

**A.B. 472**

## ASSEMBLY BILL NO. 472—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE OFFICE OF FINANCE  
IN THE OFFICE OF THE GOVERNOR)

APRIL 29, 2021

Referred to Committee on Ways and Means

**SUMMARY**—Authorizes the use of testing devices to determine the presence of a controlled substance or prohibited substance in the oral fluid of a person in certain circumstances. (BDR 43-1088)

**FISCAL NOTE:** Effect on Local Government: No.  
Effect on the State: Executive Budget.

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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 public safety; authorizing the use of testing devices to determine the presence of a controlled substance or prohibited substance in the oral fluid of a person in certain circumstances; renaming the Committee on Testing for Intoxication as the Committee on Testing for Intoxication and Drug Impairment; requiring the Committee to certify testing devices used to determine the presence of a controlled substance or prohibited substance in the oral fluid of a person; requiring the Committee to adopt regulations relating to such devices; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that a person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access or who operates or is in actual physical control of a vessel under power or sail on the waters of this State is deemed to have given consent to a preliminary breath test to determine the concentration of alcohol in his or her breath in certain circumstances. (NRS 484C.150, 488.450) **Sections 1 and 16** of this bill additionally provide that any such person is deemed to have given consent to a preliminary test of his or her oral fluid to determine the presence of a controlled substance or prohibited substance therein.

Existing law contains various provisions that refer to the presence of a controlled substance or prohibited substance in the blood or urine of a person.



\* A B 4 7 2 \*

(NRS 50.315, 50.320, 484C.210-484C.240, 629.065) **Sections 2-5 and 18-20** of this bill include references to the oral fluid of a person in such provisions.

Existing law creates the Committee on Testing for Intoxication and requires the Committee to certify a device that is designed and manufactured to be accurate and reliable in determining the concentration of alcohol in a person's breath. (NRS 484C.600, 484C.610) **Section 10** of this bill renames the Committee as the Committee on Testing for Intoxication and Drug Impairment, and **section 11** of this bill additionally requires the Committee to certify devices that are designed and manufactured to be accurate and reliable in determining the presence of a controlled substance or prohibited substance in a person's oral fluid. **Section 12** of this bill requires the Committee to adopt regulations: (1) prescribing standards and procedures for calibrating such devices; (2) establishing methods for ascertaining the competence of persons to calibrate such devices and providing for the examination and certification of those persons by the Department of Public Safety; and (3) prescribing the form and contents of records relating to the calibration of such devices and certain other records. **Section 13** of this bill requires the Committee to adopt regulations: (1) establishing methods for ascertaining the competence of persons to operate such devices and examine prospective operators and determine their competence; and (2) providing for the certification of operators and examiners by the Department. **Sections 5-9, 14, 15 and 17-19** of this bill make conforming changes by updating the name of the Committee throughout the Nevada Revised Statutes. **Sections 5, 17 and 18** of this bill also make conforming changes by including references to oral fluid testing devices in the applicable provisions of the Nevada Revised Statutes that currently refer to breath-testing devices.

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

**Section 1.** 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 *or oral fluid* to determine the concentration of alcohol in his or her breath *or the presence of a controlled substance or prohibited substance in his or her oral fluid, as applicable*, 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 test, 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. 2.** NRS 484C.210 is hereby amended to read as follows:

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

(a) One year; or

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

2. If the result of a test given under NRS 484C.150 or 484C.160 shows that a person had a concentration of alcohol of 0.08 or more in his or her blood or breath or a detectable amount of a controlled substance or prohibited substance in his or her *oral fluid*, blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 678C.080, at the time of the test, the license, permit or privilege of the person to drive must be revoked as provided in NRS 484C.220 and the person is not eligible for a license, permit or privilege for a period of 90 days.

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

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

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



during which the person installed a device as a condition to obtaining a restricted license.

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

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

**Sec. 3.** NRS 484C.220 is hereby amended to read as follows:

484C.220 1. As agent for the Department, the officer who requested that a test be given pursuant to NRS 484C.150 or 484C.160 or who obtained the result of a test given pursuant to NRS 484C.150 or 484C.160 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who failed to submit to a test requested by the police officer pursuant to NRS 484C.150 or 484C.160 or who has a concentration of alcohol of 0.08 or more in his or her blood or breath or has a detectable amount of a controlled substance or prohibited substance in his or her *oral fluid*, blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 678C.080, if that person is present, and shall seize the license or permit to drive of the person. The officer shall then, unless the information is expressly set forth in the order of revocation, advise the person of his or her right to administrative and judicial review of the revocation pursuant to NRS 484C.230 and, except as otherwise provided in this subsection, that the person has a right to request a temporary license. The officer shall also, unless the information is expressly set forth in the order of revocation, advise the person that he or she is required to install a device pursuant to NRS 484C.210. If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484C.230, the person is not entitled to request an additional temporary license pursuant to this section or NRS 484C.230, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue the person a temporary license on a form approved by the Department if the person requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.08 or more in his or her blood or breath or had a



1 detectable amount of a controlled substance or prohibited substance  
2 in his or her *oral fluid*, blood or urine for which he or she did not  
3 have a valid prescription, as defined in NRS 453.128, or hold a valid  
4 registry identification card, as defined in NRS 678C.080, the officer  
5 shall immediately prepare and transmit to the Department, together  
6 with the seized license or permit and a copy of the result of the test,  
7 if any, a written certificate that the officer had reasonable grounds to  
8 believe that the person had been driving or in actual physical control  
9 of a vehicle:

10 (a) With a concentration of alcohol of 0.08 or more in his or her  
11 blood or breath or with a detectable amount of a controlled  
12 substance or prohibited substance in his or her *oral fluid*, blood or  
13 urine for which he or she did not have a valid prescription, as  
14 defined in NRS 453.128, or hold a valid registry identification card,  
15 as defined in NRS 678C.080, as determined by a chemical test; or

16 (b) While under the influence of intoxicating liquor or a  
17 controlled substance or with a prohibited substance in his or her *oral*  
18 *fluid*, blood or urine and the person refused to submit to a required  
19 evidentiary test.

20 ➡ The certificate must also indicate whether the officer served an  
21 order of revocation on the person and whether the officer issued the  
22 person a temporary license.

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

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



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

3       **Sec. 4.** NRS 484C.230 is hereby amended to read as follows:

4       484C.230 1. At any time while a person is not eligible for a  
5 license, permit or privilege to drive following an order of revocation  
6 issued pursuant to NRS 484C.220, the person may request in writing  
7 a hearing by the Department to review the order of revocation, but  
8 the person is only entitled to one hearing. The hearing must be  
9 conducted as soon as is practicable at any location, if the hearing  
10 officer permits each party and witness to attend the hearing by  
11 telephone, videoconference or other electronic means. The Director  
12 or agent of the Director may issue subpoenas for the attendance of  
13 witnesses and the production of relevant books and papers and may  
14 require a reexamination of the requester. Unless the person is  
15 ineligible for a temporary license pursuant to NRS 484C.220, the  
16 Department shall issue an additional temporary license for a period  
17 which is sufficient to complete the administrative review. A person  
18 who is issued a temporary license is not subject to and is exempt  
19 from the requirement to install a device pursuant to NRS 484C.210.

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

22       (a) Failed to submit to a required test provided for in NRS  
23 484C.150 or 484C.160; or

24       (b) At the time of the test, had a concentration of alcohol of 0.08  
25 or more in his or her blood or breath or a detectable amount of a  
26 controlled substance or prohibited substance in his or her *oral fluid*,  
27 blood or urine for which he or she did not have a valid prescription,  
28 as defined in NRS 453.128, or hold a valid registry identification  
29 card, as defined in NRS 678C.080.

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

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

37       4. If, after the hearing, the order of revocation is affirmed, the  
38 person whose license, privilege or permit has been revoked is  
39 entitled to a review of the same issues in district court in the same  
40 manner as provided by chapter 233B of NRS. The court shall notify  
41 the Department upon the issuance of a stay, and the Department  
42 shall issue an additional temporary license for a period which is  
43 sufficient to complete the review. A person who is issued a  
44 temporary license is not subject to and is exempt from the  
45 requirement to install a device pursuant to NRS 484C.210.



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

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

**Sec. 5.** 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 *oral fluid*, 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 other person substantially complied with the provisions of NRS 484C.150 to 484C.250, inclusive, and 484C.600 to 484C.640, inclusive.

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

4. Evidence of a required test is not admissible in a criminal or administrative proceeding unless it is shown by documentary or other evidence that the law enforcement agency calibrated the breath-testing device *or oral fluid testing device, as applicable*, and otherwise maintained it as required by the regulations of the Committee on Testing for Intoxication ~~and~~ *and Drug Impairment*.

**Sec. 6.** NRS 484C.388 is hereby amended to read as follows:

484C.388 "Testing" means any procedure approved by the Committee on Testing for Intoxication *and Drug Impairment* 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 NRS 484C.396.

**Sec. 7.** 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 NRS 484C.394, a court shall order a person convicted of:



(a) Except as otherwise provided in paragraph (b), a violation of paragraph (a), (b) or (c) of subsection 1 or paragraph (b) of subsection 2 of NRS 484C.110 that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400, 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, if the court determines that:

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

(b) 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





1 installed pursuant to this section must have been certified by the  
2 Committee on Testing for Intoxication **and Drug Impairment**.

3 4. A person whose driving privilege is restricted pursuant to  
4 this section or NRS 483.490 shall have the device inspected,  
5 calibrated, monitored and maintained by the manufacturer of the  
6 device or its agent at least one time each 90 days during the period  
7 in which the person is required to use the device to determine  
8 whether the device is operating properly. Any inspection,  
9 calibration, monitoring or maintenance required pursuant to this  
10 subsection must be conducted in accordance with regulations  
11 adopted pursuant to NRS 484C.480. The manufacturer or its agent  
12 shall submit a report to the Director indicating whether the device is  
13 operating properly, whether any of the incidents listed in subsection  
14 1 of NRS 484C.470 have occurred and whether the device has been  
15 tampered with. If the device has been tampered with, the Director  
16 and the manufacturer or its agent shall notify the court that ordered  
17 the installation of the device. Upon receipt of such notification and  
18 before the court imposes a penalty pursuant to subsection 3 of NRS  
19 484C.470, the court shall afford any interested party an opportunity  
20 for a hearing after reasonable notice.

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

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

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

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

33 6. The running of the period during which a person is required  
34 to have a device installed pursuant to this section commences when  
35 the Department issues a restricted license to the person or reinstates  
36 the driving privilege of the person and is tolled whenever and for as  
37 long as the person is, with regard to a violation of NRS 484C.110,  
38 484C.120, 484C.130 or 484C.430, imprisoned, serving a term of  
39 residential confinement, placed under the supervision of a treatment  
40 provider, on parole or on probation.

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

42 484C.480 1. The Committee on Testing for Intoxication **and**  
43 **Drug Impairment** shall adopt regulations which:

44 (a) Provide for the certification of each model of those devices,  
45 described by manufacturer and model, which it approves as



designed and manufactured to be accurate and reliable to test a person's breath to determine the concentration of alcohol in the person's breath and, if the results of the test indicate that the person has a concentration of alcohol of 0.02 or more in his or her breath, prevent the motor vehicle in which it is installed from starting.

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

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

(d) Require the manufacturer or its agent to waive the cost of installing or removing the device and adjust the fee to lease, calibrate or monitor the device, if the person required to install a device pursuant to NRS 484C.210 or 484C.460:

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

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

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

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

**Sec. 9.** NRS 484C.510 is hereby amended to read as follows:

484C.510 1. If a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, any violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 and a chemical analysis of his or her blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of \$60 as a fee for the chemical analysis. Except as otherwise provided in this



subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received by the treasurer pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to NRS 453.575. The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

(a) Except as otherwise provided in paragraph (b), must be:

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication *and Drug Impairment* created in NRS 484C.600.

**Sec. 10.** NRS 484C.600 is hereby amended to read as follows:

484C.600 1. There is hereby created the Committee on Testing for Intoxication *and Drug Impairment*, consisting of five members.

2. The Director of the Department of Public Safety or his or her delegate is the Chair of the Committee. The remaining members



1 of the Committee are appointed by the Director and serve at the  
2 pleasure of the Director. At least three of the members appointed by  
3 the Director must be technically qualified in fields related to testing  
4 for intoxication ~~[ ]~~ *and drug impairment*. Not more than three  
5 members of the Committee may be from any one county.

6 3. The Committee shall meet at the call of the Director of the  
7 Department of Public Safety and as frequently as the Committee  
8 deems necessary. Three members of the Committee constitute a  
9 quorum. If a member is unable to attend a meeting, the member may  
10 be represented by an alternate approved by the Director.

11 4. Any person who is aggrieved by a decision of the  
12 Committee may appeal in writing to a hearing officer of the  
13 Department of Public Safety.

14 **Sec. 11.** NRS 484C.610 is hereby amended to read as follows:

15 484C.610 1. The Committee on Testing for Intoxication *and*  
16 *Drug Impairment* shall:

17 (a) In the manner set forth in subsection 2, certify ~~[a-device]~~  
18 *devices* that the Committee determines ~~[is]~~ *are* designed and  
19 manufactured to be accurate and reliable for the purpose of testing a  
20 person's breath to determine the concentration of alcohol in the  
21 person's breath ~~[ ]~~ *or testing a person's oral fluid to determine the*  
22 *presence of a controlled substance or prohibited substance in the*  
23 *person's oral fluid, as applicable;* and

24 (b) Create, maintain and make available to the public, free of  
25 charge, a list of those devices certified by the Committee, described  
26 by manufacturer and type.

27 2. To determine whether a device is designed and  
28 manufactured to be accurate and reliable for the purpose of testing a  
29 person's breath to determine the concentration of alcohol in the  
30 person's breath ~~[ ]~~ *or testing a person's oral fluid to determine the*  
31 *presence of a controlled substance or prohibited substance in the*  
32 *person's oral fluid,* the Committee may ~~[ ]~~ *, as applicable:*

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

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

40 3. If such a device has been certified by the Committee to be  
41 accurate and reliable pursuant to this section, it is presumed that, as  
42 designed and manufactured, the device is accurate and reliable for  
43 the purpose of testing a person's breath to determine the  
44 concentration of alcohol in the person's breath ~~[ ]~~ *or testing a*  
45 *person's oral fluid to determine the presence of a controlled*



1 *substance or prohibited substance in the person's oral fluid, as*  
2 *applicable.*

3 4. This section does not preclude the admission of evidence of  
4 the concentration of alcohol in a person's breath *or the presence of*  
5 *a controlled substance or prohibited substance in a person's oral*  
6 *fluid* where the information is obtained through the use of a device  
7 other than one of a type certified by the Committee.

8 **Sec. 12.** NRS 484C.620 is hereby amended to read as follows:

9 484C.620 1. The Committee on Testing for Intoxication *and*  
10 *Drug Impairment* shall adopt regulations which:

11 (a) Prescribe standards and procedures for calibrating devices  
12 used for testing a person's breath to determine the concentration of  
13 alcohol in the person's breath ~~or~~ *or testing a person's oral fluid to*  
14 *determine the presence of a controlled substance or prohibited*  
15 *substance in the person's oral fluid, as applicable.* The regulations  
16 must specify the period within which a law enforcement agency that  
17 uses such a device must calibrate it or have it calibrated by the  
18 Director of the Department of Public Safety or the agent of the  
19 Director.

20 (b) Establish methods for ascertaining the competence of  
21 persons to calibrate such devices and provide for the examination  
22 and certification of those persons by the Department of Public  
23 Safety. A certificate issued by the Department may not be made  
24 effective for longer than 3 years.

25 (c) Prescribe the form and contents of records respecting the  
26 calibration of such devices which must be kept by a law  
27 enforcement agency and any other records respecting the  
28 maintenance or operation of those devices which it finds should be  
29 kept by such an agency.

30 2. The Director of the Department of Public Safety shall issue a  
31 certificate to any person who is found competent to calibrate such a  
32 device or examine others on their competence in that calibration.

33 **Sec. 13.** NRS 484C.630 is hereby amended to read as follows:

34 484C.630 1. The Committee on Testing for Intoxication *and*  
35 *Drug Impairment* shall adopt regulations which:

36 (a) Establish methods for ascertaining the competence of  
37 persons to:

38 (1) Operate devices for testing a person's breath to determine  
39 the concentration of alcohol in the person's breath ~~or~~ *or testing a*  
40 *person's oral fluid to determine the presence of a controlled*  
41 *substance or prohibited substance in the person's oral fluid, as*  
42 *applicable.*

43 (2) Examine prospective operators and determine their  
44 competence.



(b) Provide for certification of operators and examiners by the Department of Public Safety. A certificate issued by the Department may not be made effective for longer than 3 years.

➤ A person who is certified as an examiner is presumed to be certified as an operator.

2. The Director of the Department of Public Safety shall issue a certificate to any person who is found competent to operate such a device or examine others on their competence in that operation.

3. A court shall take judicial notice of the certification of a person to operate devices of one of the certified types. If a test to determine the concentration of alcohol in a person's breath *or the presence of a controlled substance or prohibited substance in a person's oral fluid* has been performed with a certified type of device by a person who is certified pursuant to this section, it is presumed that the person operated the device properly.

4. This section does not preclude the admission of evidence of a test of a person's breath *or oral fluid* where the test has been performed by a person other than one who is certified pursuant to this section.

**Sec. 14.** NRS 484C.640 is hereby amended to read as follows:

484C.640 1. The Committee on Testing for Intoxication *and Drug Impairment* 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 blood or urine to determine the concentration of alcohol or presence of a controlled substance or another prohibited substance in the person's 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 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.

**Sec. 15.** NRS 488.440 is hereby amended to read as follows:

488.440 1. If a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, a violation of NRS 488.410, 488.420 or 488.425 and a chemical analysis of his or her blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of \$60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money



collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to NRS 453.575. The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

(a) Except as otherwise provided in paragraph (b), must be:

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication *and Drug Impairment* created in NRS 484C.600.

**Sec. 16.** 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 *or oral fluid* to determine the concentration of alcohol in his or her breath *or the presence of a controlled substance or prohibited substance in his or her oral fluid, as applicable,* when



1 the test is administered at the request of a peace officer after a vessel  
2 accident or collision or where an officer stops a vessel, if the officer  
3 has reasonable grounds to believe that the person to be tested was:

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

7 (b) Engaging in any other conduct prohibited by NRS 488.410,  
8 488.420 or 488.425.

9 2. If the person fails to submit to the test, the officer shall, if  
10 reasonable grounds otherwise exist, arrest the person and take him  
11 or her to a convenient place for the administration of a reasonably  
12 available evidentiary test under NRS 488.460.

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

16 **Sec. 17.** NRS 488.480 is hereby amended to read as follows:

17 488.480 1. If a person refuses to submit to a required  
18 chemical test provided for in NRS 488.450 or 488.460, evidence of  
19 that refusal is admissible in any criminal action arising out of acts  
20 alleged to have been committed while the person was:

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

24 (b) Engaging in any other conduct prohibited by NRS 488.410,  
25 488.420 or 488.425.

26 2. Except as otherwise provided in subsection 3 of NRS  
27 488.450, a court may not exclude evidence of a required test or  
28 failure to submit to such a test if the peace officer or other person  
29 substantially complied with the provisions of NRS 488.450 to  
30 488.500, inclusive.

31 3. If a person submits to a chemical test provided for in NRS  
32 488.450 or 488.460, full information concerning that test must be  
33 made available, upon request, to the person or the person's attorney.

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

41 5. If the device for testing breath *or oral fluid, as applicable*,  
42 has been certified by the Committee on Testing for Intoxication *and*  
43 *Drug Impairment* to be accurate and reliable pursuant to NRS  
44 484C.610, it is presumed that, as designed and manufactured, the  
45 device is accurate and reliable for the purpose of testing a person's





1 breath to determine the concentration of alcohol in the person's  
2 breath ~~or~~ *or testing a person's oral fluid to determine the presence*  
3 *of a controlled substance or prohibited substance in the person's*  
4 *oral fluid, as applicable.*

5 6. A court shall take judicial notice of the certification by the  
6 Director of a person to operate testing devices of one of the certified  
7 types. If a test to determine the amount of alcohol in a person's  
8 breath *or the presence of a controlled substance or prohibited*  
9 *substance in a person's oral fluid* has been performed with a  
10 certified type of device by a person who is certified pursuant to NRS  
11 484C.630 or 484C.640, it is presumed that the person operated the  
12 device properly.

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

15 (a) Information is obtained through the use of a device other  
16 than one of a type certified by the Committee on Testing for  
17 Intoxication ~~and~~ *and Drug Impairment.*

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

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

22 **Sec. 18.** NRS 50.315 is hereby amended to read as follows:

23 50.315 1. Except as otherwise provided in subsections 6 and  
24 7, the affidavit or declaration of a person is admissible in evidence  
25 in any criminal or administrative proceeding to prove:

26 (a) That the affiant or declarant has been certified by the  
27 Director of the Department of Public Safety as being competent to  
28 operate devices of a type certified by the Committee on Testing for  
29 Intoxication *and Drug Impairment* as accurate and reliable for  
30 testing a person's breath to determine the concentration of alcohol in  
31 his or her breath ~~or~~ *or testing a person's oral fluid to determine the*  
32 *presence of a controlled substance or prohibited substance in his*  
33 *or her oral fluid, as applicable;*

34 (b) The identity of a person from whom the affiant or declarant  
35 obtained a sample of breath ~~or~~ *or oral fluid;* and

36 (c) That the affiant or declarant tested the sample using a device  
37 of a type so certified and that the device was functioning properly.

38 2. Except as otherwise provided in subsections 6 and 7, the  
39 affidavit or declaration of a person who has examined a prepared  
40 chemical solution or gas that has been used in calibrating, or  
41 verifying the calibration of, a device for testing another's breath to  
42 determine the concentration of alcohol in his or her breath *or a*  
43 *device for testing another's oral fluid to determine the presence of*  
44 *a controlled substance or prohibited substance in his or her oral*



1 *fluid* is admissible in evidence in any criminal or administrative  
2 proceeding to prove:

3 (a) The occupation of the affiant or declarant; and

4 (b) That the solution or gas has the chemical composition  
5 necessary for use in accurately calibrating, or verifying the  
6 calibration of, the device.

7 3. Except as otherwise provided in subsections 6 and 7, the  
8 affidavit or declaration of a person who calibrates a device for  
9 testing another's breath to determine the concentration of alcohol in  
10 his or her breath *or a device for testing another's oral fluid to*  
11 *determine the presence of a controlled substance or prohibited*  
12 *substance in his or her oral fluid* is admissible in evidence in any  
13 criminal or administrative proceeding to prove:

14 (a) The occupation of the affiant or declarant;

15 (b) That on a specified date the affiant or declarant calibrated the  
16 device at a named law enforcement agency by using the procedures  
17 and equipment prescribed in the regulations of the Committee on  
18 Testing for Intoxication ~~§~~ *and Drug Impairment*;

19 (c) That the calibration was performed within the period  
20 required by the Committee's regulations; and

21 (d) Upon completing the calibration of the device, it was  
22 operating properly.

23 4. Except as otherwise provided in subsections 6 and 7, the  
24 affidavit or declaration made under the penalty of perjury of a  
25 person who withdraws a sample of *oral fluid or* blood from another  
26 for analysis by an expert as set forth in NRS 50.320 is admissible in  
27 any criminal or administrative proceeding to prove:

28 (a) The occupation of the affiant or declarant;

29 (b) The identity of the person from whom the affiant or  
30 declarant withdrew the sample;

31 (c) The fact that the affiant or declarant kept the sample in his or  
32 her sole custody or control and in substantially the same condition  
33 as when he or she first obtained it until delivering it to another; and

34 (d) The identity of the person to whom the affiant or declarant  
35 delivered it.

36 5. Except as otherwise provided in subsections 6 and 7, the  
37 affidavit or declaration of a person who receives from another a  
38 sample of *oral fluid*, blood or urine or other tangible evidence that is  
39 alleged to contain alcohol or a controlled substance, chemical,  
40 poison, organic solvent or another prohibited substance may be  
41 admitted in any criminal or civil or administrative proceeding to  
42 prove:

43 (a) The occupation of the affiant or declarant;

44 (b) The fact that the affiant or declarant received a sample or  
45 other evidence from another person and kept it in his or her sole



1 custody or control in substantially the same condition as when he or  
2 she first received it until delivering it to another; and

3 (c) The identity of the person to whom the affiant or declarant  
4 delivered it.

5 6. If, not later than 10 days before the date set for trial or such  
6 shorter time before the date set for trial as authorized by the court,  
7 the defendant objects in writing to admitting into evidence the  
8 affidavit or declaration, the court shall not admit the affidavit or  
9 declaration into evidence and may order the prosecution to produce  
10 the witness and may continue the trial for any time the court deems  
11 reasonably necessary to receive such testimony. The time within  
12 which a trial is required is extended by the time of the continuance.

13 7. During any trial in which the defendant has been accused of  
14 committing a felony, the defendant may object in writing to  
15 admitting into evidence an affidavit or declaration described in this  
16 section. If the defendant makes such an objection, the court shall not  
17 admit the affidavit or declaration into evidence and the prosecution  
18 may cause the person to testify to any information contained in the  
19 affidavit or declaration.

20 8. The Committee on Testing for Intoxication *and Drug*  
21 *Impairment* shall adopt regulations prescribing the form of the  
22 affidavits and declarations described in this section.

23 **Sec. 19.** NRS 50.320 is hereby amended to read as follows:

24 50.320 1. The affidavit or declaration of a chemist and any  
25 other person who has qualified in a court of record in this State to  
26 testify as an expert witness regarding the presence in the breath, *oral*  
27 *fluid*, blood or urine of a person of alcohol, a controlled substance,  
28 or a chemical, poison, organic solvent or another prohibited  
29 substance, or the identity or quantity of a controlled substance  
30 alleged to have been in the possession of a person, which is  
31 submitted to prove:

32 (a) The quantity of the purported controlled substance; or

33 (b) The concentration of alcohol or the presence or absence of a  
34 controlled substance, chemical, poison, organic solvent or another  
35 prohibited substance, as the case may be,  
36 ↪ is admissible in the manner provided in this section.

37 2. An affidavit or declaration which is submitted to prove any  
38 fact set forth in subsection 1 must be admitted into evidence when  
39 submitted during any administrative proceeding, preliminary  
40 hearing or hearing before a grand jury. The court shall not sustain  
41 any objection to the admission of such an affidavit or declaration.

42 3. The defendant may object in writing to admitting into  
43 evidence an affidavit or declaration submitted to prove any fact set  
44 forth in subsection 1 during the defendant's trial. If the defendant  
45 makes such an objection, the court shall not admit the affidavit or



1 declaration into evidence and the prosecuting attorney may cause  
2 the person to testify to any information contained in the affidavit or  
3 declaration.

4 4. The Committee on Testing for Intoxication *and Drug*  
5 *Impairment* shall adopt regulations prescribing the form of the  
6 affidavits and declarations described in this section.

7 5. As used in this section, “chemist” means any person  
8 employed in a medical laboratory, pathology laboratory, toxicology  
9 laboratory or forensic laboratory whose duties include, without  
10 limitation:

11 (a) The analysis of the breath, *oral fluid*, blood or urine of a  
12 person to determine the presence or quantification of alcohol or a  
13 controlled substance, chemical, poison, organic solvent or another  
14 prohibited substance; or

15 (b) Determining the identity or quantity of any controlled  
16 substance.

17 **Sec. 20.** NRS 629.065 is hereby amended to read as follows:

18 629.065 1. Each custodian of health care records shall, upon  
19 request, make available to a law enforcement agent or district  
20 attorney the health care records of a patient which relate to a test of  
21 the ~~blood,~~ breath, *oral fluid, blood* or urine of the patient if:

22 (a) The patient is suspected of having violated NRS 484C.110,  
23 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS  
24 488.410, 488.420 or 488.425; and

25 (b) The records would aid in the related investigation.

26 ➤ To the extent possible, the custodian shall limit the inspection to  
27 the portions of the records which pertain to the presence of alcohol  
28 or a controlled substance, chemical, poison, organic solvent or  
29 another prohibited substance in the ~~blood,~~ breath, *oral fluid,*  
30 *blood* or urine of the patient.

31 2. The records must be made available at a place within the  
32 depository convenient for physical inspection. Inspection must be  
33 permitted at all reasonable office hours and for a reasonable length  
34 of time. The custodian of health care records shall also furnish a  
35 copy of the records to each law enforcement agent or district  
36 attorney described in subsection 1 who requests the copy and pays  
37 the costs of reproducing the copy.

38 3. Records made available pursuant to this section may be  
39 presented as evidence during a related administrative or criminal  
40 proceeding against the patient.

41 4. A custodian of health care records and his or her agents and  
42 employees are immune from any civil action for any disclosures  
43 made in accordance with the provisions of this section or any  
44 consequential damages.



1       5. As used in this section, “prohibited substance” has the  
2 meaning ascribed to it in NRS 484C.080.

3       **Sec. 21.** The Legislative Counsel shall:

4       1. In preparing the reprint and supplements to the Nevada  
5 Revised Statutes, appropriately change any references to an officer,  
6 agency or other entity whose name is changed or whose  
7 responsibilities are transferred pursuant to the provisions of this act  
8 to refer to the appropriate officer, agency or other entity.

9       2. In preparing supplements to the Nevada Administrative  
10 Code, appropriately change any references to an officer, agency or  
11 other entity whose name is changed or whose responsibilities are  
12 transferred pursuant to the provisions of this act to refer to the  
13 appropriate officer, agency or other entity.

14       **Sec. 22.** This act becomes effective on July 1, 2021.

