

Amendment No. 683

Senate Amendment to Assembly Bill No. 316 First Reprint	(BDR 43-312)
<b>Proposed by:</b> Senate Committee on Growth and Infrastructure	
<b>Amendment Box:</b> Replaces Amendment No. 679.	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: Yes Digest: No	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 316 R1 (§ 18).

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

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

MLS/JMK



Date: 5/10/2019

A.B. No. 316—Revises provisions relating to driving under the influence of alcohol or a prohibited substance. (BDR 43-312)





ASSEMBLY BILL NO. 316—ASSEMBLYMEN TOLLES,  
ROBERTS, HANSEN, LEAVITT; AND ELLISON

MARCH 18, 2019

JOINT ~~[SPONSOR: SENATOR]~~ SPONSORS: SENATORS SEEVERS GANSERT ; BROOKS,  
CANCELA, DENIS, HAMMOND, HARDY, SETTELMAYER, SPEARMAN AND  
WASHINGTON

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to driving under the influence of alcohol  
or a prohibited substance. (BDR 43-312)FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

~

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

AN ACT relating to public safety; enacting the Nevada 24/7 Sobriety and Drug  
Monitoring Program Act; establishing a voluntary statewide sobriety  
and drug monitoring program; requiring any political subdivision that  
elects to participate in the program to adopt guidelines relating to the  
program; requiring such guidelines to establish certain fees; and  
providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

This bill enacts the Nevada 24/7 Sobriety and Drug Monitoring Program Act. **Section 14**  
of this bill establishes a statewide sobriety and drug monitoring program in which any  
political subdivision in this State may elect to participate. **Section 15** of this bill provides that  
if a political subdivision elects to participate in the program, the Department of Public Safety  
is authorized to assist the political subdivision in the establishment and administration of the  
program and the political subdivision is required to designate a law enforcement agency to  
enforce the program.

**Section 16** of this bill authorizes a court to assign an offender who is found guilty of  
driving under the influence of alcohol or a prohibited substance for the second or third time  
within 7 years to the program for a specified period determined by the court.

**Section 17** of this bill provides that any person who is assigned to the program: (1) must  
abstain from alcohol and prohibited substances while assigned to the program; (2) generally  
must undergo testing to determine the presence of alcohol in the person's system not less than  
two times each day; (3) must undergo random testing not less than two times each week to  
determine the presence of a prohibited substance in the person's system; (4) must be subject to  
sanctions for using alcohol or a prohibited substance while assigned to the program or for  
failing or refusing to undergo required testing; and (5) if the person's driver's license is  
suspended or revoked, is eligible for a restricted driver's license for the purpose of driving to  
and from a testing location, work, court appearances or counseling or to receive regularly  
scheduled medical care. **Section 16** authorizes the Department of Motor Vehicles to adopt any

regulations necessary to provide for the issuance of such a restricted driver's license to a person assigned to the program.

**Section 18** of this bill requires each political subdivision that elects to participate in the program to adopt guidelines relating to the program, including guidelines that: (1) provide for the nature and manner of testing and the testing procedures and devices to be used; (2) establish certain fees; and (3) provide for the establishment and use of a local program account for the deposit of any fees collected. **Section 19** of this bill requires the law enforcement agency that enforces the program for the political subdivision to collect any fees required by such guidelines and deposit the fees into the applicable local program account. **Section 19** also establishes provisions relating to the distribution and use of such fees.

WHEREAS, A RAND Corporation study published in the *American Journal of Public Health* in January 2013 concluded that the frequent alcohol testing required by 24/7 sobriety and drug monitoring programs, combined with swift, certain and modest sanctions for violations, can reduce problem drinking and improve public health outcomes; and

WHEREAS, The RAND Corporation analysis provides strong evidence that 24/7 sobriety and drug monitoring programs, when applied to offenders who repeatedly drive under the influence of intoxicating liquor or a prohibited substance, are successful in reducing arrests for such a crime; and

WHEREAS, As a result of the success of 24/7 sobriety and drug monitoring programs, such a program is an authorized program for which impaired driving countermeasure incentive grant funding is available under federal law; now, therefore,

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

**Section 1.** NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a violation of NRS 484C.110, and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

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

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

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

2. A person who is required to install a device in a motor vehicle pursuant to NRS 484C.210 or 484C.460:

(a) Shall install the device not later than 14 days after the date on which the order was issued; and

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

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

(I) A violation of NRS 484C.430 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of

1 intoxicating liquor or a controlled substance or resulting from any other conduct  
2 prohibited by NRS 484C.110, 484C.130 or 484C.430; or

3 (II) A violation of NRS 484C.110 that is punishable as a felony  
4 pursuant to NRS 484C.410 or 484C.420; or

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

8 3. If the Department has received a copy of an order requiring a person to  
9 install a device in a motor vehicle pursuant to NRS 484C.460 or following an order  
10 of revocation issued pursuant to NRS 484C.220, the Department shall not issue a  
11 restricted driver's license to such a person pursuant to this section unless the  
12 applicant has submitted proof of compliance with the order and subsection 2.

13 4. *If the driver's license of a person assigned to a program established*  
14 *pursuant to section 14 of this act is suspended or revoked, the Department may,*  
15 *after verifying the proof of compliance submitted pursuant to subsection 3, if*  
16 *applicable, issue a restricted driver's license to such an applicant that is valid*  
17 *while he or she is a participant in the program and that permits the applicant to*  
18 *drive a motor vehicle:*

19 (a) *To and from a testing location established by a law enforcement agency*  
20 *pursuant to section 15 of this act;*

21 (b) *If applicable, to and from work or in the course of his or her work, or*  
22 *both;*

23 (c) *To and from court appearances;*

24 (d) *To and from counseling; or*

25 (e) *To receive regularly scheduled medical care for himself or herself.*

26 5. Except as otherwise provided in NRS 62E.630, after a driver's license has  
27 been revoked or suspended pursuant to title 5 of NRS or NRS 392.148, the  
28 Department may issue a restricted driver's license to an applicant permitting the  
29 applicant to drive a motor vehicle:

30 (a) If applicable, to and from work or in the course of his or her work, or both;  
31 or

32 (b) If applicable, to and from school.

33 ~~5-1~~ 6. After a driver's license has been suspended pursuant to NRS 483.443,  
34 the Department may issue a restricted driver's license to an applicant permitting the  
35 applicant to drive a motor vehicle:

36 (a) If applicable, to and from work or in the course of his or her work, or both;

37 (b) To receive regularly scheduled medical care for himself, herself or a  
38 member of his or her immediate family; or

39 (c) If applicable, as necessary to exercise a court-ordered right to visit a child.

40 ~~16-1~~ 7. A driver who violates a condition of a restricted license issued  
41 pursuant to subsection 1 *or* 4 or by another jurisdiction is guilty of a misdemeanor  
42 and, if the license of the driver was suspended or revoked for:

43 (a) A violation of NRS 484C.110, 484C.210 or 484C.430;

44 (b) A homicide resulting from driving or being in actual physical control of a  
45 vehicle while under the influence of intoxicating liquor or a controlled substance or  
46 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or  
47 484C.430; or

48 (c) A violation of a law of any other jurisdiction that prohibits the same or  
49 similar conduct as set forth in paragraph (a) or (b),

50 the driver shall be punished in the manner provided pursuant to subsection 2 of  
51 NRS 483.560.

~~7.7~~ 8. The periods of suspensions and revocations required pursuant to this chapter and NRS 484C.210 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

~~8.8~~ 9. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 2. Chapter 484C of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 19, inclusive, of this act.

Sec. 3. *Sections 3 to 19, inclusive, of this act may be cited as the Nevada 24/7 Sobriety and Drug Monitoring Program Act.*

Sec. 4. 1. *The Legislature hereby declares that driving in this State is a privilege, not a right, and a driver who wishes to enjoy the benefits of such a privilege must accept the corresponding responsibilities.*

2. *The Legislature further declares that the purpose of sections 3 to 19, inclusive, of this act is to:*

(a) *Protect the public health and welfare by reducing the number of people on the highways of this State who drive under the influence of intoxicating liquor or a prohibited substance; and*

(b) *Strengthen the options available to courts and prosecuting attorneys in responding to offenders who repeatedly drive under the influence of intoxicating liquor or a prohibited substance.*

Sec. 5. *As used in sections 3 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 13, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 6. *“Core components” means the elements of the program that analysis demonstrates are most likely to account for positive outcomes.*

Sec. 7. (Deleted by amendment.)

Sec. 8. *“Designated law enforcement agency” means a law enforcement agency designated to enforce the program pursuant to section 15 of this act.*

Sec. 9. *“Immediate sanction” means a sanction that is able to be applied within minutes after the results of testing indicate the presence of alcohol or a prohibited substance in a program participant’s system.*

Sec. 9.5. *“Political subdivision” includes, without limitation, any county, city, other local government, court or entity that administers alternative sentencing.*

Sec. 10. *“Program” means the statewide sobriety and drug monitoring program established pursuant to section 14 of this act.*

Sec. 11. *“Program participant” means a person who is assigned by a court to the program.*

Sec. 12. *“Testing” means any procedure approved by the Committee on Testing for Intoxication for determining the concentration of alcohol or the amount of a prohibited substance in a person’s system that is provided for in the applicable guidelines adopted pursuant to section 18 of this act.*

Sec. 13. *“Timely sanction” means a sanction that is able to be applied as soon as possible, but not later than 14 days, after the results of testing indicate the presence of alcohol or a prohibited substance in a program participant’s system.*

Sec. 14. 1. *There is hereby established a statewide sobriety and drug monitoring program in which any political subdivision in this State may elect to participate.*

2. *The core components of the program must include the use of a primary testing methodology that tests for the presence of alcohol or a prohibited substance in a program participant’s system, best facilitates the ability to apply*

1 *immediate sanctions for noncompliance and is available at an affordable cost. In*  
2 *cases of economic hardship or when a program participant is rewarded with less*  
3 *stringent testing requirements, testing methodologies with timely sanctions for*  
4 *noncompliance may be utilized.*

5 3. *The program must be evidence-based and satisfy at least two of the*  
6 *following requirements:*

7 (a) *The program is included in the National Registry of Evidence-based*  
8 *Programs and Practices;*

9 (b) *The program has been reported in a peer-reviewed journal as having*  
10 *positive effects on the primary targeted outcome; or*

11 (c) *The program has been documented as effective by informed experts and*  
12 *other sources.*

13 4. *The core components of the program that generally require testing to*  
14 *determine the presence of alcohol in a person's system not less than two times*  
15 *each day and random testing to determine the presence of a prohibited substance*  
16 *in a person's system not less than two times each week must not be altered or*  
17 *modified.*

18 **Sec. 15.** *If a political subdivision elects to participate in the program:*

19 1. *The Department of Public Safety may assist the political subdivision in*  
20 *the establishment and administration of the program in the manner provided in*  
21 *sections 3 to 19, inclusive, of this act and in determining alternatives to*  
22 *incarceration.*

23 2. *The political subdivision shall designate a law enforcement agency to*  
24 *enforce the program.*

25 3. *A designated law enforcement agency:*

26 (a) *May designate an entity to provide testing services or to take any other*  
27 *action required or authorized to be provided by the law enforcement agency*  
28 *pursuant to sections 3 to 19, inclusive, of this act, but such a designated entity*  
29 *may not determine whether to participate in the program.*

30 (b) *Shall establish one or more testing locations that provide at least two*  
31 *available testing times each day. If only two testing times are made available, the*  
32 *testing times must be approximately 12 hours apart.*

33 **Sec. 16.** 1. *A court may assign an offender who is found guilty of a*  
34 *violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph*  
35 *(b) or (c) of subsection 1 of NRS 484C.400 to the program established pursuant*  
36 *to section 14 of this act for a specified period determined by the court.*

37 2. *If the court assigns an offender to the program who is found guilty of a*  
38 *violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph*  
39 *(b) of subsection 1 of NRS 484C.400, the court:*

40 (a) *Shall immediately sentence the offender and enter judgment accordingly.*

41 (b) *Shall suspend the sentence of the offender upon the condition that the*  
42 *offender participate in the program for a specified period determined by the*  
43 *court.*

44 (c) *Shall advise the offender that:*

45 (1) *If the offender fails to participate in the program for the period*  
46 *determined by the court or fails to comply with the requirements of the program,*  
47 *the court may require the offender to serve the sentence imposed by the court.*  
48 *Any sentence of imprisonment must be reduced by a time equal to that which the*  
49 *offender served before participating in the program.*

50 (2) *If the offender participates in the program for the period determined*  
51 *by the court and complies with the requirements of the program, the offender's*  
52 *sentence will be reduced to a term of imprisonment which is no longer than that*  
53 *provided for the offense in paragraph (c) of subsection 1 of NRS 484C.330 and a*

1 *fine of not more than the minimum provided for the offense in NRS 484C.400,*  
2 *but the conviction must remain on the record of criminal history of the offender.*

3 (3) *The offender is eligible for a restricted driver's license pursuant to*  
4 *subsection 4 of NRS 483.490.*

5 (d) *Shall not defer the sentence, set aside the conviction or impose conditions*  
6 *upon participation in the program except as otherwise provided in this section.*

7 (e) *May immediately revoke the suspension of sentence for a violation of a*  
8 *condition of the suspension.*

9 3. *If the court assigns an offender to the program who is found guilty of a*  
10 *violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph*  
11 *(c) of subsection 1 of NRS 484C.400, the court:*

12 (a) *Shall immediately, without entering a judgment of conviction and with*  
13 *the consent of the offender, suspend further proceedings and place the offender*  
14 *on probation.*

15 (b) *Shall order the offender to participate in the program.*

16 (c) *Shall advise the offender that:*

17 (1) *The court may enter a judgment of conviction for a violation of*  
18 *paragraph (c) of subsection 1 of NRS 484C.400 if the offender fails to participate*  
19 *in the program for the period determined by the court or fails to comply with the*  
20 *requirements of the program. Any sentence of imprisonment may be reduced by a*  
21 *time equal to that which the offender served before participating in the program.*

22 (2) *If the offender participates in the program for the period determined*  
23 *by the court and complies with the requirements of the program, the court will*  
24 *enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of*  
25 *NRS 484C.400.*

26 (3) *The provisions of NRS 483.460 requiring the revocation of the*  
27 *license, permit or privilege of the offender to drive do not apply and the offender*  
28 *is eligible for a restricted driver's license pursuant to subsection 4 of NRS*  
29 *483.490.*

30 (d) *Shall not defer the sentence or set aside the conviction upon participation*  
31 *in the program, except as otherwise provided in this section.*

32 (e) *May enter a judgment of conviction and proceed as provided in*  
33 *paragraph (c) of subsection 1 of NRS 484C.400 for a violation of a condition*  
34 *ordered by the court.*

35 4. *If a court assigns a person to the program pursuant to this section, the*  
36 *court shall notify the Department of Motor Vehicles that as a participant in the*  
37 *program, the person is eligible for a restricted driver's license pursuant to*  
38 *subsection 4 of NRS 483.490. If the person fails to comply with the requirements*  
39 *of the program, the court may notify the Department of Motor Vehicles of the*  
40 *person's noncompliance and direct the Department of Motor Vehicles to revoke*  
41 *the restricted license.*

42 5. *The Department of Motor Vehicles may adopt any regulations necessary*  
43 *to provide for the issuance of a restricted driver's license to a person assigned to*  
44 *the program.*

45 **Sec. 17. Any person who is assigned to the program:**

46 1. *Shall abstain from alcohol and prohibited substances while assigned to*  
47 *the program.*

48 2. *Shall undergo testing to determine the presence of alcohol in the*  
49 *person's system:*

50 (a) *Except as otherwise provided in paragraph (b), not less than two times*  
51 *each day at a testing location established by a designated law enforcement agency*  
52 *pursuant to section 15 of this act so that immediate sanctions can be applied;*



1       (b) *If being tested two or more times each day is not practical, by an alternate*  
2 *method consistent with section 14 of this act that allows timely sanctions to be*  
3 *applied; or*

4       (c) *By any other alternate method consistent with section 14 of this act.*

5       3. *Shall undergo random testing not less than two times each week to*  
6 *determine the presence of a prohibited substance in the person's system.*

7       4. *Must be subject to immediate, lawful and consistent sanctions for using*  
8 *alcohol or a prohibited substance while assigned to the program or for failing or*  
9 *refusing to undergo required testing, including, without limitation, immediate*  
10 *incarceration.*

11       5. *Is eligible for a restricted driver's license pursuant to subsection 4 of*  
12 *NRS 483.490 if the driver's license of the person is suspended or revoked.*

13       **Sec. 18.** *Each political subdivision that elects to participate in the program*  
14 *established pursuant to section 14 of this act shall adopt guidelines consistent*  
15 *with sections 3 to 19, inclusive, of this act. Such guidelines must:*

16       1. *Provide for the nature and manner of testing and the testing procedures*  
17 *and devices to be used.*

18       2. *Establish the requirements for compliance with the program, including,*  
19 *without limitation, the immediate sanctions and timely sanctions that may be*  
20 *imposed against a program participant.*

21       3. *Establish reasonable participant and testing fees for the program,*  
22 *including, without limitation, fees to pay the cost of installation, monitoring and*  
23 *deactivation of any testing device, and provide for the establishment and use of a*  
24 *local program account for the deposit of any fees collected. The established fees*  
25 *must be as low as possible, but the total amount of the fees and other funds*  
26 *credited to the local program account must defray the entire expense of the*  
27 *program to ensure program sustainability.*

28       4. *Provide that a political subdivision may accept gifts, grants, donations*  
29 *and any other form of financial assistance from any source for the purpose of*  
30 *enabling the political subdivision to participate in the program and carry out the*  
31 *provisions of sections 3 to 19, inclusive, of this act.*

32       5. *Establish a process for the determination and management of program*  
33 *participants who are indigent.*

34       6. *Require and provide for the approval of a program data management*  
35 *technology plan to be used to manage testing, data access, fees, fee payments and*  
36 *any required reports.*

37       7. *Require a program participant to sign an agreement:*

38       (a) *Acknowledging his or her understanding of the program rules and*  
39 *expectations, including without limitation, the prohibition against using alcohol*  
40 *or a prohibited substance while assigned to the program, and the sanctions that*  
41 *may be imposed;*

42       (b) *Agreeing to abide by the program rules and expectations; and*

43       (c) *Authorizing his or her records relating to participation in the program to*  
44 *be used for assessment purposes.*

45       8. *Require that program participants who meet certain standards of*  
46 *compliance be given positive feedback and rewarded when appropriate. Such a*  
47 *reward may include, without limitation, undergoing less frequent testing.*

48       **Sec. 19.** 1. *A designated law enforcement agency shall collect any fees*  
49 *required by any guidelines adopted pursuant to section 18 of this act and deposit*  
50 *such fees into the applicable local program account established by a political*  
51 *subdivision pursuant to such guidelines.*

52       2. *In accordance with the provisions of sections 3 to 19, inclusive, of this act*  
53 *and the guidelines adopted pursuant to section 18 of this act, all fees deposited*

1 *into a local program account must be used by the applicable designated law*  
2 *enforcement agency or, in accordance with the terms determined by the*  
3 *designated law enforcement agency, any entity designated by the law enforcement*  
4 *agency pursuant to section 15 of this act.*

5 *3. Each designated law enforcement agency shall distribute a portion of the*  
6 *fees to any entity designated by the law enforcement agency pursuant to section*  
7 *15 of this act in accordance with any agreement entered into with such a*  
8 *designated entity. The remainder of the fees is for the use of the law enforcement*  
9 *agency and may be used only for the purpose of administering and operating the*  
10 *program.*

11 **Sec. 20.** NRS 484C.400 is hereby amended to read as follows:

12 484C.400 1. Unless a greater penalty is provided pursuant to NRS  
13 484C.430 or 484C.440, and except as otherwise provided in NRS 484C.410, a  
14 person who violates the provisions of NRS 484C.110 or 484C.120:

15 (a) For the first offense within 7 years, is guilty of a misdemeanor. Unless the  
16 person is allowed to undergo treatment as provided in NRS 484C.320, the court  
17 shall:

18 (1) Except as otherwise provided in subparagraph (4) of this paragraph or  
19 subsection 3 of NRS 484C.420, order the person to pay tuition for an educational  
20 course on the abuse of alcohol and controlled substances approved by the  
21 Department and complete the course within the time specified in the order, and the  
22 court shall notify the Department if the person fails to complete the course within  
23 the specified time;

24 (2) Unless the sentence is reduced pursuant to NRS 484C.320, sentence the  
25 person to imprisonment for not less than 2 days nor more than 6 months in jail, or  
26 to perform not less than 48 hours, but not more than 96 hours, of community  
27 service while dressed in distinctive garb that identifies the person as having violated  
28 the provisions of NRS 484C.110 or 484C.120;

29 (3) Fine the person not less than \$400 nor more than \$1,000; and

30 (4) If the person is found to have a concentration of alcohol of 0.18 or  
31 more in his or her blood or breath, order the person to attend a program of treatment  
32 for the abuse of alcohol or drugs pursuant to the provisions of NRS 484C.360.

33 (b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the  
34 sentence is reduced pursuant to NRS 484C.330 **H** *or the person is assigned to a*  
35 *program pursuant to section 16 of this act*, the court shall:

36 (1) Sentence the person to:

37 (I) Imprisonment for not less than 10 days nor more than 6 months in  
38 jail; or

39 (II) Residential confinement for not less than 10 days nor more than 6  
40 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to  
41 5.078, inclusive;

42 (2) Fine the person not less than \$750 nor more than \$1,000, or order the  
43 person to perform an equivalent number of hours of community service while  
44 dressed in distinctive garb that identifies the person as having violated the  
45 provisions of NRS 484C.110 or 484C.120; and

46 (3) Order the person to attend a program of treatment for the abuse of  
47 alcohol or drugs pursuant to the provisions of NRS 484C.360.

48 **➤** A person who willfully fails or refuses to complete successfully a term of  
49 residential confinement or a program of treatment ordered pursuant to this  
50 paragraph is guilty of a misdemeanor.

51 (c) Except as otherwise provided in NRS 484C.340 **H** *and unless the person*  
52 *is assigned to a program pursuant to section 16 of this act*, for a third offense  
53 within 7 years, 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 shall be further punished by a fine of not less than \$2,000 nor more than \$5,000. An offender who is imprisoned pursuant to the provisions of this paragraph 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.

2. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(a) When evidenced by a conviction; or

(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

3. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484C.320 or 484C.330 and the suspension of his or her sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560, 484C.410 or 485.330 must run consecutively.

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

6. For the purpose of determining whether one offense occurs within 7 years of another offense, any period of time between the two offenses during which, for any such offense, the offender is imprisoned, serving a term of residential confinement, placed under the supervision of a treatment provider, on parole or on probation must be excluded.

7. As used in this section, unless the context otherwise requires, "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 NRS 484C.110, 484C.130 or 484C.430; or

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).

**Sec. 21.** NRS 484C.460 is hereby amended to read as follows:

484C.460 1. Except as otherwise provided in subsections 2 and 5 **and unless the person is assigned to a program pursuant to section 16 of this act**, a court shall order a person convicted of:

(a) A violation of NRS 484C.110 that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400, if the person is found to have had a concentration of alcohol of less than 0.18 in his or her blood or breath, to install, at his or her own expense and for a period of not less than 185 days, a device in any motor vehicle which the person operates as a condition to obtaining a restricted license pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of the person.

(b) A violation of:

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

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

(3) NRS 484C.130 or 484C.430, to install, at his or her own expense and for a period of not less than 12 months or more than 36 months, a device in any motor vehicle which the person operates as a condition to obtaining a restricted license pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of the person.

2. A court may, in the interests of justice, provide for an exception to the provisions of subsection 1 for a person who is convicted of a violation of NRS 484C.110 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400, to avoid undue hardship to the person if the court determines that:

(a) Requiring the person to install a device in a motor vehicle which the person owns or operates would cause the person to experience an economic hardship;

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

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

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

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

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

3. If the court orders a person to install a device pursuant to subsection 1:

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

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

4. A person whose driving privilege is restricted pursuant to this section or NRS 483.490 shall have the device inspected, calibrated, monitored and maintained by the manufacturer of the device or its agent at least one time each 90 days during the period in which the person is required to use the device to determine whether the device is operating properly. Any inspection, calibration, monitoring or maintenance required pursuant to this subsection must be conducted in accordance with regulations adopted pursuant to NRS 484C.480. The manufacturer or its agent shall submit a report to the Director indicating whether the device is operating properly, whether any of the incidents listed in subsection 1 of NRS 484C.470 have

1 occurred and whether the device has been tampered with. If the device has been  
2 tampered with, the Director shall notify the court that ordered the installation of the  
3 device. Upon receipt of such notification and before the court imposes a penalty  
4 pursuant to subsection 3 of NRS 484C.470, the court shall afford any interested  
5 party an opportunity for a hearing after reasonable notice.

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

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

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

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

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

22 **Sec. 22.** (Deleted by amendment.)

23 **Sec. 23.** (Deleted by amendment.)

24 **Sec. 24.** This act becomes effective upon passage and approval.