

SENATE BILL NO. 56—COMMITTEE ON
GROWTH AND INFRASTRUCTURE

(ON BEHALF OF THE NEVADA HIGHWAY PATROL DIVISION
OF THE DEPARTMENT OF PUBLIC SAFETY)

PREFILED NOVEMBER 20, 2024

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to driving a vehicle or operating a vessel under the influence. (BDR 43-243)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to public safety; establishing requirements for the reporting by law enforcement agencies of certain information concerning violations of the prohibition against driving or being in actual physical control of a vehicle while under the influence of alcohol or certain controlled substances; revising provisions governing the measurement of the concentration of alcohol in the blood or breath of a person who was driving, operating or in actual physical control of certain vehicles or vessels; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits a person from driving or being in actual physical control
2 of a vehicle on a highway or certain other premises while under the influence of
3 alcohol or certain controlled substances. (NRS 484C.110, 484C.120, 484C.130,
4 484C.430) **Section 1** of this bill requires: (1) the Nevada Highway Patrol to
5 establish a format to be used by law enforcement agencies in this State to
6 electronically submit to the Office of Traffic Safety of the Department of Public
7 Safety information concerning violations of this prohibition; and (2) law
8 enforcement agencies in this State, to the extent that resources are available, to
9 submit electronically to the Office of Traffic Safety, in that format, information
10 concerning such violations.



11 Under existing law, a person commits the offense of driving or being in actual
12 physical control of a vehicle on a highway or certain other premises, or operating or
13 being in actual physical control of a vessel under way on the waters of this State,
14 while under the influence of alcohol, if the person is found by measurement within
15 2 hours after driving, operating or being in actual physical control of the vehicle or
16 vessel to have a concentration of alcohol in his or her blood or breath which
17 exceeds certain levels. (NRS 484C.110, 484C.120, 484C.130, 484C.430, 488.410,
18 488.420, 488.425) **Sections 2-8** of this bill increase this period from 2 hours to 3
19 hours.

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

1 **Section 1.** Chapter 484C of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. The Nevada Highway Patrol shall establish a format for*
4 *use by each law enforcement agency in this State to electronically*
5 *submit to the Office of Traffic Safety of the Department of Public*
6 *Safety information concerning violations of NRS 484C.110,*
7 *484C.120, 484C.130 and 484C.430.*

8 *2. To the extent that resources are available, each law*
9 *enforcement agency in this State shall submit electronically to the*
10 *Office of Traffic Safety of the Department of Public Safety, in the*
11 *format established pursuant to subsection 1, any information*
12 *requested by the Office of Traffic Safety concerning violations of*
13 *NRS 484C.110, 484C.120, 484C.130 and 484C.430.*

14 **Sec. 2.** NRS 484C.110 is hereby amended to read as follows:

15 484C.110 1. It is unlawful for any person who:

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

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

19 (c) Is found by measurement within ~~2~~ 3 hours after driving or
20 being in actual physical control of a vehicle to have a concentration
21 of alcohol of 0.08 or more in his or her blood or breath,

22 ➤ to drive or be in actual physical control of a vehicle on a highway
23 or on premises to which the public has access.

24 2. It is unlawful for any person who:

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

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

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

32 ➤ to drive or be in actual physical control of a vehicle on a highway
33 or on premises to which the public has access. The fact that any



1 person charged with a violation of this subsection is or has been
2 entitled to use that drug under the laws of this State is not a defense
3 against any charge of violating this subsection.

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

| 9 | | Urine | Blood |
|----|--------------------------------|----------------|----------------|
| 10 | | Nanograms | Nanograms |
| 11 | | per milliliter | per milliliter |
| 12 | Prohibited substance | | |
| 13 | | | |
| 14 | (a) Amphetamine | 500 | 100 |
| 15 | (b) Cocaine | 150 | 50 |
| 16 | (c) Cocaine metabolite | 150 | 50 |
| 17 | (d) Heroin | 2,000 | 50 |
| 18 | (e) Heroin metabolite: | | |
| 19 | (1) Morphine | 2,000 | 50 |
| 20 | (2) 6-monoacetyl morphine | 10 | 10 |
| 21 | (f) Lysergic acid diethylamide | 25 | 10 |
| 22 | (g) Methamphetamine | 500 | 100 |
| 23 | (h) Phencyclidine | 25 | 10 |
| 24 | | | |

25 4. For any violation that is punishable pursuant to paragraph
26 (c) of subsection 1 of NRS 484C.400, it is unlawful for any person
27 to drive or be in actual physical control of a vehicle on a highway or
28 on premises to which the public has access with an amount of any of
29 the following prohibited substances in his or her blood that is equal
30 to or greater than:

| 31 | | Blood |
|----|---|----------------|
| 32 | | Nanograms |
| 33 | | per milliliter |
| 34 | Prohibited substance | |
| 35 | | |
| 36 | (a) Marijuana (delta-9-tetrahydrocannabinol) | 2 |
| 37 | (b) Marijuana metabolite (11-OH-tetrahydrocannabinol) | 5 |
| 38 | | |

39 5. If consumption is proven by a preponderance of the
40 evidence, it is an affirmative defense under paragraph (c) of
41 subsection 1 that the defendant consumed a sufficient quantity of
42 alcohol after driving or being in actual physical control of the
43 vehicle, and before his or her blood or breath was tested, to cause
44 the defendant to have a concentration of alcohol of 0.08 or more in
45 his or her blood or breath. A defendant who intends to offer this



1 defense at a trial or preliminary hearing must, not less than 14 days
2 before the trial or hearing or at such other time as the court may
3 direct, file and serve on the prosecuting attorney a written notice of
4 that intent.

5 6. A person who violates any provision of this section may be
6 subject to any additional penalty set forth in NRS 484B.130 or
7 484B.135.

8 **Sec. 3.** NRS 484C.120 is hereby amended to read as follows:

9 484C.120 1. It is unlawful for any person who:

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

11 (b) Has a concentration of alcohol of 0.04 or more but less than
12 0.08 in his or her blood or breath; or

13 (c) Is found by measurement within ~~2~~ 3 hours after driving or
14 being in actual physical control of a commercial motor vehicle to
15 have a concentration of alcohol of 0.04 or more but less than 0.08 in
16 his or her blood or breath,

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

19 2. It is unlawful for any person who:

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

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

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

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

30 The fact that any person charged with a violation of this subsection
31 is or has been entitled to use that drug under the laws of this State is
32 not a defense against any charge of violating this subsection.

33 3. It is unlawful for any person to drive or be in actual physical
34 control of a commercial motor vehicle on a highway or on premises
35 to which the public has access with any prohibited substance in his
36 or her blood or urine. As used in this subsection, "prohibited
37 substance" means any substance described in 21 C.F.R. § 1308.11.

38 4. If consumption is proven by a preponderance of the
39 evidence, it is an affirmative defense under paragraph (c) of
40 subsection 1 that the defendant consumed a sufficient quantity of
41 alcohol after driving or being in actual physical control of the
42 commercial motor vehicle, and before his or her blood or breath was
43 tested, to cause the defendant to have a concentration of alcohol of
44 0.04 or more in his or her blood or breath. A defendant who intends
45 to offer this defense at a trial or preliminary hearing must, not less



1 than 14 days before the trial or hearing or at such other time as the
2 court may direct, file and serve on the prosecuting attorney a written
3 notice of that intent.

4 5. A person who violates any provision of this section may be
5 subject to any additional penalty set forth in NRS 483.939,
6 484B.130 or 484B.135.

7 6. As used in this section:

8 (a) "Commercial motor vehicle" means a motor vehicle or
9 combination of motor vehicles used in commerce to transport
10 passengers or property if the motor vehicle:

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

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

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

18 (4) Regardless of size, is used in the transportation of
19 materials which are considered to be hazardous for the purposes of
20 the federal Hazardous Materials Transportation Act, 49 U.S.C. §§
21 5101 et seq., and for which the display of identifying placards is
22 required pursuant to 49 C.F.R. Part 172, Subpart F.

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

27 **Sec. 4.** NRS 484C.130 is hereby amended to read as follows:

28 484C.130 1. A person commits vehicular homicide if the
29 person:

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

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

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

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

39 (4) Is under the influence of a controlled substance or is
40 under the combined influence of intoxicating liquor and a controlled
41 substance;

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



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

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

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

8 2. 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 driving or being in actual
12 physical control of the vehicle, and before his or her blood or breath
13 was tested, to cause the defendant to have a concentration of alcohol
14 of 0.08 or more in his or her blood or breath. A defendant who
15 intends to offer this defense at a trial or preliminary hearing must,
16 not less than 14 days before the trial or hearing or at such other time
17 as the court may direct, file and serve on the prosecuting attorney a
18 written notice of that intent.

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

20 (a) A violation of NRS 484C.110, 484C.120 or 484C.430;

21 (b) A homicide resulting from driving or being in actual
22 physical control of a vehicle while under the influence of
23 intoxicating liquor or a controlled substance or resulting from any
24 other conduct prohibited by this section or NRS 484C.110 or
25 484C.430; or

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

28 **Sec. 5.** NRS 484C.430 is hereby amended to read as follows:

29 484C.430 1. Unless a greater penalty is provided pursuant to
30 NRS 484C.440, a person who:

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

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

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

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

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



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

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

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

23 3. Except as otherwise provided in subsection 4, if
24 consumption is proven by a preponderance of the evidence, it is an
25 affirmative defense under paragraph (c) of subsection 1 that the
26 defendant consumed a sufficient quantity of alcohol after driving or
27 being in actual physical control of the vehicle, and before his or her
28 blood or breath was tested, to cause the defendant to have a
29 concentration of alcohol of 0.08 or more in his or her blood or
30 breath. A defendant who intends to offer this defense at a trial or
31 preliminary hearing must, not less than 14 days before the trial
32 or hearing or at such other time as the court may direct, file and
33 serve on the prosecuting attorney a written notice of that intent.

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

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

41 **Sec. 6.** NRS 488.410 is hereby amended to read as follows:

42 488.410 1. It is unlawful for any person who:

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

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



(c) Is found by measurement within ~~2~~ 3 hours after operating or being in actual physical control of a power-driven vessel or sailing vessel under way to have a concentration of alcohol of 0.08 or more in his or her blood or breath,

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

2. It is unlawful for any person who:

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

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

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

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

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

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

4. For any violation that is punishable pursuant to NRS 488.427, it is unlawful for any person to operate or be in actual physical control of a power-driven vessel or sailing vessel under way on the waters of this State with an amount of any of the following prohibited substances in his or her blood that is equal to or greater than:



| | | |
|---|---|---------------|
| 1 | | Blood |
| 2 | | Nanograms per |
| 3 | Prohibited substance | milliliter |
| 4 | | |
| 5 | (a) Marijuana (delta-9-tetrahydrocannabinol) | 2 |
| 6 | (b) Marijuana metabolite (11-OH-tetrahydrocannabinol) | 5 |

7
8 5. If consumption is proven by a preponderance of the
9 evidence, it is an affirmative defense under paragraph (c) of
10 subsection 1 that the defendant consumed a sufficient quantity of
11 alcohol after operating or being in actual physical control of the
12 power-driven vessel or sailing vessel, as applicable, under way and
13 before his or her blood was tested, to cause the defendant to have a
14 concentration of 0.08 or more of alcohol in his or her blood or
15 breath. A defendant who intends to offer this defense at a trial or
16 preliminary hearing must, not less than 14 days before the trial or
17 hearing or at such other time as the court may direct, file and
18 serve on the prosecuting attorney a written notice of that intent.

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

21 **Sec. 7.** NRS 488.420 is hereby amended to read as follows:
22 488.420 1. Unless a greater penalty is provided pursuant to
23 NRS 488.425, a person who:

- 24 (a) Is under the influence of intoxicating liquor;
- 25 (b) Has a concentration of alcohol of 0.08 or more in his or her
26 blood or breath;

27 (c) Is found by measurement within ~~2~~ 3 hours after operating
28 or being in actual physical control of a power-driven vessel or
29 sailing vessel under way to have a concentration of alcohol of 0.08
30 or more in his or her blood or breath;

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

34 (e) Inhales, ingests, applies or otherwise uses any chemical,
35 poison or organic solvent, or any compound or combination of any
36 of these, to a degree which renders the person incapable of safely
37 operating or being in actual physical control of a power-driven
38 vessel or sailing vessel under way; or

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

42 ➔ and does any act or neglects any duty imposed by law while
43 operating or being in actual physical control of any power-driven
44 vessel or sailing vessel under way, if the act or neglect of duty
45 proximately causes the death of, or substantial bodily harm to,



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

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

17 3. If consumption is proven by a preponderance of the
18 evidence, it is an affirmative defense under paragraph (c) of
19 subsection 1 that the defendant consumed a sufficient quantity of
20 alcohol after operating or being in actual physical control of the
21 power-driven vessel or sailing vessel, as applicable, under way and
22 before his or her blood was tested, to cause the defendant to have a
23 concentration of alcohol of 0.08 or more in his or her 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 a person less than 15 years of age was in the vessel at the
29 time of the defendant's violation, the court shall consider that fact as
30 an aggravating factor in determining the sentence of the defendant.

31 **Sec. 8.** NRS 488.425 is hereby amended to read as follows:

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

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

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

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

39 (3) Is found by measurement within ~~24~~ 3 hours after
40 operating or being in actual physical control of a power-driven
41 vessel or sailing vessel under way to have a concentration of alcohol
42 of 0.08 or more in his or her blood or breath;

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



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

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

9 (b) Proximately causes the death of another person while
10 operating or in actual physical control of a power-driven vessel or
11 sailing vessel under way; and

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

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

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

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

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

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

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

43 6. If the defendant was transporting a person who is less than
44 15 years of age in the power-driven vessel or sailing vessel, as
45 applicable, under way at the time of the violation, the court shall



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

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

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

5 (b) A homicide resulting from operating or being in actual
6 physical control of a power-driven vessel or sailing vessel under
7 way while under the influence of intoxicating liquor or a controlled
8 substance or resulting from any other conduct prohibited by this
9 section or NRS 488.410 or 488.420; 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).

