
SENATE BILL NO. 447—COMMITTEE ON FINANCE

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

APRIL 3, 2023

Referred to Committee on Growth and Infrastructure

SUMMARY—Authorizes the use of testing devices to determine the presence of a controlled substance or prohibited substance in the oral fluid of a person in certain circumstances. (BDR 43-1081)

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

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

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

Legislative Counsel’s Digest:

- 1 Existing law provides that a person who drives or is in actual physical control
- 2 of a vehicle on a highway or on premises to which the public has access or who
- 3 operates or is in actual physical control of a vessel under power or sail on the
- 4 waters of this State is deemed to have given consent to a preliminary breath test to
- 5 determine the concentration of alcohol in his or her breath in certain circumstances.
- 6 (NRS 484C.150, 488.450) **Sections 1 and 14** of this bill additionally provide that
- 7 any such person is deemed to have given consent to a preliminary test of his or her
- 8 oral fluid to determine the presence of a controlled substance or prohibited
- 9 substance therein.
- 10 Existing law contains various provisions that refer to the presence of a
- 11 controlled substance or prohibited substance in the blood or urine of a person.



12 (NRS 50.315, 50.320, 484C.210-484C.240, 629.065) **Sections 2-5 and 16-18** of
13 this bill include references to the oral fluid of a person in such provisions.
14 Existing law creates the Committee on Testing for Intoxication and requires the
15 Committee to certify a device that is designed and manufactured to be accurate and
16 reliable in determining the concentration of alcohol in a person's breath. (NRS
17 484C.600, 484C.610) **Section 8** of this bill renames the Committee as the
18 Committee on Testing for Intoxication and Drug Impairment, and **section 9** of this
19 bill additionally requires the Committee to certify devices that are designed and
20 manufactured to be accurate and reliable in determining the presence of a
21 controlled substance or prohibited substance in a person's oral fluid. **Section 10** of
22 this bill requires the Committee to adopt regulations: (1) prescribing standards and
23 procedures for calibrating such devices; (2) establishing methods for ascertaining
24 the competence of persons to calibrate such devices and providing for the
25 examination and certification of those persons by the Department of Public Safety;
26 and (3) prescribing the form and contents of records relating to the calibration of
27 such devices and certain other records. **Section 11** of this bill requires the
28 Committee to adopt regulations: (1) establishing methods for ascertaining the
29 competence of persons to operate such devices and examine prospective operators
30 and determine their competence; and (2) providing for the certification of operators
31 and examiners by the Department. **Sections 5-7, 12, 13 and 15-17** of this bill make
32 conforming changes by updating the name of the Committee throughout the
33 Nevada Revised Statutes. **Sections 5, 15 and 16** of this bill also make conforming
34 changes by including references to oral fluid testing devices in the applicable
35 provisions of the Nevada Revised Statutes that currently refer to breath-testing
36 devices.

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

1 **Section 1.** NRS 484C.150 is hereby amended to read as
2 follows:
3 484C.150 1. Any person who drives or is in actual physical
4 control of a vehicle on a highway or on premises to which the public
5 has access shall be deemed to have given his or her consent to a
6 preliminary test of his or her breath *or oral fluid* to determine the
7 concentration of alcohol in his or her breath *or the presence of a*
8 *controlled substance or prohibited substance in his or her oral*
9 *fluid, as applicable*, when the test is administered at the request of a
10 police officer at the scene of a vehicle crash or where the police
11 officer stops a vehicle, if the officer has reasonable grounds to
12 believe that the person to be tested 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 484C.110,
16 484C.120, 484C.130 or 484C.430.
17 2. If the person fails to submit to the test, the officer shall, if
18 reasonable grounds otherwise exist, arrest the person and take him
19 or her to a convenient place for the administration of a reasonably
20 available evidentiary test under NRS 484C.160.



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

4 **Sec. 2.** NRS 484C.210 is hereby amended to read as follows:

5 484C.210 1. If a person fails to submit to an evidentiary test
6 as requested by a police officer pursuant to NRS 484C.160, the
7 license, permit or privilege to drive of the person must be revoked as
8 provided in NRS 484C.220, and the person is not eligible for a
9 license, permit or privilege to drive for a period of:

10 (a) One year; or

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

14 2. If the result of a test given under NRS 484C.150 or
15 484C.160 shows that a person had a concentration of alcohol of 0.08
16 or more in his or her blood or breath or a detectable amount of a
17 controlled substance or prohibited substance in his or her *oral fluid*,
18 blood or urine for which he or she did not have a valid prescription,
19 as defined in NRS 453.128, or hold a valid registry identification
20 card, as defined in NRS 678C.080, at the time of the test, the
21 license, permit or privilege of the person to drive must be revoked as
22 provided in NRS 484C.220 and the person is not eligible for a
23 license, permit or privilege for a period of 185 days.

24 3. At any time while a person is not eligible for a license,
25 permit or privilege to drive following a revocation under subsection
26 1 or 2, the person shall install, at his or her own expense, an ignition
27 interlock device in any motor vehicle which the person operates as a
28 condition to obtaining an ignition interlock privilege pursuant to
29 NRS 483.490.

30 4. The Department may provide for an exception to the
31 requirements of subsection 3 and issue a restricted license pursuant
32 to subsection 1 of NRS 483.490 if the Department determines that
33 the person is not a repeat intoxicated driver, as that term is defined
34 in 23 C.F.R. § 1275.3(k), and:

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

39 (b) The person resides more than 100 miles from a manufacturer
40 of an ignition interlock device or its agent.

41 5. If a revocation of a person's license, permit or privilege to
42 drive under NRS 62E.640 or 483.460 follows a revocation under
43 subsection 2 which was based on the person having a concentration
44 of alcohol of 0.08 or more in his or her blood or breath, the
45 Department shall cancel the revocation under that subsection and



1 give the person credit for any period during which the person was
2 not eligible for a license, permit or privilege.

3 6. If an order to install an ignition interlock device pursuant to
4 NRS 62E.640 or 484C.460 follows the installation of an ignition
5 interlock device pursuant to subsection 3, the court shall give the
6 person day-for-day credit for any period during which the person
7 can provide proof satisfactory to the court that he or she had an
8 ignition interlock device installed as a condition to obtaining an
9 ignition interlock privilege.

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

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

14 484C.220 1. As agent for the Department, the officer who
15 requested that a test be given pursuant to NRS 484C.150 or
16 484C.160 or who obtained the result of a test given pursuant to NRS
17 484C.150 or 484C.160 shall immediately serve an order of
18 revocation of the license, permit or privilege to drive on a person
19 who failed to submit to a test requested by the police officer
20 pursuant to NRS 484C.160 or who has a concentration of alcohol of
21 0.08 or more in his or her blood or breath or has a detectable amount
22 of a controlled substance or prohibited substance in his or her *oral*
23 *fluid*, blood or urine for which he or she did not have a valid
24 prescription, as defined in NRS 453.128, or hold a valid registry
25 identification card, as defined in NRS 678C.080, if that person is
26 present, and shall seize the license or permit to drive of the person.
27 The officer shall then, unless the information is expressly set forth
28 in the order of revocation, advise the person of his or her right to
29 administrative and judicial review of the revocation pursuant to
30 NRS 484C.230 and, except as otherwise provided in this subsection,
31 that the person has a right to request a temporary license. The officer
32 shall also, unless the information is expressly set forth in the order
33 of revocation, advise the person that he or she is required to install
34 an ignition interlock device pursuant to NRS 484C.210. If the
35 person currently is driving with a temporary license that was issued
36 pursuant to this section or NRS 484C.230, the person is not entitled
37 to request an additional temporary license pursuant to this section or
38 NRS 484C.230, and the order of revocation issued by the officer
39 must revoke the temporary license that was previously issued. If the
40 person is entitled to request a temporary license, the officer shall
41 issue the person a temporary license on a form approved by the
42 Department if the person requests one, which is effective for only 7
43 days including the date of issuance. The officer shall immediately
44 transmit the person's license or permit to the Department along with
45 the written certificate required by subsection 2.



1 2. When a police officer has served an order of revocation of a
2 driver's license, permit or privilege on a person pursuant to
3 subsection 1, or later receives the result of an evidentiary test which
4 indicates that a person, not then present, had a concentration of
5 alcohol of 0.08 or more in his or her blood or breath or had a
6 detectable amount of a controlled substance or prohibited substance
7 in his or her *oral fluid*, blood or urine for which he or she did not
8 have a valid prescription, as defined in NRS 453.128, or hold a valid
9 registry identification card, as defined in NRS 678C.080, the officer
10 shall immediately prepare and transmit to the Department, together
11 with the seized license or permit and a copy of the result of the test,
12 if any, a written certificate that the officer had reasonable grounds to
13 believe that the person had been driving or in actual physical control
14 of a vehicle:

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

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

25 ↪ The certificate must also indicate whether the officer served an
26 order of revocation on the person and whether the officer issued the
27 person a temporary license.

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

41 4. Notice of an order of revocation and notice of the
42 affirmation of a prior order of revocation or the cancellation of a
43 temporary license provided in NRS 484C.230 is sufficient if it is
44 mailed to the person's last known address as shown by any
45 application for a license. The date of mailing may be proved by the



1 certificate of any officer or employee of the Department, specifying
2 the time of mailing the notice. The notice is presumed to have been
3 received upon the expiration of 5 days after it is deposited, postage
4 prepaid, in the United States mail.

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

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

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

25 (a) Failed to submit to a required test provided for in NRS
26 484C.160; or

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

33 ↪ Upon an affirmative finding on either issue, the Department shall
34 affirm the order of revocation. Otherwise, the order of revocation
35 must be rescinded.

36 3. If, after the hearing, the order of revocation is affirmed, the
37 person whose license, permit or privilege to drive has been revoked
38 shall, if not previously installed, install an ignition interlock device
39 pursuant to NRS 484C.210.

40 4. If, after the hearing, the order of revocation is affirmed, the
41 person whose license, privilege or permit has been revoked is
42 entitled to a review of the same issues in district court in the same
43 manner as provided by chapter 233B of NRS. The court shall notify
44 the Department upon the issuance of a stay, and the Department
45 shall issue an additional temporary license for a period which is



1 sufficient to complete the review. A person who is issued a
2 temporary license is not subject to and is exempt during the period
3 of the judicial review from the requirement to install an ignition
4 interlock device pursuant to NRS 484C.210.

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

11 **Sec. 5.** NRS 484C.240 is hereby amended to read as follows:

12 484C.240 1. If a person refuses to submit to a required
13 chemical test provided for in NRS 484C.150 or 484C.160, evidence
14 of that refusal is admissible in any criminal or administrative action
15 arising out of acts alleged to have been committed while the person
16 was:

17 (a) Driving or in actual physical control of a vehicle while under
18 the influence of intoxicating liquor or a controlled substance or with
19 a prohibited substance in his or her *oral fluid*, blood or urine; or

20 (b) Engaging in any other conduct prohibited by NRS 484C.110,
21 484C.120, 484C.130 or 484C.430.

22 2. Except as otherwise provided in subsection 3 of NRS
23 484C.150, a court or hearing officer may not exclude evidence of a
24 required test or failure to submit to such a test if the police officer or
25 other person substantially complied with the provisions of NRS
26 484C.150 to 484C.250, inclusive, and 484C.600 to 484C.640,
27 inclusive.

28 3. If a person submits to a chemical test provided for in NRS
29 484C.150 or 484C.160, full information concerning that test must be
30 made available, upon request of the person, to the person or his or
31 her attorney.

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

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

39 484C.388 "Testing" means any procedure approved by the
40 Committee on Testing for Intoxication *and Drug Impairment* for
41 determining the concentration of alcohol or the amount of a
42 prohibited substance in a person's system that is provided for in the
43 applicable guidelines adopted pursuant to NRS 484C.396.



Sec. 7. NRS 484C.510 is hereby amended to read as follows:

484C.510 1. If a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, any violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 and a chemical analysis of his or her blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of \$60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

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

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

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

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

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

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

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

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

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

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

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

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on



1 Testing for Intoxication *and Drug Impairment* created in
2 NRS 484C.600.

3 **Sec. 8.** NRS 484C.600 is hereby amended to read as follows:

4 484C.600 1. There is hereby created the Committee on
5 Testing for Intoxication ~~{}~~ *and Drug Impairment*, consisting of five
6 members.

7 2. The Director of the Department of Public Safety or his or
8 her delegate is the Chair of the Committee. The remaining members
9 of the Committee are appointed by the Director and serve at the
10 pleasure of the Director. At least three of the members appointed by
11 the Director must be technically qualified in fields related to testing
12 for intoxication ~~{}~~ *and drug impairment*. Not more than three
13 members of the Committee may be from any one county.

14 3. The Committee shall meet at the call of the Director of the
15 Department of Public Safety and as frequently as the Committee
16 deems necessary. Three members of the Committee constitute a
17 quorum. If a member is unable to attend a meeting, the member may
18 be represented by an alternate approved by the Director.

19 4. Any person who is aggrieved by a decision of the
20 Committee may appeal in writing to a hearing officer of the
21 Department of Public Safety.

22 **Sec. 9.** NRS 484C.610 is hereby amended to read as follows:

23 484C.610 1. The Committee on Testing for Intoxication *and*
24 *Drug Impairment* shall:

25 (a) In the manner set forth in subsection 2, certify ~~{a device}~~
26 *devices* that the Committee determines ~~{is}~~ *are* designed and
27 manufactured to be accurate and reliable for the purpose of testing a
28 person's breath to determine the concentration of alcohol in the
29 person's breath ~~{}~~ *or testing a person's oral fluid to determine the*
30 *presence of a controlled substance or prohibited substance in the*
31 *person's oral fluid, as applicable;* and

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

35 2. To determine whether a device is designed and
36 manufactured to be accurate and reliable for the purpose of testing a
37 person's breath to determine the concentration of alcohol in the
38 person's breath ~~{}~~ *or testing a person's oral fluid to determine the*
39 *presence of a controlled substance or prohibited substance in the*
40 *person's oral fluid*, the Committee may ~~{}~~ *, as applicable:*

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

44 (b) Establish its own standards and procedures for evaluating
45 those devices and obtain evaluations of the devices from the



1 Director of the Department of Public Safety or the agent of the
2 Director.

3 3. If such a device has been certified by the Committee to be
4 accurate and reliable pursuant to this section, it is presumed that, as
5 designed and manufactured, the device is accurate and reliable for
6 the purpose of testing a person's breath to determine the
7 concentration of alcohol in the person's breath ~~or~~ *or testing a*
8 *person's oral fluid to determine the presence of a controlled*
9 *substance or prohibited substance in the person's oral fluid, as*
10 *applicable.*

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

16 **Sec. 10.** NRS 484C.620 is hereby amended to read as follows:
17 484C.620 1. The Committee on Testing for Intoxication *and*
18 *Drug Impairment* shall adopt regulations which:

19 (a) Prescribe standards and procedures for calibrating devices
20 used for testing a person's breath to determine the concentration of
21 alcohol in the person's breath ~~or~~ *or testing a person's oral fluid to*
22 *determine the presence of a controlled substance or prohibited*
23 *substance in the person's oral fluid, as applicable.* The regulations
24 must specify the period within which a law enforcement agency that
25 uses such a device must calibrate it or have it calibrated by the
26 Director of the Department of Public Safety or the agent of the
27 Director.

28 (b) Establish methods for ascertaining the competence of
29 persons to calibrate such devices and provide for the examination
30 and certification of those persons by the Department of Public
31 Safety. A certificate issued by the Department may not be made
32 effective for longer than 3 years.

33 (c) Prescribe the form and contents of records respecting the
34 calibration of such devices which must be kept by a law
35 enforcement agency and any other records respecting the
36 maintenance or operation of those devices which it finds should be
37 kept by such an agency.

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

41 **Sec. 11.** NRS 484C.630 is hereby amended to read as follows:
42 484C.630 1. The Committee on Testing for Intoxication *and*
43 *Drug Impairment* shall adopt regulations which:

44 (a) Establish methods for ascertaining the competence of
45 persons to:



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

6 (2) Examine prospective operators and determine their
7 competence.

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

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

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

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

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

27 **Sec. 12.** NRS 484C.640 is hereby amended to read as follows:

28 484C.640 1. The Committee on Testing for Intoxication *and*
29 *Drug Impairment* may adopt regulations that require:

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

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

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

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

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



Sec. 13. NRS 488.440 is hereby amended to read as follows:

488.440 1. If a defendant pleads guilty or guilty but mentally ill to, or is found guilty or guilty but mentally ill of, a violation of NRS 488.410, 488.420 or 488.425 and a chemical analysis of his or her blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of \$60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

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

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

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

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

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

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

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

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

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

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

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

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on



1 Testing for Intoxication *and Drug Impairment* created in
2 NRS 484C.600.

3 **Sec. 14.** NRS 488.450 is hereby amended to read as follows:

4 488.450 1. Any person who operates or is in actual physical
5 control of a vessel under power or sail on the waters of this State
6 shall be deemed to have given consent to a preliminary test of his or
7 her breath *or oral fluid* to determine the concentration of alcohol in
8 his or her breath *or the presence of a controlled substance or*
9 *prohibited substance in his or her oral fluid, as applicable*, when
10 the test is administered at the request of a peace officer after a vessel
11 accident or collision or where an officer stops a vessel, if the officer
12 has reasonable grounds to believe that the person to be tested was:

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

16 (b) Engaging in any other conduct prohibited by NRS 488.410,
17 488.420 or 488.425.

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

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

25 **Sec. 15.** NRS 488.480 is hereby amended to read as follows:

26 488.480 1. If a person refuses to submit to a required
27 chemical test provided for in NRS 488.450 or 488.460, evidence of
28 that refusal is admissible in any criminal action arising out of acts
29 alleged to have been committed while the person was:

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

33 (b) Engaging in any other conduct prohibited by NRS 488.410,
34 488.420 or 488.425.

35 2. Except as otherwise provided in subsection 3 of NRS
36 488.450, a court may not exclude evidence of a required test or
37 failure to submit to such a test if the peace officer or other person
38 substantially complied with the provisions of NRS 488.450 to
39 488.500, inclusive.

40 3. If a person submits to a chemical test provided for in NRS
41 488.450 or 488.460, full information concerning that test must be
42 made available, upon request, to the person or the person's attorney.

43 4. Evidence of a required test is not admissible in a criminal
44 proceeding unless it is shown by documentary or other evidence that
45 the device for testing breath *or oral fluid, as applicable*, was



1 certified pursuant to NRS 484C.610 and was calibrated, maintained
2 and operated as provided by the regulations of the Committee on
3 Testing for Intoxication *and Drug Impairment* adopted pursuant to
4 NRS 484C.620, 484C.630 or 484C.640.

5 5. If the device for testing breath *or oral fluid, as applicable,*
6 has been certified by the Committee on Testing for Intoxication *and*
7 *Drug Impairment* to be accurate and reliable pursuant to NRS
8 484C.610, it is presumed that, as designed and manufactured, the
9 device is accurate and reliable for the purpose of testing a person's
10 breath to determine the concentration of alcohol in the person's
11 breath ~~or~~ *or testing a person's oral fluid to determine the presence*
12 *of a controlled substance or prohibited substance in the person's*
13 *oral fluid, as applicable.*

14 6. A court shall take judicial notice of the certification by the
15 Director of a person to operate testing devices of one of the certified
16 types. If a test to determine the amount of alcohol in a person's
17 breath *or the presence of a controlled substance or prohibited*
18 *substance in a person's oral fluid* has been performed with a
19 certified type of device by a person who is certified pursuant to NRS
20 484C.630 or 484C.640, it is presumed that the person operated the
21 device properly.

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

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

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

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

31 **Sec. 16.** NRS 50.315 is hereby amended to read as follows:

32 50.315 1. Except as otherwise provided in subsections 6 and
33 7, the affidavit or declaration of a person is admissible in evidence
34 in any criminal or administrative proceeding to prove:

35 (a) That the affiant or declarant has been certified by the
36 Director of the Department of Public Safety as being competent to
37 operate devices of a type certified by the Committee on Testing for
38 Intoxication *and Drug Impairment* as accurate and reliable for
39 testing a person's breath to determine the concentration of alcohol in
40 his or her breath ~~or~~ *or testing a person's oral fluid to determine the*
41 *presence of a controlled substance or prohibited substance in his*
42 *or her oral fluid, as applicable;*

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



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

3 2. Except as otherwise provided in subsections 6 and 7, the
4 affidavit or declaration of a person who has examined a prepared
5 chemical solution or gas that has been used in calibrating, or
6 verifying the calibration of, a device for testing another's breath to
7 determine the concentration of alcohol in his or her breath *or a*
8 *device for testing another's oral fluid to determine the presence of*
9 *a controlled substance or prohibited substance in his or her oral*
10 *fluid* is admissible in evidence in any criminal or administrative
11 proceeding to prove:

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

13 (b) That the solution or gas has the chemical composition
14 necessary for use in accurately calibrating, or verifying the
15 calibration of, the device.

16 3. Except as otherwise provided in subsections 6 and 7, the
17 affidavit or declaration of a person who calibrates a device for
18 testing another's breath to determine the concentration of alcohol in
19 his or her breath *or a device for testing another's oral fluid to*
20 *determine the presence of a controlled substance or prohibited*
21 *substance in his or her oral fluid* is admissible in evidence in any
22 criminal or administrative proceeding to prove:

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

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

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

30 (d) Upon completing the calibration of the device, it was
31 operating properly.

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

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

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

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

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



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

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

9 (b) The fact that the affiant or declarant received a sample or
10 other evidence from another person and kept it in his or her sole
11 custody or control in substantially the same condition as when he or
12 she first received it until delivering it to another; and

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

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

23 7. During any trial in which the defendant has been accused of
24 committing a felony, the defendant may object in writing to
25 admitting into evidence an affidavit or declaration described in this
26 section. If the defendant makes such an objection, the court shall not
27 admit the affidavit or declaration into evidence and the prosecution
28 may cause the person to testify to any information contained in the
29 affidavit or declaration.

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

33 **Sec. 17.** NRS 50.320 is hereby amended to read as follows:

34 50.320 1. The affidavit or declaration of a chemist and any
35 other person who has qualified in a court of record in this State to
36 testify as an expert witness regarding the presence in the breath, *oral*
37 *fluid*, blood or urine of a person of alcohol, a controlled substance,
38 or a chemical, poison, organic solvent or another prohibited
39 substance, or the identity or quantity of a controlled substance
40 alleged to have been in the possession of a person, which is
41 submitted to prove:

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



1 (b) The concentration of alcohol or the presence or absence of a
2 controlled substance, chemical, poison, organic solvent or another
3 prohibited substance, as the case may be,

4 ↪ is admissible in the manner provided in this section.

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

10 3. The defendant may object in writing to admitting into
11 evidence an affidavit or declaration submitted to prove any fact set
12 forth in subsection 1 during the defendant's trial. If the defendant
13 makes such an objection, the court shall not admit the affidavit or
14 declaration into evidence and the prosecuting attorney may cause
15 the person to testify to any information contained in the affidavit or
16 declaration.

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

20 5. As used in this section, "chemist" means any person
21 employed in a medical laboratory, pathology laboratory, toxicology
22 laboratory or forensic laboratory whose duties include, without
23 limitation:

24 (a) The analysis of the breath, *oral fluid*, blood or urine of a
25 person to determine the presence or quantification of alcohol or a
26 controlled substance, chemical, poison, organic solvent or another
27 prohibited substance; or

28 (b) Determining the identity or quantity of any controlled
29 substance.

30 **Sec. 18.** NRS 629.065 is hereby amended to read as follows:

31 629.065 1. Each custodian of health care records shall, upon
32 request, make available to a law enforcement agent or district
33 attorney the health care records of a patient which relate to a test of
34 the ~~[blood,]~~ breath, *oral fluid, blood* or urine of the patient if:

35 (a) The patient is suspected of having violated NRS 484C.110,
36 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS
37 488.410, 488.420 or 488.425; and

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

39 ↪ To the extent possible, the custodian shall limit the inspection to
40 the portions of the records which pertain to the presence of alcohol
41 or a controlled substance, chemical, poison, organic solvent or
42 another prohibited substance in the ~~[blood,]~~ breath, *oral fluid,*
43 *blood* or urine of the patient.

44 2. The records must be made available at a place within the
45 depository convenient for physical inspection. Inspection must be



1 permitted at all reasonable office hours and for a reasonable length
2 of time. The custodian of health care records shall also furnish a
3 copy of the records to each law enforcement agent or district
4 attorney described in subsection 1 who requests the copy and pays
5 the costs of reproducing the copy.

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

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

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

15 **Sec. 19.** The Legislative Counsel shall:

16 1. In preparing the reprint and supplements to the Nevada
17 Revised Statutes, appropriately change any references to an officer,
18 agency or other entity whose name is changed or whose
19 responsibilities are transferred pursuant to the provisions of this act
20 to refer to the appropriate officer, agency or other entity.

21 2. In preparing supplements to the Nevada Administrative
22 Code, appropriately change any references to an officer, agency or
23 other entity whose name is changed or whose responsibilities are
24 transferred pursuant to the provisions of this act to refer to the
25 appropriate officer, agency or other entity.

26 **Sec. 20.** This act becomes effective on July 1, 2023.



