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ASSEMBLY BILL NO. 256—ASSEMBLYMEN BUCKLEY  
AND MANENDO

MARCH 21, 2005

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Referred to Committee on Judiciary

**SUMMARY**—Establishes crimes of vehicular homicide and homicide by vessel for driving vehicle or operating vessel under influence of alcohol or certain substances which causes death under certain circumstances. (BDR 43-458)

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

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

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**AN ACT** relating to driving under the influence of alcohol or a controlled substance; establishing the crimes of vehicular homicide and homicide by vessel for a person who drives a motor vehicle or operates a vessel under the influence of alcohol or certain controlled or prohibited substances in certain circumstances; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law makes it unlawful for a person to drive or be in actual physical  
2 control of a vehicle on a highway or premises to which the public has access if the  
3 person is under the influence of an intoxicating liquor or a controlled or prohibited  
4 substance, or both. (NRS 484.379) A person who commits a first or second offense  
5 of driving under the influence within 7 years is guilty of a misdemeanor. For a third  
6 or subsequent offense within 7 years, a person is guilty of a category B felony  
7 which is punishable by imprisonment in the state prison for a minimum term of not  
8 less than 1 year and a maximum term of not more than 6 years and a fine of \$2,000  
9 to \$5,000. (NRS 484.3792) For purposes of determining the number of offenses, a  
10 violation of the law concerning driving under the influence causing death or  
11 substantial bodily harm and any violation of the laws of another state which  
12 prohibit the same or similar conduct are counted.

13 Existing law provides a separate crime which is committed when a person who  
14 drives under the influence in violation of law proximately causes the death of or  
15 substantial bodily harm to another person, regardless of whether the person has  
16 previously been convicted of driving under the influence. This crime is a category



17 B felony punishable by imprisonment in the state prison for a minimum term of not  
18 less than 2 years and a maximum term of not more than 20 years and a fine of  
19 \$2,000 to \$5,000. (NRS 484.3795)

20 This bill establishes the crime of "vehicular homicide" which is committed  
21 when a person who has previously committed at least three offenses of driving  
22 under the influence drives while under the influence in violation of law and  
23 proximately causes the death of another person. This crime is a category A felony  
24 punishable by imprisonment in the state prison for life with the possibility of parole  
25 or for a definite term of 25 years, with eligibility for parole beginning after a  
26 minimum of 10 years has been served. The number of offenses are determined in  
27 the same manner as for driving under the influence, however, the offenses are not  
28 restricted to offenses committed within the immediately preceding 7 years.

29 Existing law also makes it unlawful for a person to operate or be in actual  
30 physical control of a vessel under power or sail if the person is under the influence  
31 of an intoxicating liquor or a controlled or prohibited substance, or both. (NRS  
32 488.410) A person who commits a violation of operating a vessel under the  
33 influence is guilty of a misdemeanor. (NRS 488.950)

34 Existing law also provides a separate crime which is committed when a person  
35 who operates a vessel under the influence in violation of law proximately causes  
36 the death of or substantial bodily harm to another person. This crime is a category  
37 B felony and is punishable in the same manner prescribed for the crime when  
38 driving a vehicle under the influence. (NRS 488.420)

39 This bill establishes the crime of "homicide by vessel" which is committed  
40 when a person who has previously committed at least three offenses of operating a  
41 vessel under the influence operates a vessel while under the influence in violation  
42 of law and proximately causes the death of another person. This crime is a category  
43 A felony and is punishable in the same manner prescribed in this bill for vehicular  
44 homicide. In addition, the number of offenses are determined in the same manner as  
45 for vehicular homicide.

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

1 **Section 1.** NRS 483.330 is hereby amended to read as follows:  
2 483.330 1. The Department may require every applicant for a  
3 driver's license, including a commercial driver's license issued  
4 pursuant to NRS 483.900 to 483.940, inclusive, to submit to an  
5 examination. The examination may include:  
6 (a) A test of the applicant's ability to understand official devices  
7 used to control traffic;  
8 (b) A test of his knowledge of practices for safe driving and the  
9 traffic laws of this State;  
10 (c) Except as otherwise provided in subsection 2, a test of his  
11 eyesight; and  
12 (d) Except as otherwise provided in subsection 3, an actual  
13 demonstration of his ability to exercise ordinary and reasonable  
14 control in the operation of a motor vehicle of the type or class of  
15 vehicle for which he is to be licensed.



1 ↪ The examination may also include such further physical and  
2 mental examination as the Department finds necessary to determine  
3 the applicant's fitness to drive a motor vehicle safely upon the  
4 highways.

5 2. The Department may provide by regulation for the  
6 acceptance of a report from an ophthalmologist, optician or  
7 optometrist in lieu of an eye test by a driver's license examiner.

8 3. If the Department establishes a type or classification of  
9 driver's license to operate a motor vehicle of a type which is not  
10 normally available to examine an applicant's ability to exercise  
11 ordinary and reasonable control of such a vehicle, the Department  
12 may, by regulation, provide for the acceptance of an affidavit  
13 from a:

14 (a) Past, present or prospective employer of the applicant; or

15 (b) Local joint apprenticeship committee which had jurisdiction  
16 over the training or testing, or both, of the applicant,

17 ↪ in lieu of an actual demonstration.

18 4. The Department may waive an examination pursuant to  
19 subsection 1 for a person applying for a Nevada driver's license who  
20 possesses a valid driver's license of the same type or class issued by  
21 another jurisdiction unless that person:

22 (a) Has not attained 25 years of age;

23 (b) Has had his license or privilege to drive a motor vehicle  
24 suspended, revoked or cancelled or has been otherwise disqualified  
25 from driving during the immediately preceding 4 years;

26 (c) Has been convicted ~~[ ]~~ *of a violation of section 10 of this act*  
27 *or*, during the immediately preceding 7 years, of a violation of NRS  
28 484.379 or 484.3795 or a law of any other jurisdiction that prohibits  
29 the same or similar conduct;

30 (d) Has restrictions to his driver's license which the Department  
31 must reevaluate to ensure the safe driving of a motor vehicle by that  
32 person;

33 (e) Has had three or more convictions of moving traffic  
34 violations on his driving record during the immediately preceding 4  
35 years; or

36 (f) Has been convicted of any of the offenses related to the use  
37 or operation of a motor vehicle which must be reported pursuant to  
38 the provisions of Parts ~~[1325 and]~~ 1327 *et seq.* of Title 23 of the  
39 Code of Federal Regulations relating to the National Driver Register  
40 Problem Driver Pointer System during the immediately preceding 4  
41 years.



1     **Sec. 2.** NRS 483.410 is hereby amended to read as follows:  
2     483.410 1. Except as otherwise provided in subsection 6, for  
3 every driver’s license, including a motorcycle driver’s license,  
4 issued and service performed, the following fees must be charged:

5		
6	A license issued to a person 65 years of age or older .....	\$14
7	An original license issued to any other person.....	19
8	A renewal license issued to any other person .....	19
9	Reinstatement of a license after suspension,	
10	revocation or cancellation, except a revocation	
11	for a violation of NRS 484.379 or 484.3795 <i>or</i>	
12	<i>section 10 of this act</i> or pursuant to NRS	
13	484.384 and 484.385.....	40
14	Reinstatement of a license after revocation for a	
15	violation of NRS 484.379 or 484.3795 <i>or</i>	
16	<i>section 10 of this act</i> or pursuant to NRS	
17	484.384 and 484.385.....	65
18	A new photograph, change of name, change of	
19	other information, except address, or any	
20	combination.....	5
21	A duplicate license .....	14
22		

23     2. For every motorcycle endorsement to a driver’s license, a  
24 fee of \$5 must be charged.

25     3. If no other change is requested or required, the Department  
26 shall not charge a fee to convert the number of a license from the  
27 licensee’s social security number, or a number that was formulated  
28 by using the licensee’s social security number as a basis for the  
29 number, to a unique number that is not based on the licensee’s social  
30 security number.

31     4. The increase in fees authorized by NRS 483.347 and the fees  
32 charged pursuant to NRS 483.383 and 483.415 must be paid in  
33 addition to the fees charged pursuant to subsections 1 and 2.

34     5. A penalty of \$10 must be paid by each person renewing his  
35 license after it has expired for a period of 30 days or more as  
36 provided in NRS 483.386 unless he is exempt pursuant to that  
37 section.

38     6. The Department may not charge a fee for the reinstatement  
39 of a driver’s license that has been:

- 40       (a) Voluntarily surrendered for medical reasons; or
- 41       (b) Cancelled pursuant to NRS 483.310.

42     7. All fees and penalties are payable to the Administrator at the  
43 time a license or a renewal license is issued.

44     8. Except as otherwise provided in NRS 483.340, 483.415 and  
45 483.840, all money collected by the Department pursuant to this



1 chapter must be deposited in the State Treasury for credit to the  
2 Motor Vehicle Fund.

3 **Sec. 3.** NRS 483.460 is hereby amended to read as follows:

4 483.460 1. Except as otherwise provided by specific statute,  
5 the Department shall revoke the license, permit or privilege of any  
6 driver upon receiving a record of his conviction of any of the  
7 following offenses, when that conviction has become final, and  
8 the driver is not eligible for a license, permit or privilege to drive for  
9 the period indicated:

10 (a) For a period of 3 years if the offense is:

11 (1) A violation of subsection 2 of NRS 484.377.

12 (2) A third or subsequent violation within 7 years of  
13 NRS 484.379.

14 (3) A violation of NRS 484.3795 or a homicide resulting  
15 from driving or being in actual physical control of a vehicle while  
16 under the influence of intoxicating liquor or a controlled substance  
17 or resulting from any other conduct prohibited by NRS 484.379 or  
18 484.3795 ~~or~~ *or section 10 of this act.*

19 ➤ The period during which such a driver is not eligible for a  
20 license, permit or privilege to drive must be set aside during any  
21 period of imprisonment and the period of revocation must resume  
22 upon completion of the period of imprisonment or when the person  
23 is placed on residential confinement.

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

25 (1) Any other manslaughter resulting from the driving of a  
26 motor vehicle or felony in the commission of which a motor vehicle  
27 is used, including the unlawful taking of a motor vehicle.

28 (2) Failure to stop and render aid as required pursuant to the  
29 laws of this State in the event of a motor vehicle accident resulting  
30 in the death or bodily injury of another.

31 (3) Perjury or the making of a false affidavit or statement  
32 under oath to the Department pursuant to NRS 483.010 to 483.630,  
33 inclusive, or pursuant to any other law relating to the ownership or  
34 driving of motor vehicles.

35 (4) Conviction, or forfeiture of bail not vacated, upon three  
36 charges of reckless driving committed within a period of 12 months.

37 (5) A second violation within 7 years of NRS 484.379 and  
38 the driver is not eligible for a restricted license during any of that  
39 period.

40 (6) A violation of NRS 484.348.

41 (c) For a period of 90 days, if the offense is a first violation  
42 within 7 years of NRS 484.379.

43 2. The Department shall revoke the license, permit or privilege  
44 of a driver convicted of violating NRS 484.379 who fails to  
45 complete the educational course on the use of alcohol and controlled



1 substances within the time ordered by the court and shall add a  
2 period of 90 days during which the driver is not eligible for a  
3 license, permit or privilege to drive.

4 3. When the Department is notified by a court that a person  
5 who has been convicted of a first violation within 7 years of NRS  
6 484.379 has been permitted to enter a program of treatment pursuant  
7 to NRS 484.37937, the Department shall reduce by one-half the  
8 period during which he is not eligible for a license, permit or  
9 privilege to drive, but shall restore that reduction in time if notified  
10 that he was not accepted for or failed to complete the treatment.

11 4. The Department shall revoke the license, permit or privilege  
12 to drive of a person who is required to install a device pursuant to  
13 NRS 484.3943 but who operates a motor vehicle without such a  
14 device:

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

17 (b) For 5 years, if it is his second such offense during the period  
18 of required use of the device.

19 5. A driver whose license, permit or privilege is revoked  
20 pursuant to subsection 4 is not eligible for a restricted license during  
21 the period set forth in paragraph (a) or (b) of that subsection,  
22 whichever applies.

23 6. In addition to any other requirements set forth by specific  
24 statute, if the Department is notified that a court has ordered the  
25 revocation, suspension or delay in the issuance of a license pursuant  
26 to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or  
27 any other provision of law, the Department shall take such actions  
28 as are necessary to carry out the court's order.

29 7. As used in this section, "device" has the meaning ascribed to  
30 it in NRS 484.3941.

31 **Sec. 4.** NRS 483.461 is hereby amended to read as follows:

32 483.461 1. If the result of a test given pursuant to NRS  
33 484.382 or 484.383 shows that a person less than 21 years of age  
34 had a concentration of alcohol of 0.02 or more but less than 0.08 in  
35 his blood or breath at the time of the test, his license, permit or  
36 privilege to drive must be suspended for a period of 90 days.

37 2. If a revocation or suspension of a person's license, permit or  
38 privilege to drive for a violation of NRS 62E.640, 484.379 or  
39 484.3795 *or section 10 of this act* follows a suspension ordered  
40 pursuant to subsection 1, the Department shall:

41 (a) Cancel the suspension ordered pursuant to subsection 1; and

42 (b) Give the person credit toward the period of revocation or  
43 suspension ordered pursuant to NRS 62E.640, 484.379 or 484.3795,  
44 *or section 10 of this act*, whichever is applicable, for any period



1 during which the person's license, permit or privilege to drive was  
2 suspended pursuant to subsection 1.

3 3. This section does not preclude:

4 (a) The prosecution of a person for a violation of any other  
5 provision of law; or

6 (b) The suspension or revocation of a person's license, permit or  
7 privilege to drive pursuant to any other provision of law.

8 **Sec. 5.** NRS 483.461 is hereby amended to read as follows:

9 483.461 1. If the result of a test given pursuant to NRS  
10 484.382 or 484.383 shows that a person less than 21 years of age  
11 had a concentration of alcohol of 0.02 or more but less than 0.10 in  
12 his blood or breath at the time of the test, his license, permit or  
13 privilege to drive must be suspended for a period of 90 days.

14 2. If a revocation or suspension of a person's license, permit or  
15 privilege to drive for a violation of NRS 62E.640, 484.379 or  
16 484.3795 *or section 63 of this act* follows a suspension ordered  
17 pursuant to subsection 1, the Department shall:

18 (a) Cancel the suspension ordered pursuant to subsection 1; and

19 (b) Give the person credit toward the period of revocation or  
20 suspension ordered pursuant to NRS 62E.640, 484.379 or 484.3795,  
21 *or section 63 of this act*, whichever is applicable, for any period  
22 during which the person's license, permit or privilege to drive was  
23 suspended pursuant to subsection 1.

24 3. This section does not preclude:

25 (a) The prosecution of a person for a violation of any other  
26 provision of law; or

27 (b) The suspension or revocation of a person's license, permit or  
28 privilege to drive pursuant to any other provision of law.

29 **Sec. 6.** NRS 483.490 is hereby amended to read as follows:

30 483.490 1. Except as otherwise provided in this section, after  
31 a driver's license has been suspended or revoked for an offense  
32 other than a second violation within 7 years of NRS 484.379 and  
33 one-half of the period during which the driver is not eligible for a  
34 license has expired, the Department may, unless the statute  
35 authorizing the suspension prohibits the issuance of a restricted  
36 license, issue a restricted driver's license to an applicant permitting  
37 the applicant to drive a motor vehicle:

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

39 (b) To acquire supplies of medicine or food or receive regularly  
40 scheduled medical care for himself or a member of his immediate  
41 family.

42 ➤ Before a restricted license may be issued, the applicant must  
43 submit sufficient documentary evidence to satisfy the Department  
44 that a severe hardship exists because the applicant has no alternative



1 means of transportation and that the severe hardship outweighs the  
2 risk to the public if he is issued a restricted license.

3 2. A person who has been ordered to install a device in a motor  
4 vehicle pursuant to NRS 484.3943:

5 (a) Shall install the device not later than 21 days after the date  
6 on which the order was issued; and

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

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

11 (I) A violation of NRS 484.3795 or a homicide resulting  
12 from driving or being in actual physical control of a vehicle while  
13 under the influence of intoxicating liquor or a controlled substance  
14 or resulting from any other conduct prohibited by NRS 484.379 or  
15 484.3795 ~~(I)~~ *or section 10 of this act*; or

16 (II) A third or subsequent violation within 7 years of  
17 NRS 484.379;

18 (2) After at least 180 days of the period during which he is  
19 not eligible for a license, if he was convicted of a violation of  
20 subsection 2 of NRS 484.377; or

21 (3) After at least 45 days of the period during which he is not  
22 eligible for a license, if he was convicted of a first violation within 7  
23 years of NRS 484.379.

24 3. If the Department has received a copy of an order requiring a  
25 person to install a device in a motor vehicle pursuant to NRS  
26 484.3943, the Department shall not issue a restricted driver's license  
27 to such a person pursuant to this section unless the applicant has  
28 submitted proof of compliance with the order and subsection 2.

29 4. After a driver's license has been revoked or suspended  
30 pursuant to title 5 of NRS, the Department may issue a restricted  
31 driver's license to an applicant permitting the applicant to drive a  
32 motor vehicle:

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

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

36 5. After a driver's license has been suspended pursuant to NRS  
37 483.443, the Department may issue a restricted driver's license to an  
38 applicant permitting the applicant to drive a motor vehicle:

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

41 (b) To receive regularly scheduled medical care for himself or a  
42 member of his immediate family; and

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





1 6. A driver who violates a condition of a restricted license  
2 issued pursuant to subsection 1 or by another jurisdiction is guilty of  
3 a misdemeanor and, if the license of the driver was suspended or  
4 revoked for:

5 (a) A violation of NRS 484.379, 484.3795 or 484.384;

6 (b) A homicide resulting from driving or being in actual  
7 physical control of a vehicle while under the influence of  
8 intoxicating liquor or a controlled substance or resulting from any  
9 other conduct prohibited by NRS 484.379 or 484.3795 ~~§~~ *or section*  
10 *10 of this act;* or

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

13 ↪ the driver shall be punished in the manner provided pursuant to  
14 subsection 2 of NRS 483.560.

15 7. The periods of suspensions and revocations required  
16 pursuant to this chapter and NRS 484.384 must run consecutively,  
17 except as otherwise provided in NRS 483.465 and 483.475, when  
18 the suspensions must run concurrently.

19 8. Whenever the Department suspends or revokes a license, the  
20 period of suspension, or of ineligibility for a license after the  
21 revocation, begins upon the effective date of the revocation or  
22 suspension as contained in the notice thereof.

23 **Sec. 7.** NRS 483.560 is hereby amended to read as follows:

24 483.560 1. Except as otherwise provided in subsection 2, any  
25 person who drives a motor vehicle on a highway or on premises to  
26 which the public has access at a time when his driver's license has  
27 been cancelled, revoked or suspended is guilty of a misdemeanor.

28 2. Except as otherwise provided in this subsection, if the  
29 license of the person was suspended, revoked or restricted because  
30 of:

31 (a) A violation of NRS 484.379, 484.3795 or 484.384;

32 (b) A homicide resulting from driving or being in actual  
33 physical control of a vehicle while under the influence of  
34 intoxicating liquor or a controlled substance or resulting from any  
35 other conduct prohibited by NRS 484.379 or 484.3795 ~~§~~ *or section*  
36 *10 of this act;* or

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

39 ↪ the person shall be punished by imprisonment in jail for not less  
40 than 30 days nor more than 6 months or by serving a term of  
41 residential confinement for not less than 60 days nor more than 6  
42 months, and shall be further punished by a fine of not less than \$500  
43 nor more than \$1,000. A person who is punished pursuant to this  
44 subsection may not be granted probation, and a sentence imposed  
45 for such a violation may not be suspended. A prosecutor may not



1 dismiss a charge of such a violation in exchange for a plea of guilty  
2 or of nolo contendere to a lesser charge or for any other reason,  
3 unless in his judgment the charge is not supported by probable cause  
4 or cannot be proved at trial. The provisions of this subsection do not  
5 apply if the period of revocation has expired but the person has not  
6 reinstated his license.

7 3. A term of imprisonment imposed pursuant to the provisions  
8 of this section may be served intermittently at the discretion of the  
9 judge or justice of the peace. This discretion must be exercised after  
10 considering all the circumstances surrounding the offense, and the  
11 family and employment of the person convicted. However, the full  
12 term of imprisonment must be served within 6 months after the date  
13 of conviction, and any segment of time the person is imprisoned  
14 must not consist of less than 24 hours.

15 4. Jail sentences simultaneously imposed pursuant to this  
16 section and NRS 484.3792, 484.37937 or 484.3794 must run  
17 consecutively.

18 5. If the Department receives a record of the conviction or  
19 punishment of any person pursuant to this section upon a charge of  
20 driving a vehicle while his license was:

21 (a) Suspended, the Department shall extend the period of the  
22 suspension for an additional like period.

23 (b) Revoked, the Department shall extend the period of  
24 ineligibility for a license, permit or privilege to drive for an  
25 additional 1 year.

26 (c) Restricted, the Department shall revoke his restricted license  
27 and extend the period of ineligibility for a license, permit or  
28 privilege to drive for an additional 1 year.

29 (d) Suspended or cancelled for an indefinite period, the  
30 Department shall suspend his license for an additional 6 months for  
31 the first violation and an additional 1 year for each subsequent  
32 violation.

33 6. Suspensions and revocations imposed pursuant to this  
34 section must run consecutively.

35 **Sec. 8.** NRS 483.910 is hereby amended to read as follows:

36 483.910 1. The Department shall charge and collect the  
37 following fees:

- 38
- 39 For an original commercial driver's license which
- 40 requires the Department to administer a driving
- 41 skills test..... \$84
- 42 For an original commercial driver's license which
- 43 does not require the Department to administer a
- 44 driving skills test..... 54



1	For renewal of a commercial driver’s license which	
2	requires the Department to administer a driving	
3	skills test.....	84
4	For renewal of a commercial driver’s license which	
5	does not require the Department to administer a	
6	driving skills test.....	54
7	For reinstatement of a commercial driver’s license	
8	after suspension or revocation of the license for	
9	a violation of NRS 484.379 or 484.3795, <i>or</i>	
10	<i>section 10 of this act</i> , or pursuant to NRS	
11	484.384 and 484.385, or pursuant to 49 C.F.R. §	
12	383.51(b)(2)(i) or (ii) .....	84
13	For reinstatement of a commercial driver’s license	
14	after suspension, revocation, cancellation or	
15	disqualification of the license, except a	
16	suspension or revocation for a violation of NRS	
17	484.379 or 484.3795, <i>or section 10 of this act</i> ,	
18	or pursuant to NRS 484.384 and 484.385, or	
19	pursuant to 49 C.F.R. § 383.51(b)(2)(i) or (ii).....	54
20	For the transfer of a commercial driver’s license	
21	from another jurisdiction, which requires the	
22	Department to administer a driving skills test .....	84
23	For the transfer of a commercial driver’s license	
24	from another jurisdiction, which does not require	
25	the Department to administer a driving skills test .....	54
26	For a duplicate commercial driver’s license .....	19
27	For any change of information on a commercial	
28	driver’s license .....	9
29	For each endorsement added after the issuance of an	
30	original commercial driver’s license.....	14
31	For the administration of a driving skills test to	
32	change any information on, or add an	
33	endorsement to, an existing commercial driver’s	
34	license .....	30

35  
36 2. The Department shall charge and collect an annual fee of  
37 \$555 from each person who is authorized by the Department to  
38 administer a driving skills test pursuant to NRS 483.912.

39 3. An additional charge of \$3 must be charged for each  
40 knowledge test administered to a person who has twice failed the  
41 test.

42 4. An additional charge of \$25 must be charged for each  
43 driving skills test administered to a person who has twice failed the  
44 test.



1 5. The increase in fees authorized in NRS 483.347 must be  
2 paid in addition to the fees charged pursuant to this section.

3 6. The Department shall charge an applicant for a hazardous  
4 materials endorsement an additional fee for the processing of  
5 fingerprints. The Department shall establish the additional fee by  
6 regulation, except that the amount of the additional fee must not  
7 exceed the sum of the amount charged by the Central Repository for  
8 Nevada Records of Criminal History and each applicable federal  
9 agency to process the fingerprints for a background check of the  
10 applicant in accordance with Section 1012 of the Uniting and  
11 Strengthening America by Providing Appropriate Tools Required to  
12 Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of  
13 2001, 49 U.S.C. § 5103a.

14 **Sec. 9.** NRS 483.922 is hereby amended to read as follows:

15 483.922 1. Except as otherwise provided in NRS 484.383, a  
16 person who drives, operates or is in actual physical control of a  
17 commercial motor vehicle within this State shall be deemed to have  
18 given consent to an evidentiary test of his blood, urine, breath or  
19 other bodily substance for the purpose of determining the  
20 concentration of alcohol in his blood or breath or to detect the  
21 presence of a controlled substance, chemical, poison, organic  
22 solvent or another prohibited substance.

23 2. The tests must be administered pursuant to NRS 484.383 at  
24 the direction of a police officer who, after stopping or detaining  
25 such a person, has reasonable grounds to believe that the person  
26 was:

27 (a) Driving, operation or in actual physical control of a  
28 commercial motor vehicle while under the influence of intoxicating  
29 liquor or a controlled substance; or

30 (b) Engaging in any other conduct prohibited by NRS 484.379  
31 or 484.3795 ~~§~~ *or section 10 of this act.*

32 3. As used in this section, "prohibited substance" has the  
33 meaning ascribed to it in NRS 484.1245.

34 **Sec. 10.** Chapter 484 of NRS is hereby amended by adding  
35 thereto a new section to read as follows:

36 *1. A person commits vehicular homicide if he:*

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

39 *(1) Is under the influence of intoxicating liquor;*

40 *(2) Has a concentration of alcohol of 0.08 or more in his*  
41 *blood or breath;*

42 *(3) Is found by measurement within 2 hours after driving*  
43 *or being in actual physical control of a vehicle to have a*  
44 *concentration of alcohol of 0.08 or more in his blood or breath;*



1           (4) *Is under the influence of a controlled substance or is*  
2 *under the combined influence of intoxicating liquor and a*  
3 *controlled substance;*

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

8           (6) *Has a prohibited substance in his blood or urine in an*  
9 *amount that is equal to or greater than the amount set forth in*  
10 *subsection 3 of NRS 484.379;*

11           (b) *Proximately causes the death of a person other than*  
12 *himself while driving or in actual physical control of a vehicle on*  
13 *or off the highways of this State; and*

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

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

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

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

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

26           4. *A prosecuting attorney shall not dismiss a charge of*  
27 *vehicular homicide in exchange for a plea of guilty or nolo*  
28 *contendere to a lesser charge or for any other reason unless he*  
29 *knows or it is obvious that the charge is not supported by probable*  
30 *cause or cannot be proved at the time of trial. A sentence imposed*  
31 *pursuant to subsection 2 may not be suspended nor may probation*  
32 *be granted.*

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

44           6. *If the defendant was transporting a person who is less than*  
45 *15 years of age in the vehicle at the time of the violation, the court*



1 *shall consider that fact as an aggravating factor in determining*  
2 *the sentence of the defendant.*

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

4 (a) *A violation of NRS 484.379 or 484.3795;*

5 (b) *A homicide resulting from driving or being in actual*  
6 *physical control of a vehicle while under the influence of*  
7 *intoxicating liquor or a controlled substance or resulting from any*  
8 *other conduct prohibited by this section or NRS 484.379 or*  
9 *484.3795; or*

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

12 **Sec. 11.** NRS 484.259 is hereby amended to read as follows:

13 484.259 1. Except for the provisions of NRS 484.379 to  
14 484.3947, inclusive, *and section 10 of this act*, and any provisions  
15 made applicable by specific statute, the provisions of this chapter do  
16 not apply to persons, teams, motor vehicles and other equipment  
17 while actually engaged in work upon the surface of a highway.

18 2. The provisions of this chapter apply to the persons, teams,  
19 motor vehicles and other equipment described in subsection 1 when  
20 traveling to or from such work.

21 **Sec. 12.** NRS 484.3792 is hereby amended to read as follows:

22 484.3792 1. Unless a greater penalty is provided pursuant to  
23 NRS 484.3795, *or section 10 of this act*, a person who violates the  
24 provisions of NRS 484.379:

25 (a) For the first offense within 7 years, is guilty of a  
26 misdemeanor. Unless he is allowed to undergo treatment as  
27 provided in NRS 484.37937, the court shall:

28 (1) Except as otherwise provided in subparagraph (4) or  
29 subsection 6, order him to pay tuition for an educational course on  
30 the abuse of alcohol and controlled substances approved by the  
31 Department and complete the course within the time specified in the  
32 order, and the court shall notify the Department if he fails to  
33 complete the course within the specified time;

34 (2) Unless the sentence is reduced pursuant to NRS  
35 484.37937, sentence him to imprisonment for not less than 2 days  
36 nor more than 6 months in jail, or to perform not less than 48 hours,  
37 but not more than 96 hours, of community service while dressed in  
38 distinctive garb that identifies him as having violated the provisions  
39 of NRS 484.379;

40 (3) Fine him not less than \$400 nor more than \$1,000; and

41 (4) If he is found to have a concentration of alcohol of 0.18  
42 or more in his blood or breath, order him to attend a program of  
43 treatment for the abuse of alcohol or drugs pursuant to the  
44 provisions of NRS 484.37945.



1 (b) For a second offense within 7 years, is guilty of a  
2 misdemeanor. Unless the sentence is reduced pursuant to NRS  
3 484.3794, the court shall:

4 (1) Sentence him to:

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

7 (II) Residential confinement for not less than 10 days nor  
8 more than 6 months, in the manner provided in NRS 4.376 to  
9 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

10 (2) Fine him not less than \$750 nor more than \$1,000, or  
11 order him to perform an equivalent number of hours of community  
12 service while dressed in distinctive garb that identifies him as  
13 having violated the provisions of NRS 484.379; and

14 (3) Order him to attend a program of treatment for the abuse  
15 of alcohol or drugs pursuant to the provisions of NRS 484.37945.

16 ➤ A person who willfully fails or refuses to complete successfully a  
17 term of residential confinement or a program of treatment ordered  
18 pursuant to this subsection is guilty of a misdemeanor.

19 (c) For a third or subsequent offense within 7 years, is guilty of  
20 a category B felony and shall be punished by imprisonment in the  
21 state prison for a minimum term of not less than 1 year and a  
22 maximum term of not more than 6 years, and shall be further  
23 punished by a fine of not less than \$2,000 nor more than \$5,000. An  
24 offender so imprisoned must, insofar as practicable, be segregated  
25 from offenders whose crimes were violent and, insofar as  
26 practicable, be assigned to an institution or facility of minimum  
27 security.

28 2. An offense that occurred within 7 years immediately  
29 preceding the date of the principal offense or after the principal  
30 offense constitutes a prior offense for the purposes of this section  
31 when evidenced by a conviction, without regard to the sequence of  
32 the offenses and convictions. The facts concerning a prior offense  
33 must be alleged in the complaint, indictment or information, must  
34 not be read to the jury or proved at trial but must be proved at the  
35 time of sentencing and, if the principal offense is alleged to be a  
36 felony, must also be shown at the preliminary examination or  
37 presented to the grand jury.

38 3. A person convicted of violating the provisions of NRS  
39 484.379 must not be released on probation, and a sentence imposed  
40 for violating those provisions must not be suspended except, as  
41 provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that  
42 portion of the sentence imposed that exceeds the mandatory  
43 minimum. A prosecuting attorney shall not dismiss a charge of  
44 violating the provisions of NRS 484.379 in exchange for a plea of  
45 guilty or nolo contendere to a lesser charge or for any other reason



1 unless he knows or it is obvious that the charge is not supported by  
2 probable cause or cannot be proved at the time of trial.

3 4. A term of confinement imposed pursuant to the provisions  
4 of this section may be served intermittently at the discretion of the  
5 judge or justice of the peace, except that a person who is convicted  
6 of a second or subsequent offense within 7 years must be confined  
7 for at least one segment of not less than 48 consecutive hours. This  
8 discretion must be exercised after considering all the circumstances  
9 surrounding the offense, and the family and employment of the  
10 offender, but any sentence of 30 days or less must be served within  
11 6 months after the date of conviction or, if the offender was  
12 sentenced pursuant to NRS 484.37937 or 484.3794 and the  
13 suspension of his sentence was revoked, within 6 months after the  
14 date of revocation. Any time for which the offender is confined  
15 must consist of not less than 24 consecutive hours.

16 5. Jail sentences simultaneously imposed pursuant to this  
17 section and NRS 482.456, 483.560 or 485.330 must run  
18 consecutively.

19 6. If the person who violated the provisions of NRS 484.379  
20 possesses a driver's license issued by a state other than the State of  
21 Nevada and does not reside in the State of Nevada, in carrying out  
22 the provisions of subparagraph (1) of paragraph (a) of subsection 1,  
23 the court shall:

24 (a) Order the person to pay tuition for and submit evidence of  
25 completion of an educational course on the abuse of alcohol and  
26 controlled substances approved by a governmental agency of the  
27 state of his residence within the time specified in the order; or

28 (b) Order him to complete an educational course by  
29 correspondence on the abuse of alcohol and controlled substances  
30 approved by the Department within the time specified in the order,  
31 and the court shall notify the Department if the person fails to  
32 complete the assigned course within the specified time.

33 7. If the defendant was transporting a person who is less than  
34 15 years of age in the motor vehicle at the time of the violation, the  
35 court shall consider that fact as an aggravating factor in determining  
36 the sentence of the defendant.

37 8. As used in this section, unless the context otherwise  
38 requires:

39 (a) "Concentration of alcohol of 0.18 or more in his blood or  
40 breath" means 0.18 gram or more of alcohol per 100 milliliters of  
41 the blood of a person or per 210 liters of his breath.

42 (b) "Offense" means:

43 (1) A violation of NRS 484.379 or 484.3795;

44 (2) A homicide resulting from driving or being in actual  
45 physical control of a vehicle while under the influence of





1 intoxicating liquor or a controlled substance or resulting from any  
2 other conduct prohibited by NRS 484.379 or 484.3795 ~~§~~ *or section*  
3 *10 of this act;* or

4 (3) A violation of a law of any other jurisdiction that  
5 prohibits the same or similar conduct as set forth in subparagraph  
6 (1) or (2).

7 **Sec. 13.** NRS 484.37937 is hereby amended to read as  
8 follows:

9 484.37937 1. Except as otherwise provided in subsection 2, a  
10 person who is found guilty of a first violation of NRS 484.379, other  
11 than a person who is found to have a concentration of alcohol of  
12 0.18 or more in his blood or breath, may, at that time or any time  
13 before he is sentenced, apply to the court to undergo a program of  
14 treatment for alcoholism or drug abuse which is certified by the  
15 Health Division of the Department of Human Resources for at least  
16 6 months. The court shall authorize that treatment if:

17 (a) The person is diagnosed as an alcoholic or abuser of drugs  
18 by:

19 (1) An alcohol and drug abuse counselor who is licensed or  
20 certified pursuant to chapter 641C of NRS to make that diagnosis; or

21 (2) A physician who is certified to make that diagnosis by the  
22 Board of Medical Examiners;

23 (b) He agrees to pay the cost of the treatment to the extent of his  
24 financial resources; and

25 (c) He has served or will serve a term of imprisonment in jail of  
26 1 day, or has performed or will perform 24 hours of community  
27 service.

28 2. A person may not apply to the court to undergo a program of  
29 treatment pursuant to subsection 1 if, within the immediately  
30 preceding 7 years, he has been found guilty of:

31 (a) A violation of NRS 484.3795;

32 (b) A homicide resulting from driving or being in actual  
33 physical control of a vehicle while under the influence of  
34 intoxicating liquor or a controlled substance or resulting from any  
35 other conduct prohibited by NRS 484.379 or 484.3795 ~~§~~ *or section*  
36 *10 of this act;* or

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

39 3. For the purposes of subsection 1, a violation of a law of any  
40 other jurisdiction that prohibits the same or similar conduct as NRS  
41 484.379 constitutes a violation of NRS 484.379.

42 4. A prosecuting attorney may, within 10 days after receiving  
43 notice of an application for treatment pursuant to this section,  
44 request a hearing on the question of whether the offender is eligible  
45 to undergo a program of treatment for alcoholism or drug abuse.



1 The court shall order a hearing on the application upon the request  
2 of the prosecuting attorney or may order a hearing on its own  
3 motion. The hearing must be limited to the question of whether the  
4 offender is eligible to undergo such a program of treatment.

5 5. At the hearing on the application for treatment, the  
6 prosecuting attorney may present the court with any relevant  
7 evidence on the matter. If a hearing is not held, the court shall  
8 decide the matter upon affidavits and other information before the  
9 court.

10 6. If the court grants an application for treatment, the court  
11 shall:

12 (a) Immediately sentence the offender and enter judgment  
13 accordingly.

14 (b) Suspend the sentence of the offender for not more than 3  
15 years upon the condition that the offender be accepted for treatment  
16 by a treatment facility, that he complete the treatment satisfactorily  
17 and that he comply with any other condition ordered by the court.

18 (c) Advise the offender that:

19 (1) If he is accepted for treatment by such a facility, he may  
20 be placed under the supervision of the facility for a period not to  
21 exceed 3 years and during treatment he may be confined in an  
22 institution or, at the discretion of the facility, released for treatment  
23 or supervised aftercare in the community.

24 (2) If he is not accepted for treatment by such a facility or he  
25 fails to complete the treatment satisfactorily, he shall serve the  
26 sentence imposed by the court. Any sentence of imprisonment must  
27 be reduced by a time equal to that which he served before beginning  
28 treatment.

29 (3) If he completes the treatment satisfactorily, his sentence  
30 will be reduced to a term of imprisonment which is no longer than  
31 that provided for the offense in paragraph (c) of subsection 1 and a  
32 fine of not more than the minimum fine provided for the offense in  
33 NRS 484.3792, but the conviction must remain on his record of  
34 criminal history.

35 7. The court shall administer the program of treatment pursuant  
36 to the procedures provided in NRS 458.320 and 458.330, except that  
37 the court:

38 (a) Shall not defer the sentence, set aside the conviction or  
39 impose conditions upon the election of treatment except as  
40 otherwise provided in this section.

41 (b) May immediately revoke the suspension of sentence for a  
42 violation of any condition of the suspension.

43 8. The court shall notify the Department, on a form approved  
44 by the Department, upon granting the application of the offender for  
45 treatment and his failure to be accepted for or complete treatment.



1     **Sec. 14.** NRS 484.3794 is hereby amended to read as follows:

2     484.3794 1. Except as otherwise provided in subsection 2, a  
3 person who is found guilty of a second violation of NRS 484.379  
4 within 7 years may, at that time or any time before he is sentenced,  
5 apply to the court to undergo a program of treatment for alcoholism  
6 or drug abuse which is certified by the Health Division of the  
7 Department of Human Resources for at least 1 year if:

8     (a) He is diagnosed as an alcoholic or abuser of drugs by:

9         (1) An alcohol and drug abuse counselor who is licensed or  
10 certified pursuant to chapter 641C of NRS to make that diagnosis; or

11         (2) A physician who is certified to make that diagnosis by the  
12 Board of Medical Examiners;

13     (b) He agrees to pay the costs of the treatment to the extent of  
14 his financial resources; and

15     (c) He has served or will serve a term of imprisonment in jail of  
16 5 days, and if required pursuant to NRS 484.3792, has performed or  
17 will perform not less than one-half of the hours of community  
18 service.

19     2. A person may not apply to the court to undergo a program of  
20 treatment pursuant to subsection 1 if, within the immediately  
21 preceding 7 years, he has been found guilty of:

22     (a) A violation of NRS 484.3795;

23     (b) A homicide resulting from driving or being in actual  
24 physical control of a vehicle while under the influence of  
25 intoxicating liquor or a controlled substance or resulting from any  
26 other conduct prohibited by NRS 484.379 or 484.3795 ~~§~~ *or section*  
27 *10 of this act;* or

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

30     3. For the purposes of subsection 1, a violation of a law of any  
31 other jurisdiction that prohibits the same or similar conduct as NRS  
32 484.379 constitutes a violation of NRS 484.379.

33     4. A prosecuting attorney may, within 10 days after receiving  
34 notice of an application for treatment pursuant to this section,  
35 request a hearing on the matter. The court shall order a hearing on  
36 the application upon the request of the prosecuting attorney or may  
37 order a hearing on its own motion.

38     5. At the hearing on the application for treatment, the  
39 prosecuting attorney may present the court with any relevant  
40 evidence on the matter. If a hearing is not held, the court shall  
41 decide the matter upon affidavits and other information before the  
42 court.

43     6. If the court determines that an application for treatment  
44 should be granted, the court shall:



1 (a) Immediately sentence the offender and enter judgment  
2 accordingly.

3 (b) Suspend the sentence of the offender for not more than 3  
4 years upon the condition that the offender be accepted for treatment  
5 by a treatment facility, that he complete the treatment satisfactorily  
6 and that he comply with any other condition ordered by the court.

7 (c) Advise the offender that:

8 (1) If he is accepted for treatment by such a facility, he may  
9 be placed under the supervision of the facility for a period not to  
10 exceed 3 years and during treatment he may be confined in an  
11 institution or, at the discretion of the facility, released for treatment  
12 or supervised aftercare in the community.

13 (2) If he is not accepted for treatment by such a facility or he  
14 fails to complete the treatment satisfactorily, he shall serve the  
15 sentence imposed by the court. Any sentence of imprisonment must  
16 be reduced by a time equal to that which he served before beginning  
17 treatment.

18 (3) If he completes the treatment satisfactorily, his sentence  
19 will be reduced to a term of imprisonment which is no longer than  
20 that provided for the offense in paragraph (c) of subsection 1 and a  
21 fine of not more than the minimum provided for the offense in NRS  
22 484.3792, but the conviction must remain on his record of criminal  
23 history.

24 7. The court shall administer the program of treatment pursuant  
25 to the procedures provided in NRS 458.320 and 458.330, except that  
26 the court:

27 (a) Shall not defer the sentence, set aside the conviction or  
28 impose conditions upon the election of treatment except as  
29 otherwise provided in this section.

30 (b) May immediately revoke the suspension of sentence for a  
31 violation of a condition of the suspension.

32 8. The court shall notify the Department, on a form approved  
33 by the Department, upon granting the application of the offender for  
34 treatment and his failure to be accepted for or complete treatment.

35 **Sec. 15.** NRS 484.37945 is hereby amended to read as  
36 follows:

37 484.37945 1. When a program of treatment is ordered  
38 pursuant to paragraph (a) or (b) of subsection 1 of NRS 484.3792,  
39 the court shall place the offender under the clinical supervision of a  
40 treatment facility for treatment for a period not to exceed 1 year, in  
41 accordance with the report submitted to the court pursuant to  
42 subsection 3, 4 or 5 of NRS 484.37943. The court shall:

43 (a) Order the offender confined in a treatment facility, then  
44 release the offender for supervised aftercare in the community; or



- 1 (b) Release the offender for treatment in the community,  
2 ➔ for the period of supervision ordered by the court.
- 3 2. The court shall:
- 4 (a) Require the treatment facility to submit monthly progress  
5 reports on the treatment of an offender pursuant to this section; and  
6 (b) Order the offender, to the extent of his financial resources, to  
7 pay any charges for his treatment pursuant to this section. If the  
8 offender does not have the financial resources to pay all those  
9 charges, the court shall, to the extent possible, arrange for the  
10 offender to obtain his treatment from a treatment facility that  
11 receives a sufficient amount of federal or state money to offset the  
12 remainder of the charges.
- 13 3. A treatment facility is not liable for any damages to person  
14 or property caused by a person who:
- 15 (a) Drives, operates or is in actual physical control of a vehicle  
16 or a vessel under power or sail while under the influence of  
17 intoxicating liquor or a controlled substance; or  
18 (b) Engages in any other conduct prohibited by NRS 484.379,  
19 484.3795, *or section 10 of this act*, subsection 2 of NRS 488.400,  
20 NRS 488.410 or 488.420 *or section 31 of this act* or a law of any  
21 other jurisdiction that prohibits the same or similar conduct,  
22 ➔ after the treatment facility has certified to his successful  
23 completion of a program of treatment ordered pursuant to paragraph  
24 (a) or (b) of subsection 1 of NRS 484.3792.
- 25 **Sec. 16.** NRS 484.3795 is hereby amended to read as follows:  
26 484.3795 1. ~~[A]~~ *Unless a greater penalty is provided*  
27 *pursuant to section 10 of this act*, a person who:
- 28 (a) Is under the influence of intoxicating liquor;  
29 (b) Has a concentration of alcohol of 0.08 or more in his blood  
30 or breath;  
31 (c) Is found by measurement within 2 hours after driving or  
32 being in actual physical control of a vehicle to have a concentration  
33 of alcohol of 0.08 or more in his blood or breath;  
34 (d) Is under the influence of a controlled substance or is under  
35 the combined influence of intoxicating liquor and a controlled  
36 substance;  
37 (e) Inhales, ingests, applies or otherwise uses any chemical,  
38 poison or organic solvent, or any compound or combination of any  
39 of these, to a degree which renders him incapable of safely driving  
40 or exercising actual physical control of a vehicle; or  
41 (f) Has a prohibited substance in his blood or urine in an amount  
42 that is equal to or greater than the amount set forth in subsection 3  
43 of NRS 484.379,  
44 ➔ and does any act or neglects any duty imposed by law while  
45 driving or in actual physical control of any vehicle on or off the



1 highways of this State, if the act or neglect of duty proximately  
2 causes the death of, or substantial bodily harm to, a person other  
3 than himself, is guilty of a category B felony and shall be punished  
4 by imprisonment in the state prison for a minimum term of not less  
5 than 2 years and a maximum term of not more than 20 years and  
6 must be further punished by a fine of not less than \$2,000 nor more  
7 than \$5,000. A person so imprisoned must, insofar as practicable, be  
8 segregated from offenders whose crimes were violent and, insofar as  
9 practicable, be assigned to an institution or facility of minimum  
10 security.

11 2. A prosecuting attorney shall not dismiss a charge of  
12 violating the provisions of subsection 1 in exchange for a plea of  
13 guilty or nolo contendere to a lesser charge or for any other reason  
14 unless he knows or it is obvious that the charge is not supported by  
15 probable cause or cannot be proved at the time of trial. A sentence  
16 imposed pursuant to subsection 1 may not be suspended nor may  
17 probation be granted.

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

28 4. If the defendant was transporting a person who is less than  
29 15 years of age in the motor vehicle at the time of the violation, the  
30 court shall consider that fact as an aggravating factor in determining  
31 the sentence of the defendant.

32 **Sec. 17.** NRS 484.3795 is hereby amended to read as follows:

33 484.3795 1. ~~[A]~~ *Unless a greater penalty is provided*  
34 *pursuant to section 63 of this act,* a person who:

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

36 (b) Has a concentration of alcohol of 0.10 or more in his blood  
37 or breath;

38 (c) Is found by measurement within 2 hours after driving or  
39 being in actual physical control of a vehicle to have a concentration  
40 of alcohol of 0.10 or more in his blood or breath;

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

44 (e) Inhales, ingests, applies or otherwise uses any chemical,  
45 poison or organic solvent, or any compound or combination of any



1 of these, to a degree which renders him incapable of safely driving  
2 or exercising actual physical control of a vehicle; or

3 (f) Has a prohibited substance in his blood or urine in an amount  
4 that is equal to or greater than the amount set forth in subsection 3  
5 of NRS 484.379,

6 and does any act or neglects any duty imposed by law while  
7 driving or in actual physical control of any vehicle on or off the  
8 highways of this State, if the act or neglect of duty proximately  
9 causes the death of, or substantial bodily harm to, a person other  
10 than himself, is guilty of a category B felony and shall be punished  
11 by imprisonment in the state prison for a minimum term of not less  
12 than 2 years and a maximum term of not more than 20 years and  
13 must be further punished by a fine of not less than \$2,000 nor more  
14 than \$5,000. A person so imprisoned must, insofar as practicable, be  
15 segregated from offenders whose crimes were violent and, insofar as  
16 practicable, be assigned to an institution or facility of minimum  
17 security.

18 2. A prosecuting attorney shall not dismiss a charge of  
19 violating the provisions of subsection 1 in exchange for a plea of  
20 guilty or nolo contendere to a lesser charge or for any other reason  
21 unless he knows or it is obvious that the charge is not supported by  
22 probable cause or cannot be proved at the time of trial. A sentence  
23 imposed pursuant to subsection 1 may not be suspended nor may  
24 probation be granted.

25 3. If consumption is proven by a preponderance of the  
26 evidence, it is an affirmative defense under paragraph (c) of  
27 subsection 1 that the defendant consumed a sufficient quantity of  
28 alcohol after driving or being in actual physical control of the  
29 vehicle, and before his blood or breath was tested, to cause him to  
30 have a concentration of alcohol of 0.10 or more in his blood or  
31 breath. A defendant who intends to offer this defense at a trial or  
32 preliminary hearing must, not less than 14 days before the trial  
33 or hearing or at such other time as the court may direct, file and  
34 serve on the prosecuting attorney a written notice of that intent.

35 4. If the defendant was transporting a person who is less than  
36 15 years of age in the motor vehicle at the time of the violation, the  
37 court shall consider that fact as an aggravating factor in determining  
38 the sentence of the defendant.

39 **Sec. 18.** NRS 484.3796 is hereby amended to read as follows:

40 484.3796 1. Before sentencing an offender pursuant to ~~NRS~~  
41 ~~484.3795 or~~ paragraph (c) of subsection 1 of NRS 484.3792, *NRS*  
42 *484.3795 or section 10 of this act*, the court shall require that the  
43 offender be evaluated to determine whether he is an abuser of  
44 alcohol or drugs and whether he can be treated successfully for his  
45 condition.



1 2. The evaluation must be conducted by:

2 (a) An alcohol and drug abuse counselor who is licensed or  
3 certified pursuant to chapter 641C of NRS to make such an  
4 evaluation;

5 (b) A physician who is certified to make such an evaluation by  
6 the Board of Medical Examiners; or

7 (c) A psychologist who is certified to make such an evaluation  
8 by the Board of Psychological Examiners.

9 3. The alcohol and drug abuse counselor, physician or  
10 psychologist who conducts the evaluation shall immediately forward  
11 the results of the evaluation to the Director of the Department of  
12 Corrections.

13 **Sec. 19.** NRS 484.3797 is hereby amended to read as follows:

14 484.3797 1. The judge or judges in each judicial district shall  
15 cause the preparation and maintenance of a list of the panels of  
16 persons who:

17 (a) Have been injured or had members of their families or close  
18 friends injured or killed by a person who was driving or in actual  
19 physical control of a vehicle while under the influence of  
20 intoxicating liquor or a controlled substance or who was engaging in  
21 any other conduct prohibited by NRS 484.379 or 484.3795 *or*  
22 *section 10 of this act* or a law of any other jurisdiction that prohibits  
23 the same or similar conduct; and

24 (b) Have, by contacting the judge or judges in the district,  
25 expressed their willingness to discuss collectively the personal  
26 effect of those crimes.

27 ➤ The list must include the name and telephone number of the  
28 person to be contacted regarding each such panel and a schedule of  
29 times and locations of the meetings of each such panel. The judge or  
30 judges shall establish, in cooperation with representatives of the  
31 members of the panels, a fee, if any, to be paid by defendants who  
32 are ordered to attend a meeting of the panel. The amount of the fee,  
33 if any, must be reasonable. The panel may not be operated for profit.

34 2. Except as otherwise provided in this subsection, if a  
35 defendant pleads guilty to or is found guilty of any violation of NRS  
36 484.379 or 484.3795, *or section 10 of this act*, the court shall, in  
37 addition to imposing any other penalties provided by law, order the  
38 defendant to:

39 (a) Attend, at the defendant's expense, a meeting of a panel of  
40 persons who have been injured or had members of their families or  
41 close friends injured or killed by a person who was driving or in  
42 actual physical control of a vehicle while under the influence of  
43 intoxicating liquor or a controlled substance or who was engaging in  
44 any other conduct prohibited by NRS 484.379 or 484.3795 *or*  
45 *section 10 of this act* or a law of any other jurisdiction that prohibits





1 the same or similar conduct, in order to have the defendant  
2 understand the effect such a crime has on other persons; and

3 (b) Pay the fee, if any, established by the court pursuant to  
4 subsection 1.

5 ➤ The court may, but is not required to, order the defendant to  
6 attend such a meeting if one is not available within 60 miles of the  
7 defendant's residence.

8 3. A person ordered to attend a meeting pursuant to subsection  
9 2 shall, after attending the meeting, present evidence or other  
10 documentation satisfactory to the court that he attended the meeting  
11 and remained for its entirety.

12 **Sec. 20.** NRS 484.37975 is hereby amended to read as  
13 follows:

14 484.37975 1. If a person is convicted of a second or  
15 subsequent violation of NRS 484.379 or 484.3795 within 7 years ~~or~~  
16 *or of a violation of section 10 of this act*, the court shall issue an  
17 order directing the Department to suspend the registration of each  
18 motor vehicle that is registered to or owned by the person for 5  
19 days.

20 2. If a court issues an order directing the Department to  
21 suspend the registration of a motor vehicle pursuant to subsection 1,  
22 the court shall forward a copy of the order to the Department within  
23 5 days after issuing the order. The order must include, without  
24 limitation, information concerning each motor vehicle that is  
25 registered to or owned by the person, including, without limitation,  
26 the registration number of the motor vehicle, if such information is  
27 available.

28 3. A court shall provide for limited exceptions to the provisions  
29 of subsection 1 on an individual basis to avoid undue hardship to a  
30 person other than the person to whom that provision applies. Such  
31 an exception must be provided if the court determines that:

32 (a) A member of the immediate family of the person whose  
33 registration is suspended needs to use the motor vehicle:

34 (1) To travel to or from work or in the course and scope of  
35 his employment;

36 (2) To obtain medicine, food or other necessities or to obtain  
37 health care services for himself or another member of his immediate  
38 family; or

39 (3) To transport himself or another member of his immediate  
40 family to or from school; or

41 (b) An alternative means of transportation is not available to a  
42 member of the immediate family of the person whose registration is  
43 suspended.



1       **Sec. 21.** NRS 484.3798 is hereby amended to read as follows:  
2       484.3798 1. If a defendant pleads guilty to or is found guilty  
3 of any violation of NRS 484.379 or 484.3795 *or section 10 of this*  
4 *act* and a chemical analysis of his blood, urine, breath or other  
5 bodily substance was conducted, the court shall, in addition to any  
6 penalty provided by law, order the defendant to pay the sum of \$60  
7 as a fee for the chemical analysis. Except as otherwise provided in  
8 this subsection, any money collected for the chemical analysis must  
9 not be deducted from, and is in addition to, any fine otherwise  
10 imposed by the court and must be:

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

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

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

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

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

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

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

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

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

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

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

42       (b) May only be expended to cover the costs of chemical  
43 analyses conducted by, equipment used by, or training for  
44 employees of an analytical laboratory that is approved by the  
45 Committee on Testing for Intoxication created in NRS 484.388.



1       **Sec. 22.** NRS 484.382 is hereby amended to read as follows:

2       484.382 1. Any person who drives or is in actual physical  
3 control of a vehicle on a highway or on premises to which the public  
4 has access shall be deemed to have given his consent to a  
5 preliminary test of his breath to determine the concentration of  
6 alcohol in his breath when the test is administered at the direction of  
7 a police officer at the scene of a vehicle accident or collision or  
8 where he stops a vehicle, if the officer has reasonable grounds to  
9 believe that the person to be tested was:

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

11       (b) Engaging in any other conduct prohibited by NRS 484.379  
12 or 484.3795 **or section 10 of this act.**

13       2. If the person fails to submit to the test, the officer shall seize  
14 his license or permit to drive as provided in NRS 484.385 and arrest  
15 him and take him to a convenient place for the administration of a  
16 reasonably available evidentiary test under NRS 484.383.

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

20       **Sec. 23.** NRS 484.383 is hereby amended to read as follows:

21       484.383 1. Except as otherwise provided in subsections 3 and  
22 4, any person who drives or is in actual physical control of a vehicle  
23 on a highway or on premises to which the public has access shall be  
24 deemed to have given his consent to an evidentiary test of his blood,  
25 urine, breath or other bodily substance to determine the  
26 concentration of alcohol in of his blood or breath or to determine  
27 whether a controlled substance, chemical, poison, organic solvent or  
28 another prohibited substance is present, if such a test is administered  
29 at the direction of a police officer having reasonable grounds to  
30 believe that the person to be tested was:

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

33       (b) Engaging in any other conduct prohibited by NRS 484.379  
34 or 484.3795 **or section 10 of this act.**

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

38       3. Any person who is afflicted with hemophilia or with a heart  
39 condition requiring the use of an anticoagulant as determined by a  
40 physician is exempt from any blood test which may be required  
41 pursuant to this section but must, when appropriate pursuant to the  
42 provisions of this section, be required to submit to a breath or urine  
43 test.  
44



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

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

6 (b) The person may request a blood test, but if means are  
7 reasonably available to perform a breath test when the blood test is  
8 requested, and the person is subsequently convicted, he must pay for  
9 the cost of the blood test, including the fees and expenses of  
10 witnesses in court.

11 (c) A police officer may direct the person to submit to a blood  
12 test if the officer has reasonable grounds to believe that the person:

13 (1) Caused death or substantial bodily harm to another  
14 person as a result of driving or being in actual physical control of a  
15 vehicle while under the influence of intoxicating liquor or a  
16 controlled substance or as a result of engaging in any other conduct  
17 prohibited by NRS 484.379 or 484.3795 ~~§~~ **or section 10 of this**  
18 **act**; or

19 (2) Has been convicted within the previous 7 years of:

20 (I) A violation of NRS 484.379, 484.3795, **or section 10**  
21 **of this act**, subsection 2 of NRS 488.400, NRS 488.410 or 488.420  
22 **or section 31 of this act** or a law of another jurisdiction that  
23 prohibits the same or similar conduct; or

24 (II) Any other offense in this State or another jurisdiction  
25 in which death or substantial bodily harm to another person resulted  
26 from conduct prohibited by a law set forth in sub-subparagraph (I).

27 5. If the presence of a controlled substance, chemical, poison,  
28 organic solvent or another prohibited substance in the blood or urine  
29 of the person is in issue, the officer may direct him to submit to a  
30 blood or urine test, or both, in addition to the breath test.

31 6. Except as otherwise provided in subsections 3 and 5, a  
32 police officer shall not direct a person to submit to a urine test.

33 7. If a person to be tested fails to submit to a required test as  
34 directed by a police officer pursuant to this section and the officer  
35 has reasonable grounds to believe that the person to be tested was:

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

38 (b) Engaging in any other conduct prohibited by NRS 484.379  
39 or 484.3795, **or section 10 of this act**,

40 ➔ the officer may direct that reasonable force be used to the extent  
41 necessary to obtain samples of blood from the person to be tested.  
42 Not more than three such samples may be taken during the 5-hour  
43 period immediately following the time of the initial arrest. In such a  
44 circumstance, the officer is not required to provide the person with a  
45 choice of tests for determining the concentration of alcohol or



1 presence of a controlled substance or another prohibited substance  
2 in his blood.

3 8. If a person who is less than 18 years of age is directed to  
4 submit to an evidentiary test pursuant to this section, the officer  
5 shall, before testing the person, make a reasonable attempt to notify  
6 the parent, guardian or custodian of the person, if known.

7 **Sec. 24.** NRS 484.389 is hereby amended to read as follows:

8 484.389 1. If a person refuses to submit to a required  
9 chemical test provided for in NRS 484.382 or 484.383, evidence of  
10 that refusal is admissible in any criminal or administrative action  
11 arising out of acts alleged to have been committed while the person  
12 was:

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

15 (b) Engaging in any other conduct prohibited by NRS 484.379  
16 or 484.3795 ~~§~~ *or section 10 of this act.*

17 2. Except as otherwise provided in subsection 3 of NRS  
18 484.382, a court or hearing officer may not exclude evidence of a  
19 required test or failure to submit to such a test if the police officer or  
20 other person substantially complied with the provisions of NRS  
21 484.382 to 484.393, inclusive.

22 3. If a person submits to a chemical test provided for in NRS  
23 484.382 or 484.383, full information concerning that test must be  
24 made available, upon his request, to him or his attorney.

25 4. Evidence of a required test is not admissible in a criminal or  
26 administrative proceeding unless it is shown by documentary or  
27 other evidence that the law enforcement agency calibrated the  
28 breath-testing device and otherwise maintained it as required by the  
29 regulations of the Committee on Testing for Intoxication.

30 **Sec. 25.** NRS 484.391 is hereby amended to read as follows:

31 484.391 1. A person who is arrested for driving or being in  
32 actual physical control of a vehicle while under the influence of  
33 intoxicating liquor or a controlled substance or for engaging in any  
34 other conduct prohibited by NRS 484.379 or 484.3795 *or section 10*  
35 *of this act* must be permitted, upon his request and at his expense,  
36 reasonable opportunity to have a qualified person of his own  
37 choosing administer a chemical test or tests to determine:

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

39 (b) Whether a controlled substance, chemical, poison, organic  
40 solvent or another prohibited substance is present in his blood or  
41 urine.

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



1 3. A test obtained under the provisions of this section may not  
2 be substituted for or stand in lieu of the test required by  
3 NRS 484.383.

4 **Sec. 26.** NRS 484.393 is hereby amended to read as follows:

5 484.393 1. The results of any blood test administered under  
6 the provisions of NRS 484.383 or 484.391 are not admissible in any  
7 hearing or criminal action arising out of acts alleged to have been  
8 committed by a person who was driving or in actual physical control  
9 of a vehicle while under the influence of intoxicating liquor or a  
10 controlled substance or who was engaging in any other conduct  
11 prohibited by NRS 484.379 or 484.3795 *or section 10 of this act*  
12 unless:

13 (a) The blood tested was withdrawn by a physician, physician  
14 assistant, registered nurse, licensed practical nurse, emergency  
15 medical technician or a technician, technologist or assistant  
16 employed in a medical laboratory;

17 (b) The test was performed on whole blood, except if the sample  
18 was clotted when it was received by the laboratory, the test may be  
19 performed on blood serum or plasma; and

20 (c) The person who withdrew the blood was authorized to do so  
21 by the appropriate medical licensing or certifying agency.

22 2. The limitation contained in paragraph (a) of subsection 1  
23 does not apply to the taking of a chemical test of the urine, breath or  
24 other bodily substance.

25 3. No person listed in paragraph (a) of subsection 1 incurs any  
26 civil or criminal liability as a result of the administering of a blood  
27 test when requested by a police officer or the person to be tested to  
28 administer the test.

29 **Sec. 27.** NRS 484.3943 is hereby amended to read as follows:

30 484.3943 1. Except as otherwise provided in subsection 5, a  
31 court:

32 (a) May order a person convicted of a first violation of NRS  
33 484.379, for a period of not less than 3 months nor more than 6  
34 months; and

35 (b) Shall order a person convicted of a third or subsequent  
36 violation of NRS 484.379 or a violation of NRS 484.3795, *or*  
37 *section 10 of this act*, for a period of not less than 12 months nor  
38 more than 36 months,

39 ↪ to install at his own expense a device in any motor vehicle which  
40 he owns or operates as a condition to obtaining a restricted license  
41 pursuant to subsection 3 of NRS 483.490.

42 2. A court may order a person convicted of a violation of NRS  
43 484.379 or 484.3795, *or section 10 of this act*, for a period  
44 determined by the court, to install at his own expense a device in



1 any motor vehicle which he owns or operates as a condition of  
2 reinstatement of his driving privilege.

3 3. If the court orders a person to install a device pursuant to  
4 subsection 1 or 2:

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

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

17 4. A person whose driving privilege is restricted pursuant to  
18 this section shall:

19 (a) If he was ordered to install a device pursuant to paragraph (a)  
20 of subsection 1, have the device inspected by the manufacturer of  
21 the device or its agent at least one time during the period in which  
22 he is required to use the device; or

23 (b) If he was ordered to install a device pursuant to paragraph  
24 (b) of subsection 1, have the device inspected by the manufacturer  
25 of the device or its agent at least one time each 90 days,

26 ➔ to determine whether the device is operating properly. An  
27 inspection required pursuant to this subsection must be conducted in  
28 accordance with regulations adopted pursuant to NRS 484.3888.  
29 The manufacturer or its agent shall submit a report to the Director  
30 indicating whether the device is operating properly and whether it  
31 has been tampered with. If the device has been tampered with, the  
32 Director shall notify the court that ordered the installation of the  
33 device.

34 5. If a person is required to operate a motor vehicle in the  
35 course and scope of his employment and the motor vehicle is owned  
36 by his employer, the person may operate that vehicle without the  
37 installation of a device, if:

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

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

42 ➔ This exemption does not apply to a motor vehicle owned by a  
43 business which is all or partly owned or controlled by the person  
44 otherwise subject to this section.



1       **Sec. 28.** NRS 484.791 is hereby amended to read as follows:

2       484.791 1. Any peace officer may, without a warrant, arrest a  
3 person if the officer has reasonable cause for believing that the  
4 person has committed any of the following offenses:

5       (a) Homicide by vehicle;

6       (b) A violation of NRS 484.379;

7       (c) A violation of NRS 484.3795;

8       (d) *A violation of section 10 of this act;*

9       (e) Failure to stop, give information or render reasonable  
10 assistance in the event of an accident resulting in death or personal  
11 injuries in violation of NRS 484.219 or 484.223;

12       ~~(e)~~ (f) Failure to stop or give information in the event of an  
13 accident resulting in damage to a vehicle or to other property legally  
14 upon or adjacent to a highway in violation of NRS 484.221 or  
15 484.225;

16       ~~(f)~~ (g) Reckless driving;

17       ~~(g)~~ (h) Driving a motor vehicle on a highway or on premises to  
18 which the public has access at a time when his driver's license has  
19 been cancelled, revoked or suspended; or

20       ~~(h)~~ (i) Driving a motor vehicle in any manner in violation of  
21 the restrictions imposed in a restricted license issued to him  
22 pursuant to NRS 483.490.

23       2. Whenever any person is arrested as authorized in this  
24 section, he must be taken without unnecessary delay before the  
25 proper magistrate as specified in NRS 484.803, except that in the  
26 case of either of the offenses designated in paragraphs ~~(e) and~~ (f)  
27 *and* (g) of subsection 1 a peace officer has the same discretion as is  
28 provided in other cases in NRS 484.795.

29       **Sec. 29.** NRS 484.801 is hereby amended to read as follows:

30       484.801 Except for felonies and those offenses set forth in  
31 paragraphs (a) to ~~(d),~~ (e), inclusive, of subsection 1 of NRS  
32 484.791, a peace officer at the scene of a traffic accident may issue a  
33 traffic citation, as provided in NRS 484.799, or a misdemeanor  
34 citation, as provided in NRS 171.1773, to any person involved in the  
35 accident when, based upon personal investigation, the peace officer  
36 has reasonable and probable grounds to believe that the person has  
37 committed any offense pursuant to the provisions of this chapter or  
38 of chapter 482, 483, 485, 486 or 706 of NRS in connection with the  
39 accident.

40       **Sec. 30.** NRS 484.805 is hereby amended to read as follows:

41       484.805 Whenever any person is taken into custody by a peace  
42 officer for the purpose of taking him before a magistrate or court as  
43 authorized or required in this chapter upon any charge other than a  
44 felony or the offenses enumerated in paragraphs (a) to ~~(d),~~ (e),  
45 inclusive, of subsection 1 of NRS 484.791, and no magistrate is





1 available at the time of arrest, and there is no bail schedule  
2 established by the magistrate or court and no lawfully designated  
3 court clerk or other public officer who is available and authorized to  
4 accept bail upon behalf of the magistrate or court, the person must  
5 be released from custody upon the issuance to him of a  
6 misdemeanor citation or traffic citation and his signing a promise to  
7 appear, as provided in NRS 171.1773 or 484.799, respectively.

8 **Sec. 31.** Chapter 488 of NRS is hereby amended by adding  
9 thereto a new section to read as follows:

10 *1. A person commits homicide by vessel if he:*

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

13 *(1) Is under the influence of intoxicating liquor;*

14 *(2) Has a concentration of alcohol of 0.08 or more in his*  
15 *blood or breath;*

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

20 *(4) Is under the influence of a controlled substance or is*  
21 *under the combined influence of intoxicating liquor and a*  
22 *controlled substance;*

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

28 *(6) Has a prohibited substance in his blood or urine in an*  
29 *amount that is equal to or greater than the amount set forth in*  
30 *subsection 3 of NRS 488.410;*

31 *(b) Proximately causes the death of a person other than*  
32 *himself while operating or in actual physical control of a vessel*  
33 *under power or sail; and*

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

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

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

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

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



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

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

19     6. If the defendant was transporting a person who is less than  
20 15 years of age in the vessel at the time of the violation, the court  
21 shall consider that fact as an aggravating factor in determining  
22 the sentence of the defendant.

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

24     (a) A violation of NRS 488.410 or 488.420;

25     (b) A homicide resulting from operating or being in actual  
26 physical control of a vessel while under the influence of  
27 intoxicating liquor or a controlled substance or resulting from any  
28 other conduct prohibited by this section or NRS 488.410 or  
29 488.420; or

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

32     **Sec. 32.** NRS 488.405 is hereby amended to read as follows:

33     488.405 As used in NRS 488.410 and 488.420, **and section 31**  
34 **of this act**, the phrase "concentration of alcohol of 0.08 or more in  
35 his blood or breath" means 0.08 gram or more per 100 milliliters of  
36 the blood of a person or per 210 liters of his breath.

37     **Sec. 33.** NRS 488.405 is hereby amended to read as follows:

38     488.405 As used in NRS 488.410 and 488.420, **and section 63**  
39 **of this act**, the phrase "concentration of alcohol of 0.10 or more in  
40 his blood or breath" means 0.10 gram or more per 100 milliliters of  
41 the blood of a person or per 210 liters of his breath.

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

43     488.420 1. **[A] Unless a greater penalty is provided**  
44 **pursuant to section 31 of this act**, a person who:

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



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

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

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

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

15 (f) Has a prohibited substance in his blood or urine in an amount  
16 that is equal to or greater than the amount set forth in subsection 3  
17 of NRS 488.410,

18 ➤ and does any act or neglects any duty imposed by law while  
19 operating or being in actual physical control of any vessel under  
20 power or sail, if the act or neglect of duty proximately causes the  
21 death of, or substantial bodily harm to, a person other than himself,  
22 is guilty of a category B felony and shall be punished by  
23 imprisonment in the state prison for a minimum term of not less  
24 than 2 years and a maximum term of not more than 20 years and  
25 shall be further punished by a fine of not less than \$2,000 nor more  
26 than \$5,000. A person so imprisoned must, insofar as practicable, be  
27 segregated from offenders whose crimes were violent and, insofar as  
28 practicable, be assigned to an institution or facility of minimum  
29 security.

30 2. A prosecuting attorney shall not dismiss a charge of  
31 violating the provisions of subsection 1 in exchange for a plea of  
32 guilty or nolo contendere to a lesser charge or for any other reason  
33 unless he knows or it is obvious that the charge is not supported by  
34 probable cause or cannot be proved at the time of trial. A sentence  
35 imposed pursuant to subsection 1 must not be suspended, and  
36 probation must not be granted.

37 3. If consumption is proven by a preponderance of the  
38 evidence, it is an affirmative defense under paragraph (c) of  
39 subsection 1 that the defendant consumed a sufficient quantity of  
40 alcohol after operating or being in actual physical control of the  
41 vessel under power or sail, and before his blood was tested, to cause  
42 him to have a concentration of alcohol of 0.08 or more in his blood  
43 or breath. A defendant who intends to offer this defense at a trial or  
44 preliminary hearing must, not less than 14 days before the trial or



1 hearing or at such other time as the court may direct, file and serve  
2 on the prosecuting attorney a written notice of that intent.

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

6 **Sec. 35.** NRS 488.420 is hereby amended to read as follows:

7 488.420 1. ~~[A]~~ *Unless a greater penalty is provided*  
8 *pursuant to section 63 of this act, a* person who:

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

10 (b) Has a concentration of alcohol of 0.10 or more in his blood  
11 or breath;

12 (c) Is found by measurement within 2 hours after operating or  
13 being in actual physical control of a vessel under power or sail to  
14 have a concentration of alcohol of 0.10 or more in his blood or  
15 breath;

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

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

24 (f) Has a prohibited substance in his blood or urine in an amount  
25 that is equal to or greater than the amount set forth in subsection 3  
26 of NRS 488.410,

27 ➔ and does any act or neglects any duty imposed by law while  
28 operating or being in actual physical control of any vessel under  
29 power or sail, if the act or neglect of duty proximately causes the  
30 death of, or substantial bodily harm to, a person other than himself,  
31 is guilty of a category B felony and shall be punished by  
32 imprisonment in the state prison for a minimum term of not less  
33 than 2 years and a maximum term of not more than 20 years and  
34 shall be further punished by a fine of not less than \$2,000 nor more  
35 than \$5,000. A person so imprisoned must, insofar as practicable, be  
36 segregated from offenders whose crimes were violent and, insofar as  
37 practicable, be assigned to an institution or facility of minimum  
38 security.

39 2. A prosecuting attorney shall not dismiss a charge of  
40 violating the provisions of subsection 1 in exchange for a plea of  
41 guilty or nolo contendere to a lesser charge or for any other reason  
42 unless he knows or it is obvious that the charge is not supported by  
43 probable cause or cannot be proved at the time of trial. A sentence  
44 imposed pursuant to subsection 1 must not be suspended, and  
45 probation must not be granted.



1 3. If consumption is proven by a preponderance of the  
2 evidence, it is an affirmative defense under paragraph (c) of  
3 subsection 1 that the defendant consumed a sufficient quantity of  
4 alcohol after operating or being in actual physical control of the  
5 vessel under power or sail, and before his blood was tested, to cause  
6 him to have a concentration of alcohol of 0.10 or more in his blood  
7 or breath. A defendant who intends to offer this defense at a trial or  
8 preliminary hearing must, not less than 14 days before the trial or  
9 hearing or at such other time as the court may direct, file and serve  
10 on the prosecuting attorney a written notice of that intent.

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

14 **Sec. 36.** NRS 488.430 is hereby amended to read as follows:

15 488.430 1. Before sentencing a defendant pursuant to NRS  
16 488.420, *or section 31 of this act*, the court shall require that the  
17 defendant be evaluated to determine whether he is an abuser of  
18 alcohol or drugs and whether he can be treated successfully for his  
19 condition.

20 2. The evaluation must be conducted by:

21 (a) An alcohol and drug abuse counselor who is licensed or  
22 certified pursuant to chapter 641C of NRS to make such an  
23 evaluation;

24 (b) A physician who is certified to make such an evaluation by  
25 the Board of Medical Examiners; or

26 (c) A psychologist who is certified to make such an evaluation  
27 by the Board of Psychological Examiners.

28 3. The alcohol and drug abuse counselor, physician or  
29 psychologist who conducts the evaluation shall immediately forward  
30 the results of the evaluation to the Director of the Department of  
31 Corrections.

32 **Sec. 37.** NRS 488.440 is hereby amended to read as follows:

33 488.440 1. If a defendant pleads guilty to or is found guilty  
34 of, a violation of NRS 488.410 or 488.420 *or section 31 of this act*  
35 and a chemical analysis of his blood, urine, breath or other bodily  
36 substance was conducted, the court shall, in addition to any penalty  
37 provided by law, order the defendant to pay the sum of \$60 as a fee  
38 for the chemical analysis. Except as otherwise provided in this  
39 subsection, any money collected for the chemical analysis must not  
40 be deducted from, and is in addition to, any fine otherwise imposed  
41 by the court and must be:

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

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



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

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

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

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

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

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

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

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

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

28 (b) May only be expended to cover the costs of chemical  
29 analyses conducted by, equipment used by or training for employees  
30 of an analytical laboratory that is approved by the Committee on  
31 Testing for Intoxication created in NRS 484.388.

32 **Sec. 38.** NRS 488.450 is hereby amended to read as follows:

33 488.450 1. Any person who operates or is in actual physical  
34 control of a vessel under power or sail on the waters of this State  
35 shall be deemed to have given his consent to a preliminary test of  
36 his breath to determine the concentration of alcohol in his breath  
37 when the test is administered at the direction of a peace officer after  
38 a vessel accident or collision or where an officer stops a vessel, if  
39 the officer has reasonable grounds to believe that the person to be  
40 tested was:

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

44 (b) Engaging in any other conduct prohibited by NRS 488.410  
45 or 488.420 ~~§~~ *or section 31 of this act.*



1 2. If the person fails to submit to the test, the officer shall arrest  
2 him and take him to a convenient place for the administration of a  
3 reasonably available evidentiary test under NRS 488.460.

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

7 **Sec. 39.** NRS 488.460 is hereby amended to read as follows:

8 488.460 1. Except as otherwise provided in subsections 3 and  
9 4, a person who operates or is in actual physical control of a vessel  
10 under power or sail on the waters of this State shall be deemed to  
11 have given his consent to an evidentiary test of his blood, urine,  
12 breath or other bodily substance to determine the concentration of  
13 alcohol in his blood or breath or to determine whether a controlled  
14 substance, chemical, poison, organic solvent or another prohibited  
15 substance is present, if such a test is administered at the direction of  
16 a peace officer having reasonable grounds to believe that the person  
17 to be tested was:

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

21 (b) Engaging in any other conduct prohibited by NRS 488.410  
22 or 488.420 ~~(b)~~ *or section 31 of this act.*

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

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

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

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

37 (b) The person may request a blood test, but if means are  
38 reasonably available to perform a breath test when the blood test is  
39 requested, and the person is subsequently convicted, he must pay for  
40 the cost of the blood test, including the fees and expenses of  
41 witnesses in court.

42 (c) A peace officer may direct the person to submit to a blood  
43 test if the officer has reasonable grounds to believe that the person:

44 (1) Caused death or substantial bodily harm to another  
45 person as a result of operating or being in actual physical control of



1 a vessel under power or sail while under the influence of  
2 intoxicating liquor or a controlled substance or as a result of  
3 engaging in any other conduct prohibited by NRS 488.410 or  
4 488.420 **[§] or section 31 of this act;** or

5 (2) Has been convicted within the previous 7 years of:

6 (I) A violation of NRS 484.379, 484.3795, **or section 10**  
7 **of this act**, subsection 2 of NRS 488.400, NRS 488.410 or 488.420  
8 **or section 31 of this act** or a law of another jurisdiction that  
9 prohibits the same or similar conduct; or

10 (II) Any other offense in this State or another jurisdiction  
11 in which death or substantial bodily harm to another person resulted  
12 from conduct prohibited by a law set forth in sub-subparagraph (I).

13 5. If the presence of a controlled substance, chemical, poison,  
14 organic solvent or another prohibited substance in the blood or urine  
15 of the person is in issue, the officer may direct him to submit to a  
16 blood or urine test, or both, in addition to the breath test.

17 6. Except as otherwise provided in subsections 3 and 5, a peace  
18 officer shall not direct a person to submit to a urine test.

19 7. If a person to be tested fails to submit to a required test as  
20 directed by a peace officer pursuant to this section and the officer  
21 has reasonable grounds to believe that the person to be tested was:

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

25 (b) Engaging in any other conduct prohibited by NRS 488.410  
26 or 488.420, **or section 31 of this act,**

27 **↳** the officer may direct that reasonable force be used to the extent  
28 necessary to obtain samples of blood from the person to be tested.  
29 Not more than three such samples may be taken during the 5-hour  
30 period immediately following the time of the initial arrest. In such a  
31 circumstance, the officer is not required to provide the person with  
32 a choice of tests for determining the alcoholic content or presence of  
33 a controlled substance or another prohibited substance in his blood.

34 **Sec. 40.** NRS 488.480 is hereby amended to read as follows:

35 488.480 1. If a person refuses to submit to a required  
36 chemical test provided for in NRS 488.450 or 488.460, evidence of  
37 that refusal is admissible in any criminal action arising out of acts  
38 alleged to have been committed while the person was:

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

42 (b) Engaging in any other conduct prohibited by NRS 488.410  
43 or 488.420 **[§] or section 31 of this act.**

44 2. Except as otherwise provided in subsection 3 of NRS  
45 488.450, a court may not exclude evidence of a required test or





1 failure to submit to such a test if the peace officer or other person  
2 substantially complied with the provisions of NRS 488.450 to  
3 488.500, inclusive.

4 3. If a person submits to a chemical test provided for in NRS  
5 488.450 or 488.460, full information concerning that test must be  
6 made available, upon his request, to him or his attorney.

7 4. Evidence of a required test is not admissible in a criminal  
8 proceeding unless it is shown by documentary or other evidence that  
9 the device for testing breath was certified pursuant to NRS 484.3882  
10 and was calibrated, maintained and operated as provided by the  
11 regulations of the Committee on Testing for Intoxication adopted  
12 pursuant to NRS 484.3884, 484.3886 or 484.3888.

13 5. If the device for testing breath has been certified by the  
14 Committee on Testing for Intoxication to be accurate and reliable  
15 pursuant to NRS 484.3882, it is presumed that, as designed and  
16 manufactured, the device is accurate and reliable for the purpose of  
17 testing a person's breath to determine the concentration of alcohol in  
18 the person's breath.

19 6. A court shall take judicial notice of the certification by the  
20 Director of a person to operate testing devices of one of the certified  
21 types. If a test to determine the amount of alcohol in a person's  
22 breath has been performed with a certified type of device by a  
23 person who is certified pursuant to NRS 484.3886 or 484.3888, it is  
24 presumed that the person operated the device properly.

25 7. This section does not preclude the admission of evidence of  
26 a test of a person's breath where the:

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

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

32 **Sec. 41.** NRS 488.490 is hereby amended to read as follows:

33 488.490 1. A person who is arrested for operating or being in  
34 actual physical control of a vessel under power or sail while under  
35 the influence of intoxicating liquor or a controlled substance or for  
36 engaging in any other conduct prohibited by NRS 488.410 or  
37 488.420 *or section 31 of this act* must be permitted, upon his  
38 request and at his expense, reasonable opportunity to have a  
39 qualified person of his own choosing administer a chemical test to  
40 determine:

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

42 (b) Whether a controlled substance, chemical, poison, organic  
43 solvent or another prohibited substance is present in his blood or  
44 urine.



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

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

8       **Sec. 42.** NRS 488.500 is hereby amended to read as follows:

9       488.500 1. The results of any blood test administered under  
10 the provisions of NRS 488.460 or 488.490 are not admissible in any  
11 criminal action arising out of acts alleged to have been committed  
12 by a person who was operating or in actual physical control of a  
13 vessel under power or sail while under the influence of intoxicating  
14 liquor or a controlled substance or who was engaging in any other  
15 conduct prohibited by NRS 488.410 or 488.420 *or section 31 of this*  
16 *act* unless:

17       (a) The blood tested was withdrawn by a physician, registered  
18 nurse, licensed practical nurse, emergency medical technician or a  
19 technician, technologist or assistant employed in a medical  
20 laboratory;

21       (b) The test was performed on whole blood, except if the sample  
22 was clotted when it was received by the laboratory, the test may be  
23 performed on blood serum or plasma; and

24       (c) The person who withdrew the blood was authorized to do so  
25 by the appropriate licensing or certifying agency.

26       2. The limitation contained in paragraph (a) of subsection 1  
27 does not apply to the taking of a chemical test of the urine, breath or  
28 other bodily substance.

29       3. No person listed in paragraph (a) of subsection 1 incurs any  
30 civil or criminal liability as a result of the administering of a blood  
31 test when requested by a peace officer or the person to be tested to  
32 administer the test.

33       **Sec. 43.** NRS 4.355 is hereby amended to read as follows:

34       4.355 1. A justice of the peace in a township whose  
35 population is 40,000 or more may appoint a referee to take  
36 testimony and recommend orders and a judgment:

37       (a) In any action filed pursuant to NRS 73.010;

38       (b) In any action filed pursuant to NRS 33.200 to 33.360,  
39 inclusive;

40       (c) In any action for a misdemeanor constituting a violation of  
41 chapter 484 of NRS, except NRS 484.379 ; ~~and 484.3795;~~ or

42       (d) In any action for a misdemeanor constituting a violation of a  
43 county traffic ordinance.

44       2. The referee must meet the qualifications of a justice of the  
45 peace as set forth in subsections 1 and 2 of NRS 4.010.



1 3. The referee:

2 (a) Shall take testimony;

3 (b) Shall make findings of fact, conclusions of law and  
4 recommendations for an order or judgment;

5 (c) May, subject to confirmation by the justice of the peace,  
6 enter an order or judgment; and

7 (d) Has any other power or duty contained in the order of  
8 reference issued by the justice of the peace.

9 4. The findings of fact, conclusions of law and  
10 recommendations of the referee must be furnished to each party or  
11 his attorney at the conclusion of the proceeding or as soon thereafter  
12 as possible. Within 5 days after receipt of the findings of fact,  
13 conclusions of law and recommendations, a party may file a written  
14 objection. If no objection is filed, the court shall accept the findings,  
15 unless clearly erroneous, and the judgment may be entered thereon.  
16 If an objection is filed within the 5-day period, the justice of the  
17 peace shall review the matter by trial de novo, except that if all of  
18 the parties so stipulate, the review must be confined to the record.

19 5. A referee must be paid one-half of the hourly compensation  
20 of a justice of the peace.

21 **Sec. 44.** NRS 42.010 is hereby amended to read as follows:

22 42.010 1. In an action for the breach of an obligation, where  
23 the defendant caused an injury by the operation of a motor vehicle  
24 in violation of NRS 484.379 or 484.3795 *or section 10 of this act*  
25 after willfully consuming or using alcohol or another substance,  
26 knowing that he would thereafter operate the motor vehicle, the  
27 plaintiff, in addition to the compensatory damages, may recover  
28 damages for the sake of example and by way of punishing the  
29 defendant.

30 2. The provisions of NRS 42.005 do not apply to any cause of  
31 action brought pursuant to this section.

32 **Sec. 45.** NRS 50.325 is hereby amended to read as follows:

33 50.325 1. If a person is charged with an offense listed in  
34 subsection 4, and it is necessary to prove:

35 (a) The existence of any alcohol;

36 (b) The quantity of a controlled substance; or

37 (c) The existence or identity of a controlled substance, chemical,  
38 poison, organic solvent or another prohibited substance,

39 ↪ the prosecuting attorney may request that the affidavit or  
40 declaration of an expert or other person described in NRS 50.315  
41 and 50.320 be admitted into evidence at the trial or preliminary  
42 hearing concerning the offense. Except as otherwise provided in  
43 NRS 50.315 and 50.320, the affidavit or declaration must be  
44 admitted into evidence.



1 2. If the request is to have the affidavit or declaration admitted  
2 into evidence at a preliminary hearing or hearing before a grand  
3 jury, the affidavit or declaration must be admitted into evidence  
4 upon submission. If the request is to have the affidavit or declaration  
5 admitted into evidence at trial, the request must be:

6 (a) Made at least 10 days before the date set for the trial;

7 (b) Sent to the defendant's counsel and to the defendant, by  
8 registered or certified mail by the prosecuting attorney; and

9 (c) Accompanied by a copy of the affidavit or declaration and  
10 the name, address and telephone number of the affiant or declarant.

11 3. The provisions of this section do not prohibit either party  
12 from producing any witness to offer testimony at trial.

13 4. The provisions of this section apply to any of the following  
14 offenses:

15 (a) An offense punishable pursuant to NRS 202.257, 455A.170,  
16 455B.080, 493.130 or 639.283.

17 (b) An offense punishable pursuant to chapter 453, 484 or 488  
18 of NRS.

19 (c) A homicide resulting from driving, operating or being in  
20 actual physical control of a vehicle or a vessel under power or sail  
21 while under the influence of intoxicating liquor or a controlled  
22 substance or resulting from any other conduct prohibited by NRS  
23 484.379, 484.3795, *or section 10 of this act*, subsection 2 of NRS  
24 488.400, NRS 488.410 or 488.420 ~~§~~ *or section 31 of this act*.

25 (d) Any other offense for which it is necessary to prove, as an  
26 element of the offense:

27 (1) The existence of any alcohol;

28 (2) The quantity of a controlled substance; or

29 (3) The existence or identity of a controlled substance,  
30 chemical, poison, organic solvent or another prohibited substance.

31 **Sec. 46.** NRS 62E.620 is hereby amended to read as follows:

32 62E.620 1. The juvenile court shall order a delinquent child  
33 to undergo an evaluation to determine whether the child is an abuser  
34 of alcohol or other drugs if the child committed:

35 (a) An unlawful act in violation of NRS 484.379 or 484.3795 ~~§~~  
36 *or section 10 of this act*;

37 (b) The unlawful act of using, possessing, selling or distributing  
38 a controlled substance; or

39 (c) The unlawful act of purchasing, consuming or possessing an  
40 alcoholic beverage in violation of NRS 202.020.

41 2. The evaluation of the child must be conducted by:

42 (a) An alcohol and drug abuse counselor who is licensed or  
43 certified or an alcohol and drug abuse counselor intern who is  
44 certified pursuant to chapter 641C of NRS to make that  
45 classification; or



1 (b) A physician who is certified to make that classification by  
2 the Board of Medical Examiners.

3 3. The evaluation of the child may be conducted at an  
4 evaluation center.

5 4. The person who conducts the evaluation of the child shall  
6 report to the juvenile court the results of the evaluation and make a  
7 recommendation to the juvenile court concerning the length and  
8 type of treatment required for the child.

9 5. The juvenile court shall:

10 (a) Order the child to undergo a program of treatment as  
11 recommended by the person who conducts the evaluation of the  
12 child.

13 (b) Require the treatment facility to submit monthly reports on  
14 the treatment of the child pursuant to this section.

15 (c) Order the child or the parent or guardian of the child, or both,  
16 to the extent of their financial ability, to pay any charges relating to  
17 the evaluation and treatment of the child pursuant to this section.  
18 If the child or the parent or guardian of the child, or both, do not  
19 have the financial resources to pay all those charges:

20 (1) The juvenile court shall, to the extent possible, arrange  
21 for the child to receive treatment from a treatment facility which  
22 receives a sufficient amount of federal or state money to offset the  
23 remainder of the costs; and

24 (2) The juvenile court may order the child, in lieu of paying  
25 the charges relating to his evaluation and treatment, to perform  
26 community service.

27 6. After a treatment facility has certified a child's successful  
28 completion of a program of treatment ordered pursuant to this  
29 section, the treatment facility is not liable for any damages to person  
30 or property caused by a child who:

31 (a) Drives, operates or is in actual physical control of a vehicle  
32 or a vessel under power or sail while under the influence of  
33 intoxicating liquor or a controlled substance; or

34 (b) Engages in any other conduct prohibited by NRS 484.379,  
35 484.3795, *or section 10 of this act*, subsection 2 of NRS 488.400,  
36 NRS 488.410 or 488.420 *or section 31 of this act* or a law of any  
37 other jurisdiction that prohibits the same or similar conduct.

38 7. The provisions of this section do not prohibit the juvenile  
39 court from:

40 (a) Requiring an evaluation to be conducted by a person who is  
41 employed by a private company if the company meets the standards  
42 of the Health Division of the Department of Human Resources. The  
43 evaluation may be conducted at an evaluation center.

44 (b) Ordering the child to attend a program of treatment which is  
45 administered by a private company.



1 8. All information relating to the evaluation or treatment of a  
2 child pursuant to this section is confidential and, except as otherwise  
3 authorized by the provisions of this title or the juvenile court, must  
4 not be disclosed to any person other than:

- 5 (a) The juvenile court;
- 6 (b) The child;
- 7 (c) The attorney for the child, if any;
- 8 (d) The parents or guardian of the child;
- 9 (e) The district attorney; and

10 (f) Any other person for whom the communication of that  
11 information is necessary to effectuate the evaluation or treatment of  
12 the child.

13 9. A record of any finding that a child has violated the  
14 provisions of NRS 484.379 or 484.3795 *or section 10 of this act*  
15 must be included in the driver's record of that child for 7 years after  
16 the date of the offense.

17 **Sec. 47.** NRS 62E.640 is hereby amended to read as follows:

18 62E.640 1. If a child is adjudicated delinquent for an  
19 unlawful act in violation of NRS 484.379 or 484.3795, *or section 10*  
20 *of this act*, the juvenile court shall, if the child possesses a driver's  
21 license:

22 (a) Issue an order revoking the driver's license of the child for  
23 90 days and requiring the child to surrender his driver's license to  
24 the juvenile court; and

25 (b) Not later than 5 days after issuing the order, forward to the  
26 Department of Motor Vehicles a copy of the order and the driver's  
27 license of the child.

28 2. The Department of Motor Vehicles shall order the child to  
29 submit to the tests and other requirements which are adopted by  
30 regulation pursuant to subsection 1 of NRS 483.495 as a condition  
31 of reinstatement of the driver's license of the child.

32 3. If the child is adjudicated delinquent for a subsequent  
33 unlawful act in violation of NRS 484.379 or 484.3795, *or section 10*  
34 *of this act*, the juvenile court shall order an additional period of  
35 revocation to apply consecutively with the previous order.

36 4. The juvenile court may authorize the Department of Motor  
37 Vehicles to issue a restricted driver's license pursuant to NRS  
38 483.490 to a child whose driver's license is revoked pursuant to this  
39 section.

40 **Sec. 48.** NRS 179A.070 is hereby amended to read as follows:

41 179A.070 1. "Record of criminal history" means information  
42 contained in records collected and maintained by agencies of  
43 criminal justice, the subject of which is a natural person, consisting  
44 of descriptions which identify the subject and notations of summons  
45 in a criminal action, warrants, arrests, citations for misdemeanors



1 issued pursuant to NRS 171.1773, citations issued for violations of  
2 NRS 484.379 and 484.3795, *and section 10 of this act*, detentions,  
3 decisions of a district attorney or the Attorney General not to  
4 prosecute the subject, indictments, informations or other formal  
5 criminal charges and dispositions of charges, including, without  
6 limitation, dismissals, acquittals, convictions, sentences, information  
7 set forth in NRS 209.353 concerning an offender in prison, any  
8 postconviction relief, correctional supervision occurring in Nevada,  
9 information concerning the status of an offender on parole or  
10 probation, and information concerning a convicted person who has  
11 registered as such pursuant to chapter 179C of NRS. The term  
12 includes only information contained in a record, maintained in  
13 written or electronic form, of a formal transaction between a person  
14 and an agency of criminal justice in this State, including, without  
15 limitation, the fingerprints of a person who is arrested and taken into  
16 custody and of a person who is placed on parole or probation and  
17 supervised by the Division of Parole and Probation of the  
18 Department.

19 2. "Record of criminal history" does not include:

20 (a) Investigative or intelligence information, reports of crime or  
21 other information concerning specific persons collected in the  
22 course of the enforcement of criminal laws;

23 (b) Information concerning juveniles;

24 (c) Posters, announcements or lists intended to identify fugitives  
25 or wanted persons and aid in their apprehension;

26 (d) Original records of entry maintained by agencies of criminal  
27 justice if the records are chronological and not cross-indexed;

28 (e) Records of application for and issuance, suspension,  
29 revocation or renewal of occupational licenses, including, without  
30 limitation, permits to work in the gaming industry;

31 (f) Except as otherwise provided in subsection 1, court indexes  
32 and records of public judicial proceedings, court decisions and  
33 opinions, and information disclosed during public judicial  
34 proceedings;

35 (g) Except as otherwise provided in subsection 1, records of  
36 traffic violations constituting misdemeanors;

37 (h) Records of traffic offenses maintained by the Department to  
38 regulate the issuance, suspension, revocation or renewal of drivers'  
39 or other operators' licenses;

40 (i) Announcements of actions by the State Board of Pardons  
41 Commissioners and the State Board of Parole Commissioners,  
42 except information concerning the status of an offender on parole or  
43 probation; or

44 (j) Records which originated in an agency other than an agency  
45 of criminal justice in this State.





1     **Sec. 49.** NRS 207.012 is hereby amended to read as follows:

2     207.012 1. A person who:

3     (a) Has been convicted in this State of a felony listed in  
4 subsection 2; and

5     (b) Before the commission of that felony, was twice convicted  
6 of any crime which under the laws of the situs of the crime or of this  
7 State would be a felony listed in subsection 2, whether the prior  
8 convictions occurred in this State or elsewhere,

9     ➔ is a habitual felon and shall be punished for a category A felony  
10 by imprisonment in the state prison:

11         (1) For life without the possibility of parole;

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

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

16     2. The district attorney shall include a count under this section  
17 in any information or shall file a notice of habitual felon if an  
18 indictment is found, if each prior conviction and the alleged offense  
19 committed by the accused constitutes a violation of subparagraph  
20 (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160,  
21 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390,  
22 subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of  
23 NRS 200.450, subsection 5 of NRS 200.460, NRS 200.465,  
24 subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of  
25 paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710,  
26 200.720, 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS  
27 202.780, paragraph (b) of subsection 2 of NRS 202.820, subsection  
28 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060,  
29 subsection 4 of NRS 205.067, NRS 205.075, 207.400, paragraph (a)  
30 of subsection 1 of NRS 212.090, NRS 453.333, 484.219 or  
31 484.3795 ~~+~~ *or section 10 of this act.*

32     3. The trial judge may not dismiss a count under this section  
33 that is included in an indictment or information.

34     **Sec. 50.** NRS 209.392 is hereby amended to read as follows:

35     209.392 1. Except as otherwise provided in NRS 209.3925  
36 and 209.429, the Director may, at the request of an offender who is  
37 eligible for residential confinement pursuant to the standards  
38 adopted by the Director pursuant to subsection 3 and who has:

39         (a) Established a position of employment in the community;

40         (b) Enrolled in a program for education or rehabilitation; or

41         (c) Demonstrated an ability to pay for all or part of the costs of  
42 his confinement and to meet any existing obligation for restitution to  
43 any victim of his crime,

44     ➔ assign the offender to the custody of the Division of Parole and  
45 Probation of the Department of Public Safety to serve a term of





1 residential confinement, pursuant to NRS 213.380, for not longer  
2 than the remainder of his sentence.

3 2. Upon receiving a request to serve a term of residential  
4 confinement from an eligible offender, the Director shall notify the  
5 Division of Parole and Probation. If any victim of a crime  
6 committed by the offender has, pursuant to subsection 4 of NRS  
7 213.130, requested to be notified of the consideration of a prisoner  
8 for parole and has provided a current address, the Division of Parole  
9 and Probation shall notify the victim of the offender's request and  
10 advise the victim that he may submit documents regarding the  
11 request to the Division of Parole and Probation. If a current address  
12 has not been provided as required by subsection 4 of NRS 213.130,  
13 the Division of Parole and Probation must not be held responsible if  
14 such notification is not received by the victim. All personal  
15 information, including, but not limited to, a current or former  
16 address, which pertains to a victim and which is received by the  
17 Division of Parole and Probation pursuant to this subsection is  
18 confidential.

19 3. The Director, after consulting with the Division of Parole  
20 and Probation, shall adopt, by regulation, standards providing which  
21 offenders are eligible for residential confinement. The standards  
22 adopted by the Director must provide that an offender who:

23 (a) Is not eligible for parole or release from prison within a  
24 reasonable period;

25 (b) Has recently committed a serious infraction of the rules of an  
26 institution or facility of the Department;

27 (c) Has not performed the duties assigned to him in a faithful  
28 and orderly manner;

29 (d) Has ever been convicted of:

30 (1) Any crime involving the use or threatened use of force or  
31 violence against the victim; or

32 (2) A sexual offense;

33 (e) Has more than one prior conviction for any felony in this  
34 State or any offense in another state that would be a felony if  
35 committed in this State, not including a violation of NRS 484.379 or  
36 484.3795 **or section 10 of this act;**

37 (f) Has escaped or attempted to escape from any jail or  
38 correctional institution for adults; or

39 (g) Has not made an effort in good faith to participate in or to  
40 complete any educational or vocational program or any program of  
41 treatment, as ordered by the Director,

42 ➔ is not eligible for assignment to the custody of the Division of  
43 Parole and Probation to serve a term of residential confinement  
44 pursuant to this section.



1 4. If an offender assigned to the custody of the Division of  
2 Parole and Probation pursuant to this section escapes or violates any  
3 of the terms or conditions of his residential confinement:

4 (a) The Division of Parole and Probation may, pursuant to the  
5 procedure set forth in NRS 213.410, return the offender to the  
6 custody of the Department.

7 (b) The offender forfeits all or part of the credits for good  
8 behavior earned by him before the escape or violation, as  
9 determined by the Director. The Director may provide for a  
10 forfeiture of credits pursuant to this paragraph only after proof of the  
11 offense and notice to the offender and may restore credits forfeited  
12 for such reasons as he considers proper. The decision of the Director  
13 regarding such a forfeiture is final.

14 5. The assignment of an offender to the custody of the Division  
15 of Parole and Probation pursuant to this section shall be deemed:

16 (a) A continuation of his imprisonment and not a release on  
17 parole; and

18 (b) For the purposes of NRS 209.341, an assignment to a facility  
19 of the Department,

20 ↪ except that the offender is not entitled to obtain any benefits or to  
21 participate in any programs provided to offenders in the custody of  
22 the Department.

23 6. An offender does not have a right to be assigned to the  
24 custody of the Division of Parole and Probation pursuant to this  
25 section, or to remain in that custody after such an assignment, and it  
26 is not intended that the provisions of this section or of NRS 213.371  
27 to 213.410, inclusive, create any right or interest in liberty or  
28 property or establish a basis for any cause of action against the  
29 State, its political subdivisions, agencies, boards, commissions,  
30 departments, officers or employees.

31 **Sec. 51.** NRS 209.425 is hereby amended to read as follows:

32 209.425 1. The Director shall, with the approval of the  
33 Board, establish a program for the treatment of an abuser of alcohol  
34 or drugs who is imprisoned pursuant to paragraph (c) of subsection  
35 1 of NRS 484.3792 or NRS 484.3795 ~~§~~ *or section 10 of this act.*  
36 The program must include an initial period of intensive mental and  
37 physical rehabilitation in a facility of the Department, followed by  
38 regular sessions of education, counseling and any other necessary or  
39 desirable treatment.

40 2. The Director may, upon the request of the offender after the  
41 initial period of rehabilitation, allow the offender to earn wages  
42 under any other program established by the Department if the  
43 offender assigns to the Department any wages he earns under such a  
44 program. The Director may deduct from the wages of the offender



1 an amount determined by the Director, with the approval of the  
2 Board, to:

3 (a) Offset the costs, as reflected in the budget of the Department,  
4 to maintain the offender in a facility or institution of the Department  
5 and in the program of treatment established pursuant to this section;  
6 and

7 (b) Meet any existing obligation of the offender for the support  
8 of his family or restitution to any victim of his crime.

9 **Sec. 52.** NRS 209.481 is hereby amended to read as follows:

10 209.481 1. The Director shall not assign any prisoner to an  
11 institution or facility of minimum security if the prisoner:

12 (a) Except as otherwise provided in NRS 484.3792 and  
13 484.3795, *and section 10 of this act*, is not eligible for parole or  
14 release from prison within a reasonable period;

15 (b) Has recently committed a serious infraction of the rules of an  
16 institution or facility of the Department;

17 (c) Has not performed the duties assigned to him in a faithful  
18 and orderly manner;

19 (d) Has been convicted of a sexual offense;

20 (e) Has committed an act of serious violence during the previous  
21 year; or

22 (f) Has attempted to escape or has escaped from an institution of  
23 the Department.

24 2. The Director shall, by regulation, establish procedures for  
25 classifying and selecting qualified prisoners.

26 **Sec. 53.** NRS 217.070 is hereby amended to read as follows:

27 217.070 "Victim" means:

28 1. A person who is physically injured or killed as the direct  
29 result of a criminal act;

30 2. A minor who was involved in the production of pornography  
31 in violation of NRS 200.710, 200.720, 200.725 or 200.730;

32 3. A minor who was sexually abused, as "sexual abuse" is  
33 defined in NRS 432B.100;

34 4. A person who is physically injured or killed as the direct  
35 result of a violation of NRS 484.379 or any act or neglect of duty  
36 punishable pursuant to NRS 484.3795 ~~or~~ *or section 10 of this act*;

37 5. A pedestrian who is physically injured or killed as the direct  
38 result of a driver of a motor vehicle who failed to stop at the scene  
39 of an accident involving the driver and the pedestrian in violation of  
40 NRS 484.219; or

41 6. A resident who is physically injured or killed as the direct  
42 result of an act of international terrorism as defined in 18 U.S.C. §  
43 2331(1).

44 ➤ The term includes a person who was harmed by any of these acts  
45 whether the act was committed by an adult or a minor.



1       **Sec. 54.** NRS 217.220 is hereby amended to read as follows:

2       217.220 1. Except as otherwise provided in subsections 2 and  
3 3, compensation must not be awarded if the victim:

4       (a) Was injured or killed as a result of the operation of a motor  
5 vehicle, boat or airplane unless the vehicle, boat or airplane was  
6 used as a weapon in a deliberate attempt to harm the victim or  
7 unless the driver of the vehicle injured a pedestrian, violated any of  
8 the provisions of NRS 484.379 or the use of the vehicle was  
9 punishable pursuant to NRS 484.3795 ~~§~~ *or section 10 of this act;*

10       (b) Was not a citizen of the United States or was not lawfully  
11 entitled to reside in the United States at the time the incident upon  
12 which the claim is based occurred or he is unable to provide proof  
13 that he was a citizen of the United States or was lawfully entitled to  
14 reside in the United States at that time;

15       (c) Was a coconspirator, codefendant, accomplice or adult  
16 passenger of the offender whose crime caused the victim's injuries;

17       (d) Was injured or killed while serving a sentence of  
18 imprisonment in a prison or jail;

19       (e) Was injured or killed while living in a facility for the  
20 commitment or detention of children who are adjudicated delinquent  
21 pursuant to title 5 of NRS; or

22       (f) Fails to cooperate with law enforcement agencies. Such  
23 cooperation does not require prosecution of the offender.

24       2. Paragraph (a) of subsection 1 does not apply to a minor who  
25 was physically injured or killed while being a passenger in the  
26 vehicle of an offender who violated NRS 484.379 or is punishable  
27 pursuant to NRS 484.3795 ~~§~~ *or section 10 of this act.*

28       3. A victim who is a relative of the offender or who, at the time  
29 of the personal injury or death of the victim, was living with the  
30 offender in a continuing relationship may be awarded compensation  
31 if the offender would not profit by the compensation of the victim.

32       4. The compensation officer may deny an award if he  
33 determines that the applicant will not suffer serious financial  
34 hardship. In determining whether an applicant will suffer serious  
35 financial hardship, the compensation officer shall not consider:

36       (a) The value of the victim's dwelling;

37       (b) The value of one motor vehicle owned by the victim; or

38       (c) The savings and investments of the victim up to an amount  
39 equal to the victim's annual salary.

40       **Sec. 55.** NRS 453A.300 is hereby amended to read as follows:

41       453A.300 1. A person who holds a registry identification  
42 card issued to him pursuant to NRS 453A.220 or 453A.250 is not  
43 exempt from state prosecution for, nor may he establish an  
44 affirmative defense to charges arising from, any of the following  
45 acts:



1 (a) Driving, operating or being in actual physical control of a  
2 vehicle or a vessel under power or sail while under the influence of  
3 marijuana.

4 (b) Engaging in any other conduct prohibited by NRS 484.379,  
5 484.3795, *or section 10 of this act*, subsection 2 of NRS 488.400,  
6 NRS 488.410, 488.420, *section 31 of this act* or 493.130.

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

9 (d) Possessing marijuana in violation of NRS 453.336 or  
10 possessing drug paraphernalia in violation of NRS 453.560 or  
11 453.566, if the possession of the marijuana or drug paraphernalia is  
12 discovered because the person engaged or assisted in the medical  
13 use of marijuana in:

14 (1) Any public place or in any place open to the public or  
15 exposed to public view; or

16 (2) Any local detention facility, county jail, state prison,  
17 reformatory or other correctional facility, including, without  
18 limitation, any facility for the detention of juvenile offenders.

19 (e) Delivering marijuana to another person who he knows does  
20 not lawfully hold a registry identification card issued by the  
21 Department or its designee pursuant to NRS 453A.220 or 453A.250.

22 (f) Delivering marijuana for consideration to any person,  
23 regardless of whether the recipient lawfully holds a registry  
24 identification card issued by the Department or its designee pursuant  
25 to NRS 453A.220 or 453A.250.

26 2. In addition to any other penalty provided by law, if the  
27 Department determines that a person has willfully violated a  
28 provision of this chapter or any regulation adopted by the  
29 Department or Division to carry out the provisions of this chapter,  
30 the Department may, at its own discretion, prohibit the person from  
31 obtaining or using a registry identification card for a period of up to  
32 6 months.

33 **Sec. 56.** NRS 458.260 is hereby amended to read as follows:

34 458.260 1. Except as otherwise provided in subsection 2, the  
35 use of alcohol, the status of drunkard and the fact of being found in  
36 an intoxicated condition are not:

37 (a) Public offenses and shall not be so treated in any ordinance  
38 or resolution of a county, city or town.

39 (b) Elements of an offense giving rise to a criminal penalty or  
40 civil sanction.

41 2. The provisions of subsection 1 do not apply to:

42 (a) A civil or administrative violation for which intoxication is  
43 an element of the violation pursuant to the provisions of a specific  
44 statute or regulation;



1 (b) A criminal offense for which intoxication is an element of  
2 the offense pursuant to the provisions of a specific statute or  
3 regulation;

4 (c) A homicide resulting from driving, operating or being in  
5 actual physical control of a vehicle or a vessel under power or sail  
6 while under the influence of intoxicating liquor or a controlled  
7 substance or resulting from any other conduct prohibited by NRS  
8 484.379, 484.3795, *or section 10 of this act*, subsection 2 of NRS  
9 488.400, NRS 488.410 or 488.420 ~~§~~ *or section 31 of this act*; and

10 (d) Any offense or violation which is similar to an offense or  
11 violation described in paragraph (a), (b) or (c) and which is set forth  
12 in an ordinance or resolution of a county, city or town.

13 3. This section does not make intoxication an excuse or  
14 defense for any criminal act.

15 **Sec. 57.** NRS 458.270 is hereby amended to read as follows:

16 458.270 1. Except as otherwise provided in subsection 7, a  
17 person who is found in any public place under the influence of  
18 alcohol, in such a condition that he is unable to exercise care for his  
19 health or safety or the health or safety of other persons, must be  
20 placed under civil protective custody by a peace officer.

21 2. A peace officer may use upon such a person the kind and  
22 degree of force which would be lawful if he were effecting an arrest  
23 for a misdemeanor with a warrant.

24 3. If a licensed facility for the treatment of persons who abuse  
25 alcohol exists in the community where the person is found, he must  
26 be delivered to the facility for observation and care. If no such  
27 facility exists in the community, the person so found may be placed  
28 in a county or city jail or detention facility for shelter or supervision  
29 for his health and safety until he is no longer under the influence of  
30 alcohol. He may not be required against his will to remain in a  
31 licensed facility, jail or detention facility longer than 48 hours.

32 4. An intoxicated person taken into custody by a peace officer  
33 for a public offense must immediately be taken to a secure  
34 detoxification unit or other appropriate medical facility if his  
35 condition appears to require emergency medical treatment. Upon  
36 release from the detoxification unit or medical facility, the person  
37 must immediately be remanded to the custody of the apprehending  
38 peace officer and the criminal proceedings proceed as prescribed by  
39 law.

40 5. The placement of a person found under the influence of  
41 alcohol in civil protective custody must be:

42 (a) Recorded at the facility, jail or detention facility to which he  
43 is delivered; and

44 (b) Communicated at the earliest practical time to his family or  
45 next of kin if they can be located.



1 6. Every peace officer and other public employee or agency  
2 acting pursuant to this section is performing a discretionary function  
3 or duty.

4 7. The provisions of this section do not apply to a person who  
5 is apprehended or arrested for:

6 (a) A civil or administrative violation for which intoxication is  
7 an element of the violation pursuant to the provisions of a specific  
8 statute or regulation;

9 (b) A criminal offense for which intoxication is an element of  
10 the offense pursuant to the provisions of a specific statute or  
11 regulation;

12 (c) A homicide resulting from driving, operating or being in  
13 actual physical control of a vehicle or a vessel under power or sail  
14 while under the influence of intoxicating liquor or a controlled  
15 substance or resulting from any other conduct prohibited by NRS  
16 484.379, 484.3795, *or section 10 of this act*, subsection 2 of NRS  
17 488.400, NRS 488.410 or 488.420 ~~§~~ *or section 31 of this act*; and

18 (d) Any offense or violation which is similar to an offense or  
19 violation described in paragraph (a), (b) or (c) and which is set forth  
20 in an ordinance or resolution of a county, city or town.

21 **Sec. 58.** NRS 458.300 is hereby amended to read as follows:

22 458.300 Subject to the provisions of NRS 458.290 to 458.350,  
23 inclusive, an alcoholic or a drug addict who has been convicted of a  
24 crime is eligible to elect to be assigned by the court to a program of  
25 treatment for the abuse of alcohol or drugs pursuant to NRS 453.580  
26 before he is sentenced unless:

27 1. The crime is a crime against the person punishable as a  
28 felony or gross misdemeanor as provided in chapter 200 of NRS or  
29 the crime is an act which constitutes domestic violence as set forth  
30 in NRS 33.018;

31 2. The crime is that of trafficking of a controlled substance;

32 3. The crime is a violation of NRS 484.379 or 484.3795 ~~§~~ *or*  
33 *section 10 of this act*;

34 4. The alcoholic or drug addict has a record of two or more  
35 convictions of a crime described in subsection 1 or 2, a similar  
36 crime in violation of the laws of another state, or of three or more  
37 convictions of any felony;

38 5. Other criminal proceedings alleging commission of a felony  
39 are pending against the alcoholic or drug addict;

40 6. The alcoholic or drug addict is on probation or parole and  
41 the appropriate parole or probation authority does not consent to the  
42 election; or

43 7. The alcoholic or drug addict elected and was admitted,  
44 pursuant to NRS 458.290 to 458.350, inclusive, to a program of  
45 treatment not more than twice within the preceding 5 years.





1     **Sec. 59.** NRS 629.065 is hereby amended to read as follows:

2     629.065 1. Each provider of health care shall, upon request,  
3 make available to a law enforcement agent or district attorney the  
4 health care records of a patient which relate to a test of his blood,  
5 breath or urine if:

6     (a) The patient is suspected of having violated NRS 484.379,  
7 484.3795, *or section 10 of this act*, subsection 2 of NRS 488.400,  
8 NRS 488.410 or 488.420 ~~§~~ *or section 31 of this act*; and

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

10    ➔ To the extent possible, the provider of health care shall limit the  
11 inspection to the portions of the records which pertain to the  
12 presence of alcohol or a controlled substance, chemical, poison,  
13 organic solvent or another prohibited substance in the blood, breath  
14 or urine of the patient.

15    2. The records must be made available at a place within the  
16 depository convenient for physical inspection. Inspection must be  
17 permitted at all reasonable office hours and for a reasonable length  
18 of time. The provider of health care shall also furnish a copy of the  
19 records to each law enforcement agent or district attorney described  
20 in subsection 1 who requests the copy and pays the costs of  
21 reproducing the copy.

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

25    4. A provider of health care and his agents and employees are  
26 immune from any civil action for any disclosures made in  
27 accordance with the provisions of this section or any consequential  
28 damages.

29    5. As used in this section, "prohibited substance" has the  
30 meaning ascribed to it in NRS 484.1245.

31     **Sec. 60.** NRS 690B.029 is hereby amended to read as follows:

32     690B.029 1. A policy of insurance against liability arising  
33 out of the ownership, maintenance or use of a motor vehicle  
34 delivered or issued for delivery in this State to a person who is 55  
35 years of age or older must contain a provision for the reduction in  
36 the premiums for 3-year periods if the insured:

37     (a) Successfully completes, after attaining 55 years of age and  
38 every 3 years thereafter, a course of traffic safety approved by the  
39 Department of Motor Vehicles; and

40     (b) For the 3-year period before completing the course of traffic  
41 safety and each 3-year period thereafter:

42         (1) Is not involved in an accident involving a motor vehicle  
43 for which the insured is at fault;

44         (2) Maintains a driving record free of violations; and





1 (3) Has not been convicted of or entered a plea of guilty or  
2 nolo contendere to a moving traffic violation or an offense  
3 involving:

4 (I) The operation of a motor vehicle while under the  
5 influence of intoxicating liquor or a controlled substance; or

6 (II) Any other conduct prohibited by NRS 484.379 or  
7 484.3795 *or section 10 of this act* or a law of any other jurisdiction  
8 that prohibits the same or similar conduct.

9 2. The reduction in the premiums provided for in subsection 1  
10 must be based on the actuarial and loss experience data available to  
11 each insurer and must be approved by the Commissioner. Each  
12 reduction must be calculated based on the amount of the premium  
13 before any reduction in that premium is made pursuant to this  
14 section, and not on the amount of the premium once it has been  
15 reduced.

16 3. A course of traffic safety that an insured is required to  
17 complete as the result of moving traffic violations must not be used  
18 as the basis for a reduction in premiums pursuant to this section.

19 4. The organization that offers a course of traffic safety  
20 approved by the Department of Motor Vehicles shall issue a  
21 certificate to each person who successfully completes the course. A  
22 person must use the certificate to qualify for the reduction in the  
23 premiums pursuant to this section.

24 5. The Commissioner shall review and approve or disapprove a  
25 policy of insurance that offers a reduction in the premiums pursuant  
26 to subsection 1. An insurer must receive written approval from the  
27 Commissioner before delivering or issuing a policy with a provision  
28 containing such a reduction.

29 **Sec. 61.** NRS 706.8841 is hereby amended to read as follows:

30 706.8841 1. The Administrator shall issue a driver's permit  
31 to qualified persons who wish to be employed by certificate holders  
32 as taxicab drivers. Before issuing a driver's permit, the  
33 Administrator shall:

34 (a) Require the applicant to submit a complete set of his  
35 fingerprints which the Administrator may forward to the Central  
36 Repository for Nevada Records of Criminal History for submission  
37 to the Federal Bureau of Investigation to ascertain whether the  
38 applicant has a criminal record and the nature of any such record,  
39 and shall further investigate the applicant's background; and

40 (b) Require proof that the applicant:

41 (1) Has been a resident of the State for 30 days before his  
42 application for a permit;

43 (2) Can read and orally communicate in the English  
44 language; and



1 (3) Has a valid license issued under NRS 483.325 which  
2 authorizes him to drive a taxicab in this State.

3 2. The Administrator may refuse to issue a driver's permit if  
4 the applicant has been convicted of:

5 (a) A felony relating to the practice of taxicab drivers in this  
6 State or any other jurisdiction at any time before the date of the  
7 application;

8 (b) A felony involving any sexual offense in this State or any  
9 other jurisdiction at any time before the date of the application; ~~for~~

10 (c) A violation of NRS 484.379 or 484.3795 or a law of any  
11 other jurisdiction that prohibits the same or similar conduct within 3  
12 years before the date of the application ~~for~~; or

13 *(d) A violation of section 10 of this act or a law of any other*  
14 *jurisdiction that prohibits the same or similar conduct.*

15 3. The Administrator may refuse to issue a driver's permit if  
16 the Administrator, after the background investigation of the  
17 applicant, determines that the applicant is morally unfit or if the  
18 issuance of the driver's permit would be detrimental to public  
19 health, welfare or safety.

20 4. A taxicab driver shall pay to the Administrator, in advance,  
21 \$40 for an original driver's permit and \$10 for a renewal.

22 **Sec. 62.** Section 10 of this act is hereby amended to read as  
23 follows:

24 Sec. 10. 1. A person commits vehicular homicide if  
25 he:

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

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

29 (2) Has a concentration of alcohol of ~~0.08~~ **0.10** or  
30 more in his blood or breath;

31 (3) Is found by measurement within 2 hours after  
32 driving or being in actual physical control of a vehicle to have  
33 a concentration of alcohol of ~~0.08~~ **0.10** or more in his blood  
34 or breath;

35 (4) Is under the influence of a controlled substance or  
36 is under the combined influence of intoxicating liquor and a  
37 controlled substance;

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

43 (6) Has a prohibited substance in his blood or urine in  
44 an amount that is equal to or greater than the amount set forth  
45 in subsection 3 of NRS 484.379;



1 (b) Proximately causes the death of a person other than  
2 himself while driving or in actual physical control of a  
3 vehicle on or off the highways of this State; and

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

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

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

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

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

19 4. A prosecuting attorney shall not dismiss a charge of  
20 vehicular homicide in exchange for a plea of guilty or nolo  
21 contendere to a lesser charge or for any other reason unless he  
22 knows or it is obvious that the charge is not supported by  
23 probable cause or cannot be proved at the time of trial. A  
24 sentence imposed pursuant to subsection 2 may not be  
25 suspended nor may probation be granted.

26 5. If consumption is proven by a preponderance of the  
27 evidence, it is an affirmative defense under subparagraph (3)  
28 of paragraph (a) of subsection 1 that the defendant consumed  
29 a sufficient quantity of alcohol after driving or being in actual  
30 physical control of the vehicle, and before his blood or breath  
31 was tested, to cause him to have a concentration of alcohol of  
32 ~~{0.08}~~ **0.10** or more in his blood or breath. A defendant who  
33 intends to offer this defense at a trial or preliminary hearing  
34 must, not less than 14 days before the trial or hearing or at  
35 such other time as the court may direct, file and serve on the  
36 prosecuting attorney a written notice of that intent.

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

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

42 (a) A violation of NRS 484.379 or 484.3795;

43 (b) A homicide resulting from driving or being in actual  
44 physical control of a vehicle while under the influence of  
45 intoxicating liquor or a controlled substance or resulting from



1 any other conduct prohibited by this section or NRS 484.379  
2 or 484.3795; or

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

6 **Sec. 63.** Section 31 of this act is hereby amended to read as  
7 follows:

8 Sec. 31. 1. A person commits homicide by vessel if  
9 he:

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

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

13 (2) Has a concentration of alcohol of ~~0.08~~ 0.10 or  
14 more in his blood or breath;

15 (3) Is found by measurement within 2 hours after  
16 operating or being in actual physical control of a vessel under  
17 power or sail to have a concentration of alcohol of ~~0.08~~ 0.10  
18 or more in his blood or breath;

19 (4) Is under the influence of a controlled substance or  
20 is under the combined influence of intoxicating liquor and a  
21 controlled substance;

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

27 (6) Has a prohibited substance in his blood or urine in  
28 an amount that is equal to or greater than the amount set forth  
29 in subsection 3 of NRS 488.420;

30 (b) Proximately causes the death of a person other than  
31 himself while operating or in actual physical control of a  
32 vessel under power or sail; and

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

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

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

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

44 3. A person imprisoned pursuant to subsection 2 must,  
45 insofar as practicable, be segregated from offenders whose



1 crimes were violent and, insofar as practicable, be assigned to  
2 an institution or facility of minimum security.

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

10 5. If consumption is proven by a preponderance of the  
11 evidence, it is an affirmative defense under subparagraph (3)  
12 of paragraph (a) of subsection 1 that the defendant consumed  
13 a sufficient quantity of alcohol after operating or being in  
14 actual physical control of the vessel, and before his blood or  
15 breath was tested, to cause him to have a concentration of  
16 alcohol of ~~0.08~~ 0.10 or more in his blood or breath. A  
17 defendant who intends to offer this defense at a trial or  
18 preliminary hearing must, not less than 14 days before the  
19 trial or hearing or at such other time as the court may direct,  
20 file and serve on the prosecuting attorney a written notice of  
21 that intent.

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

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

27 (a) A violation of NRS 488.410 or 488.420;

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

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

36 **Sec. 64.** 1. This section and sections 1 to 4, inclusive, 6 to  
37 16, inclusive, 18 to 32, inclusive, 34 and 36 to 61, inclusive, of this  
38 act become effective on October 1, 2005.

39 2. Sections 4, 10, 16, 31, 32 and 34 of this act expire by  
40 limitation on the date of the repeal of the federal law requiring each  
41 state to make it unlawful for a person to operate a motor vehicle  
42 with a blood alcohol concentration of 0.08 percent or greater as a  
43 condition to receiving federal funding for the construction of  
44 highways in this State.



1       3. Sections 5, 17, 33, 35, 62 and 63 of this act become effective  
2 on the date of the repeal of the federal law requiring each state to  
3 make it unlawful for a person to operate a motor vehicle with a  
4 blood alcohol concentration of 0.08 percent or greater as a condition  
5 to receiving federal funding for the construction of highways in this  
6 State.

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