in violation of NRS 453.336 or
16 possessing paraphernalia in violation of NRS 453.560 or 453.566 ~~+~~
17 ~~— (1) If~~ if the possession of the marijuana or paraphernalia is
18 discovered because the person engaged or assisted in the medical
19 use of marijuana in:

20 ~~+(1) Any~~

21 (1) *Except as otherwise provided in section 19 of this act,*
22 *any* public place or in any place open to the public or exposed to
23 public view; or

24 ~~+(H)~~ (2) Any local detention facility, county jail, state
25 prison, reformatory or other correctional facility, including, without
26 limitation, any facility for the detention of juvenile offenders. ~~+~~ ~~or~~

27 ~~— (2) If the possession of the marijuana or paraphernalia occurs~~
28 ~~on school property.~~

29 (e) Delivering marijuana to another person who he or she knows
30 does not lawfully hold a registry identification card or letter of
31 approval issued by the Division or its designee pursuant to NRS
32 453A.220 or 453A.250.

33 (f) Delivering marijuana for consideration to any person,
34 regardless of whether the recipient lawfully holds a registry
35 identification card or letter of approval issued by the Division or its
36 designee pursuant to NRS 453A.220 or 453A.250.

37 2. Except as otherwise provided in NRS 453A.225 and in
38 addition to any other penalty provided by law, if the Division
39 determines that a person has willfully violated a provision of this
40 chapter or any regulation adopted by the Division to carry out the
41 provisions of this chapter, the Division may, at its own discretion,
42 prohibit the person from obtaining or using a registry identification
43 card or letter of approval for a period of up to 6 months.

44 3. As used in this section, ~~“school property” means the~~
45 ~~grounds of any public school described in NRS 388.020 and any~~



~~private school as defined in NRS 394.103.]~~ *“under the influence” has the meaning ascribed to it in NRS 484C.105 and 488.035, as applicable.*

Sec. 22. NRS 453A.400 is hereby amended to read as follows:

453A.400 1. The fact that a person possesses a registry identification card or letter of approval issued to the person by the Division or its designee pursuant to NRS 453A.220 or 453A.250, a medical marijuana establishment registration certificate issued to the person by the Division or its designee pursuant to NRS 453A.322 or a medical marijuana establishment agent registration card issued to the person by the Division or its designee pursuant to NRS 453A.332, *or the fact that the odor of marijuana is present upon any such person,* does not, alone:

(a) Constitute probable cause to search the person or the person’s property; or

(b) Subject the person or the person’s property to inspection by any governmental agency.

2. Except as otherwise provided in this subsection, if officers of a state or local law enforcement agency seize marijuana, paraphernalia or other related property from a person engaged in, facilitating or assisting in the medical use of marijuana:

(a) The law enforcement agency shall ensure that the marijuana, paraphernalia or other related property is not destroyed while in the possession of the law enforcement agency.

(b) Any property interest of the person from whom the marijuana, paraphernalia or other related property was seized must not be forfeited pursuant to any provision of law providing for the forfeiture of property, except as part of a sentence imposed after conviction of a criminal offense.

(c) Upon:

(1) A decision not to prosecute;

(2) The dismissal of charges; or

(3) Acquittal,

→ the law enforcement agency shall, to the extent permitted by law, return to that person any usable marijuana, marijuana plants, paraphernalia or other related property that was seized. The provisions of this subsection do not require a law enforcement agency to care for live marijuana plants.

Sec. 23. NRS 484C.110 is hereby amended to read as follows:

484C.110 1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath; or



(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his or her blood or breath,
→ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

(a) Is under the influence of a controlled substance;

(b) Is under the combined influence of intoxicating liquor and a controlled substance; or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle,

→ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of ~~fat~~ *any of the following* prohibited ~~substance~~ *substances* in his or her blood or urine that is equal to or greater than:

Prohibited substance	Urine Nanograms per milliliter	Blood Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Marijuana	10	2
(h) Marijuana metabolite	15	5
(i) Methamphetamine	500	100
(i) (h) Phencyclidine	25	10

4. *It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of any of the following*



prohibited substances in his or her blood that is equal to or greater than:

<i>Prohibited substance</i>	<i>Blood Nanograms per milliliter</i>
<i>(a) Marijuana (delta-9-tetrahydrocannabinol)</i>	<i>2</i>
<i>(b) Marijuana metabolite (11-OH-tetrahydrocannabinol)</i>	<i>5</i>

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

~~5.1~~ 6. A person who violates any provision of this section may be subject to any additional penalty set forth in NRS 484B.130 or 484B.135.

Sec. 24. NRS 484C.120 is hereby amended to read as follows:

484C.120 1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath; or

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a commercial motor vehicle to have a concentration of alcohol of 0.04 or more but less than 0.08 in his or her blood or breath,

➔ to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access.

2. It is unlawful for any person who:

(a) Is under the influence of a controlled substance;

(b) Is under the combined influence of intoxicating liquor and a controlled substance; or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a commercial motor vehicle,



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↳ to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access with an amount of ~~at~~ *any of the following* prohibited ~~substance~~ *substances* in his or her blood or urine that is equal to or greater than:

Prohibited substance	Urine Nanograms per milliliter	Blood Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Marijuana	10	2
(h) Marijuana metabolite	15	5
(i) Methamphetamine	500	100
(i) (h) Phencyclidine	25	10

4. *It is unlawful for any person to drive or be in actual physical control of a commercial motor vehicle on a highway or on premises to which the public has access with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:*

<i>Prohibited substance</i>	<i>Blood Nanograms per milliliter</i>
<i>(a) Marijuana (delta-9-tetrahydrocannabinol)</i>	<i>2</i>
<i>(b) Marijuana metabolite (11-OH-tetrahydrocannabinol)</i>	<i>5</i>

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the



1 commercial motor vehicle, and before his or her blood or breath was
2 tested, to cause the defendant to have a concentration of alcohol
3 of 0.04 or more in his or her blood or breath. A defendant who
4 intends to offer this defense at a trial or preliminary hearing must,
5 not less than 14 days before the trial or hearing or at such other time
6 as the court may direct, file and serve on the prosecuting attorney a
7 written notice of that intent.

8 ~~15-1~~ 6. A person who violates any provision of this section may
9 be subject to any additional penalty set forth in NRS 484B.130 or
10 484B.135.

11 ~~16-1~~ 7. As used in this section:

12 (a) "Commercial motor vehicle" means a motor vehicle or
13 combination of motor vehicles used in commerce to transport
14 passengers or property if the motor vehicle:

15 (1) Has a gross combination weight rating of 26,001 or more
16 pounds which includes a towed unit with a gross vehicle weight
17 rating of more than 10,000 pounds;

18 (2) Has a gross vehicle weight rating of 26,001 or more
19 pounds;

20 (3) Is designed to transport 16 or more passengers, including
21 the driver; or

22 (4) Regardless of size, is used in the transportation of
23 materials which are considered to be hazardous for the purposes of
24 the federal Hazardous Materials Transportation Act, 49 U.S.C. §§
25 5101 et. seq., and for which the display of identifying placards is
26 required pursuant to 49 C.F.R. Part 172, Subpart F.

27 (b) The phrase "concentration of alcohol of 0.04 or more but
28 less than 0.08 in his or her blood or breath" means 0.04 gram or
29 more but less than 0.08 gram of alcohol per 100 milliliters of the
30 blood of a person or per 210 liters of his or her breath.

31 **Sec. 25.** NRS 484C.130 is hereby amended to read as follows:

32 484C.130 1. A person commits vehicular homicide if the
33 person:

34 (a) Drives or is in actual physical control of a vehicle on or off
35 the highways of this State and:

36 (1) Is under the influence of intoxicating liquor;

37 (2) Has a concentration of alcohol of 0.08 or more in his or
38 her blood or breath;

39 (3) Is found by measurement within 2 hours after driving or
40 being in actual physical control of a vehicle to have a concentration
41 of alcohol of 0.08 or more in his or her blood or breath;

42 (4) Is under the influence of a controlled substance or is
43 under the combined influence of intoxicating liquor and a controlled
44 substance;



(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle; or

(6) Has a prohibited substance in his or her blood or urine , *as applicable*, in an amount that is equal to or greater than the amount set forth in subsection 3 *or 4* of NRS 484C.110;

(b) Proximately causes the death of another person while driving or in actual physical control of a vehicle on or off the highways of this State; and

(c) Has previously been convicted of at least three offenses.

2. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

3. As used in this section, "offense" means:

(a) A violation of NRS 484C.110, 484C.120 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 this section or NRS 484C.110 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).

Sec. 26. NRS 484C.150 is hereby amended to read as follows:

484C.150 1. Any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath *and, if the person holds a valid registry identification card issued to him or her pursuant to NRS 453A.220 or 453A.250, to a preliminary test of his or her saliva to determine the presence of marijuana in his or her saliva* when the test is administered at the request of a police officer at the scene of a vehicle crash or where the police officer stops a vehicle, if the officer has reasonable grounds to believe that the person to be tested was:



(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. If the person fails to submit to ~~the~~ a test ~~if~~ requested by a police officer pursuant to subsection 1, the officer shall:

(a) Seize the license or permit of the person to drive as provided in NRS 484C.220; and

(b) If reasonable grounds otherwise exist, arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test under NRS 484C.160.

3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

Sec. 27. NRS 484C.160 is hereby amended to read as follows:

484C.160 1. Except as otherwise provided in subsections 4 and 5, any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the request of a police officer having reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine; or

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. A police officer who requests that a person submit to a test pursuant to subsection 1 shall inform the person that his or her license, permit or privilege to drive will be revoked if he or she fails to submit to the test.

3. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person to be tested.

4. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath, saliva or urine test.

5. If the concentration of alcohol in the blood or breath of the person to be tested is in issue:



(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, the person must pay for the cost of the blood test, including the fees and expenses of witnesses whose testimony in court or an administrative hearing is necessary because of the use of the blood test. The expenses of such a witness may be assessed at an hourly rate of not less than:

(1) Fifty dollars for travel to and from the place of the proceeding; and

(2) One hundred dollars for giving or waiting to give testimony.

(c) Except as otherwise provided in NRS 484C.200, not more than three samples of the person's blood or breath may be taken during the 5-hour period immediately following the time of the initial arrest.

6. ~~HH~~ *Except as otherwise provided in subsection 7, if the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may request that the person submit to a blood or urine test, or both.*

7. *Subject to the provisions of subsection 9, if the presence of marijuana in the blood of the person is in issue, the officer may request that the person submit to a blood test.*

8. Except as otherwise provided in subsections 4 and 6, a police officer shall not request that a person submit to a urine test.

~~18-1~~ 9. *If a person to be tested holds a valid registry identification card issued to him or her pursuant to NRS 453A.220 or 453A.250 and the presence of marijuana in the blood of the person is in issue, the person must be given the opportunity to submit to a test of his or her saliva before the person is requested to submit to a blood test. The person may only be requested to submit to a blood test if:*

(a) *The person refuses to submit to a test of his or her saliva; or*

(b) *The results of a test of the person's saliva indicate the presence of marijuana in his or her saliva.*

10. If a person to be tested fails to submit to a required test as requested by a police officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine; or



(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430,

the officer may apply for a warrant or court order directing that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested.

~~9-1~~ **11.** If a person who is less than 18 years of age is requested to submit to an evidentiary test pursuant to this section, the officer shall, before testing the person, make a reasonable attempt to notify the parent, guardian or custodian of the person, if known.

Sec. 28. NRS 484C.180 is hereby amended to read as follows:

484C.180 1. A person who is arrested for driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or for engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 must be permitted, upon request and at the person's expense, reasonable opportunity to have a qualified person of his or her own choosing administer a chemical test or tests to determine:

(a) The concentration of alcohol in his or her blood or breath; or

(b) Whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present in his or her **saliva**, blood or urine ~~1-1~~, **as applicable.**

2. The failure or inability to obtain such a test or tests by such a person does not preclude the admission of evidence relating to the refusal to submit to a test or relating to a test taken upon the request of a police officer.

3. A test obtained under the provisions of this section may not be substituted for or stand in lieu of the test required by NRS 484C.160.

Sec. 29. NRS 484C.240 is hereby amended to read as follows:

484C.240 1. If a person refuses to submit to a required chemical test provided for in NRS 484C.150 or 484C.160, evidence of that refusal is admissible in any criminal or administrative action arising out of acts alleged to have been committed while the person was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine; or

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. Except as otherwise provided in subsection 3 of NRS 484C.150, a court or hearing officer may not exclude evidence of a required test or failure to submit to such a test if the police officer or



1 other person substantially complied with the provisions of NRS
2 484C.150 to 484C.250, inclusive, and 484C.600 to 484C.640,
3 inclusive.

4 3. If a person submits to a chemical test provided for in NRS
5 484C.150 or 484C.160, full information concerning that test must be
6 made available, upon request of the person, to the person or his or
7 her attorney.

8 4. Evidence of a required test is not admissible in a criminal or
9 administrative proceeding unless it is shown by documentary or
10 other evidence that the law enforcement agency ~~calibrated the~~
11 ~~breath testing device and otherwise maintained it~~ :

12 (a) *Maintained the device used for testing the breath or saliva*
13 *of the person, as applicable*, as required by the regulations of the
14 Committee on Testing for Intoxication ~~+~~ ; and

15 (b) *If the device used was a breath-testing device, calibrated*
16 *the device.*

17 **Sec. 30.** NRS 484C.430 is hereby amended to read as follows:

18 484C.430 1. Unless a greater penalty is provided pursuant to
19 NRS 484C.440, a person who:

20 (a) Is under the influence of intoxicating liquor;

21 (b) Has a concentration of alcohol of 0.08 or more in his or her
22 blood or breath;

23 (c) Is found by measurement within 2 hours after driving or
24 being in actual physical control of a vehicle to have a concentration
25 of alcohol of 0.08 or more in his or her blood or breath;

26 (d) Is under the influence of a controlled substance or is under
27 the combined influence of intoxicating liquor and a controlled
28 substance;

29 (e) Inhales, ingests, applies or otherwise uses any chemical,
30 poison or organic solvent, or any compound or combination of any
31 of these, to a degree which renders the person incapable of safely
32 driving or exercising actual physical control of a vehicle; or

33 (f) Has a prohibited substance in his or her blood or urine , *as*
34 *applicable*, in an amount that is equal to or greater than the amount
35 set forth in subsection 3 *or 4* of NRS 484C.110,

36 and does any act or neglects any duty imposed by law while
37 driving or in actual physical control of any vehicle on or off the
38 highways of this State, if the act or neglect of duty proximately
39 causes the death of, or substantial bodily harm to, another person, is
40 guilty of a category B felony and shall be punished by imprisonment
41 in the state prison for a minimum term of not less than 2 years and a
42 maximum term of not more than 20 years and must be further
43 punished by a fine of not less than \$2,000 nor more than \$5,000. A
44 person so imprisoned must, insofar as practicable, be segregated
45 from offenders whose crimes were violent and, insofar as



1 practicable, be assigned to an institution or facility of minimum
2 security.

3 2. A prosecuting attorney shall not dismiss a charge of
4 violating the provisions of subsection 1 in exchange for a plea of
5 guilty, guilty but mentally ill or nolo contendere to a lesser charge or
6 for any other reason unless the attorney knows or it is obvious that
7 the charge is not supported by probable cause or cannot be proved at
8 the time of trial. A sentence imposed pursuant to subsection 1 may
9 not be suspended nor may probation be granted.

10 3. Except as otherwise provided in subsection 4, if
11 consumption is proven by a preponderance of the evidence, it is an
12 affirmative defense under paragraph (c) of subsection 1 that the
13 defendant consumed a sufficient quantity of alcohol after driving or
14 being in actual physical control of the vehicle, and before his or her
15 blood or breath was tested, to cause the defendant to have a
16 concentration of alcohol of 0.08 or more in his or her blood or
17 breath. A defendant who intends to offer this defense at a trial or
18 preliminary hearing must, not less than 14 days before the trial
19 or hearing or at such other time as the court may direct, file
20 and serve on the prosecuting attorney a written notice of that
21 intent.

22 4. If the defendant is also charged with violating the provisions
23 of NRS 484E.010, 484E.020 or 484E.030, the defendant may not
24 offer the affirmative defense set forth in subsection 3.

25 5. If the defendant was transporting a person who is less than
26 15 years of age in the motor vehicle at the time of the violation, the
27 court shall consider that fact as an aggravating factor in determining
28 the sentence of the defendant.

29 **Sec. 31.** NRS 484C.610 is hereby amended to read as follows:

30 484C.610 1. The Committee on Testing for Intoxication
31 shall:

32 (a) In the manner set forth in subsection 2, certify a device that
33 the Committee determines is designed and manufactured to be
34 accurate and reliable for the purpose of testing a person's breath to
35 determine the concentration of alcohol in the person's breath; ~~and~~

36 (b) *Certify a device that the Committee determines is designed*
37 *and manufactured to be accurate, reliable and capable of*
38 *providing results within a reasonable time for the purpose of*
39 *testing a person's saliva to determine the presence of marijuana in*
40 *the person's saliva; and*

41 (c) Create, maintain and make available to the public, free of
42 charge, a list of ~~those~~ *the* devices certified by the Committee ~~to~~
43 *pursuant to this subsection*, described by manufacturer and type.



2. To determine whether a device is designed and manufactured to be accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath, the Committee may:

(a) Use the list of qualified products meeting the requirements for evidential breath-testing devices of the National Highway Traffic Safety Administration; or

(b) Establish its own standards and procedures for evaluating those devices and obtain evaluations of the devices from the Director of the Department of Public Safety or the agent of the Director.

3. If ~~such~~ a device has been certified by the Committee to be accurate and reliable pursuant to this section, it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath ~~or testing a person's saliva to determine the presence of marijuana in the person's saliva.~~

4. This section does not preclude the admission of evidence of the concentration of alcohol in a person's breath ~~or the presence of marijuana in a person's saliva~~ where the information is obtained through the use of a device other than one of a type certified by the Committee.

Sec. 32. NRS 484C.640 is hereby amended to read as follows:

484C.640 1. The Committee on Testing for Intoxication may adopt regulations that require:

(a) The calibration of devices which are used to test a person's blood or urine to determine the concentration of alcohol or the presence of a controlled substance or another prohibited substance in the person's blood or urine;

(b) The certification of persons who make those calibrations;

(c) The certification of persons who operate devices for testing a person's *saliva*, blood or urine to determine the concentration of alcohol or presence of a controlled substance or another prohibited substance in the person's *saliva*, blood or urine; and

(d) The certification of persons who examine those operators.

2. The Committee may adopt regulations that prescribe the essential procedures for the proper operation of the various types of devices used to test a person's *saliva*, blood or urine to determine the concentration of alcohol or the presence of a controlled substance or another prohibited substance in the person's *saliva*, blood or urine.

Sec. 33. NRS 488.410 is hereby amended to read as follows:

488.410 1. It is unlawful for any person who:

(a) Is under the influence of intoxicating liquor;



(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath; or

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel to have a concentration of alcohol of 0.08 or more in his or her blood or breath,

↳ to operate or be in actual physical control of a vessel under power or sail on the waters of this State.

2. It is unlawful for any person who:

(a) Is under the influence of a controlled substance;

(b) Is under the combined influence of intoxicating liquor and a controlled substance; or

(c) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or exercising actual physical control of a vessel under power or sail,

↳ to operate or be in actual physical control of a vessel under power or sail on the waters of this State.

3. It is unlawful for any person to operate or be in actual physical control of a vessel under power or sail on the waters of this State with an amount of ~~1a~~ *any of the following* prohibited ~~substance~~ *substances* in his or her blood or urine that is equal to or greater than:

Prohibited substance	Urine	Blood
	Nanograms per milliliter	Nanograms per milliliter
(a) Amphetamine	500	100
(b) Cocaine	150	50
(c) Cocaine metabolite	150	50
(d) Heroin	2,000	50
(e) Heroin metabolite:		
(1) Morphine	2,000	50
(2) 6-monoacetyl morphine	10	10
(f) Lysergic acid diethylamide	25	10
(g) Marijuana	10	2
(h) Marijuana metabolite	15	5
(i) Methamphetamine	500	100
(i) (h) Phencyclidine	25	10

4. *It is unlawful for any person to operate or be in actual physical control of a vessel under power or sail on the waters of this State with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:*



	<i>Blood Nanograms per milliliter</i>
<i>Prohibited substance</i>	

- | | |
|--|---|
| (a) <i>Marijuana (delta-9-tetrahydrocannabinol)</i> | 2 |
| (b) <i>Marijuana metabolite (11-OH-tetrahydrocannabinol)</i> | 5 |

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his or her blood was tested, to cause the defendant to have a concentration of 0.08 or more of alcohol in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

~~5.1~~ 6. Except as otherwise provided in NRS 488.427, a person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 34. NRS 488.420 is hereby amended to read as follows:

488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his or her blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or being in actual physical control of a vessel under power or sail; or

(f) Has a prohibited substance in his or her blood or urine, *as applicable*, in an amount that is equal to or greater than the amount set forth in subsection 3 *or 4* of NRS 488.410,

➔ and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, another person, is guilty of a



1 category B felony and shall be punished by imprisonment in the
2 state prison for a minimum term of not less than 2 years and a
3 maximum term of not more than 20 years and shall be further
4 punished by a fine of not less than \$2,000 nor more than \$5,000. A
5 person so imprisoned must, insofar as practicable, be segregated
6 from offenders whose crimes were violent and, insofar as
7 practicable, be assigned to an institution or facility of minimum
8 security.

9 2. A prosecuting attorney shall not dismiss a charge of
10 violating the provisions of subsection 1 in exchange for a plea of
11 guilty, guilty but mentally ill or nolo contendere to a lesser charge or
12 for any other reason unless the prosecuting attorney knows or it is
13 obvious that the charge is not supported by probable cause or cannot
14 be proved at the time of trial. A sentence imposed pursuant to
15 subsection 1 must not be suspended, and probation must not be
16 granted.

17 3. If consumption is proven by a preponderance of the
18 evidence, it is an affirmative defense under paragraph (c) of
19 subsection 1 that the defendant consumed a sufficient quantity of
20 alcohol after operating or being in actual physical control of the
21 vessel under power or sail, and before his or her blood was tested, to
22 cause the defendant to have a concentration of alcohol of 0.08 or
23 more in his or her blood or breath. A defendant who intends to offer
24 this defense at a trial or preliminary hearing must, not less than 14
25 days before the trial or hearing or at such other time as the court
26 may direct, file and serve on the prosecuting attorney a written
27 notice of that intent.

28 4. If a person less than 15 years of age was in the vessel at the
29 time of the defendant's violation, the court shall consider that fact as
30 an aggravating factor in determining the sentence of the defendant.

31 **Sec. 35.** NRS 488.425 is hereby amended to read as follows:

32 488.425 1. A person commits homicide by vessel if the
33 person:

34 (a) Operates or is in actual physical control of a vessel under
35 power or sail on the waters of this State and:

36 (1) Is under the influence of intoxicating liquor;

37 (2) Has a concentration of alcohol of 0.08 or more in his or
38 her blood or breath;

39 (3) Is found by measurement within 2 hours after operating
40 or being in actual physical control of a vessel under power or sail to
41 have a concentration of alcohol of 0.08 or more in his or her blood
42 or breath;

43 (4) Is under the influence of a controlled substance or is
44 under the combined influence of intoxicating liquor and a controlled
45 substance;



(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his or her blood or urine , *as applicable*, in an amount that is equal to or greater than the amount set forth in subsection 3 *or 4* of NRS 488.410;

(b) Proximately causes the death of another person while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.



* S B 3 7 8 *

7. As used in this section, "offense" means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; 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).

Sec. 36. NRS 488.450 is hereby amended to read as follows:

488.450 1. Any person who operates or is in actual physical control of a vessel under power or sail on the waters of this State shall be deemed to have given consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath *and, if the person holds a valid registry identification card issued to him or her pursuant to NRS 453A.220 or 453A.250, to a preliminary test of his or her saliva to determine the presence of marijuana in his or her saliva* when the test is administered at the request of a peace officer after a vessel accident or collision or where an officer stops a vessel, if the officer has reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.

2. If the person fails to submit to ~~the~~ a test ~~if~~ requested by a peace officer pursuant to subsection 1, the officer shall, if reasonable grounds otherwise exist, arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test under NRS 488.460.

3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

Sec. 37. NRS 488.460 is hereby amended to read as follows:

488.460 1. Except as otherwise provided in subsections 3 and 4, a person who operates or is in actual physical control of a vessel under power or sail on the waters of this State shall be deemed to have given consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the request of a peace officer having reasonable grounds to believe that the person to be tested was:



(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine; or

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.

2. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

3. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section, but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath, saliva or urine test.

4. If the concentration of alcohol of the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, the person must pay for the cost of the blood test, including the fees and expenses of witnesses whose testimony in court is necessary because of the use of the blood test. The expenses of such a witness may be assessed at an hourly rate of not less than:

(1) Fifty dollars for travel to and from the place of the proceeding; and

(2) One hundred dollars for giving or waiting to give testimony.

(c) Except as otherwise provided in NRS 488.470, not more than three samples of the person's blood or breath may be taken during the 5-hour period immediately following the time of the initial arrest.

5. ~~HH~~ *Except as otherwise provided in subsection 6, if the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may request that the person submit to a blood or urine test, or both.*

6. *Subject to the provisions of subsection 8, if the presence of marijuana in the blood of the person is in issue, the officer may request that the person submit to a blood test.*

7. Except as otherwise provided in subsections 3 and 5, a peace officer shall not request that a person submit to a urine test.



~~17-~~ 8. If a person to be tested holds a valid registry identification card issued to him or her pursuant to NRS 453A.220 or 453A.250 and the presence of marijuana in the blood of the person is in issue, the person must be given an opportunity to submit to a test of his or her saliva before the person is requested to submit to a blood test. The person may only be requested to submit to a blood test if:

(a) The person refuses to submit to a test of his or her saliva; or

(b) The results of a test of the person's saliva indicate the presence of marijuana in his or her saliva.

9. If a person to be tested fails to submit to a required test as requested by a peace officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine; or

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425,

the officer may apply for a warrant or court order directing that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested.

~~18-~~ 10. If a person who is less than 18 years of age is requested to submit to an evidentiary test pursuant to this section, the officer shall, before testing the person, make a reasonable attempt to notify the parent, guardian or custodian of the person, if known.

Sec. 38. NRS 488.480 is hereby amended to read as follows:

488.480 1. If a person refuses to submit to a required chemical test provided for in NRS 488.450 or 488.460, evidence of that refusal is admissible in any criminal action arising out of acts alleged to have been committed while the person was:

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.

2. Except as otherwise provided in subsection 3 of NRS 488.450, a court may not exclude evidence of a required test or failure to submit to such a test if the peace officer or other person substantially complied with the provisions of NRS 488.450 to 488.500, inclusive.



3. If a person submits to a chemical test provided for in NRS 488.450 or 488.460, full information concerning that test must be made available, upon request, to the person or the person's attorney.

4. Evidence of a required test is not admissible in a criminal proceeding unless it is shown by documentary or other evidence that the device for testing breath *or saliva* was certified pursuant to NRS 484C.610 and was calibrated, maintained and operated, *as applicable*, as provided by the regulations of the Committee on Testing for Intoxication adopted pursuant to NRS 484C.620, 484C.630 or 484C.640.

5. If the device for testing breath *or saliva* has been certified by the Committee on Testing for Intoxication to be accurate and reliable pursuant to NRS 484C.610, it is presumed that, as designed and manufactured, the device is accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath ~~or~~ *or testing a person's saliva to determine the presence of marijuana in the person's saliva, as applicable*.

6. A court shall take judicial notice of the certification by the Director of a person to operate testing devices of one of the certified types. If a test to determine the amount of alcohol in a person's breath *or the presence of marijuana in a person's saliva* has been performed with a certified type of device by a person who is certified pursuant to NRS 484C.630 or 484C.640, it is presumed that the person operated the device properly.

7. This section does not preclude the admission of evidence of a test of a person's breath *or saliva* where the:

(a) Information is obtained through the use of a device other than one of a type certified by the Committee on Testing for Intoxication.

(b) Test has been performed by a person other than one who is certified by the Director.

8. As used in this section, "Director" means the Director of the Department of Public Safety.

Sec. 39. NRS 488.490 is hereby amended to read as follows:

488.490 1. A person who is arrested for operating or being in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or for engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425 must be permitted, upon the person's request and at his or her expense, reasonable opportunity to have a qualified person of his or her own choosing administer a chemical test to determine:

(a) The concentration of alcohol in his or her blood or breath; or



(b) Whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present in his or her *saliva*, blood or urine ~~H~~, *as applicable*.

2. The failure or inability to obtain such a test does not preclude the admission of evidence relating to the refusal to submit to a test or relating to a test taken upon the request of a peace officer.

3. A test obtained under the provisions of this section may not be substituted for or stand in lieu of the test required by NRS 488.460.

Sec. 40. NRS 616C.230 is hereby amended to read as follows:

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself or herself.

(b) Caused by the employee's willful intention to injure another.

(c) That occurred while the employee was in a state of intoxication, unless the employee can prove by clear and convincing evidence that his or her state of intoxication was not the proximate cause of the injury. For the purposes of this paragraph, an employee is in a state of intoxication if the level of alcohol in the bloodstream of the employee meets or exceeds the limits set forth in subsection 1 of NRS 484C.110.

(d) That occurred while the employee was under the influence of a controlled or prohibited substance, unless the employee can prove by clear and convincing evidence that his or her being under the influence of a controlled or prohibited substance was not the proximate cause of the injury. For the purposes of this paragraph, an employee is under the influence of a controlled or prohibited substance if the employee had an amount of a controlled or prohibited substance in his or her system at the time of his or her injury that was equal to or greater than the limits set forth in subsection 3 *or 4* of NRS 484C.110 and for which the employee did not have a current and lawful prescription issued in the employee's name.

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS 50.310, 50.315 or 50.320 is admissible to prove the existence of an impermissible quantity of alcohol or the existence, quantity or identity of an impermissible controlled or prohibited substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.



(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled or prohibited substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

(c) The results of any testing for the use of alcohol or a controlled or prohibited substance, irrespective of the purpose for performing the test, must be made available to an insurer or employer upon request, to the extent that doing so does not conflict with federal law.

3. No compensation is payable for the death, disability or treatment of an employee if the employee's death is caused by, or insofar as the employee's disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his or her recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his or her recovery, the employee's compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

➔ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

6. As used in this section, "prohibited substance" has the meaning ascribed to it in NRS 484C.080.

Sec. 41. The initial training required pursuant to section 20 of this act must be provided to all persons required to complete such training by not later than December 31, 2017.

Sec. 42. 1. This section and sections 1 to 19, inclusive, and 21 to 41, inclusive, of this act become effective upon passage and approval.

2. Section 20 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2017, for all other purposes.

