

**PROPOSED REGULATION OF THE
COMMITTEE ON TESTING FOR INTOXICATION**

LCB FILE NO. R176-22I

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by the agency submitted on 07/22/2022**

CHAPTER 484C - TESTING FOR INTOXICATION

GENERAL PROVISIONS

NAC 484C.010 Definitions. ([NRS 484C.480](#), [484C.610](#), [484C.620](#), [484C.630](#), [484C.640](#))

As used in [NAC 484C.010](#) to [484C.180](#), inclusive, unless the context otherwise requires:

1. “Committee” means the Committee on Testing for Intoxication.
2. *“Department” means the Department of Public Safety.*
3. The phrase “device that prevents an intoxicated person from starting a vehicle” has the meaning ascribed to the term “device” in [NRS 484C.450](#).
- ~~3.~~ 4. “Director” means the Director of the Department of Public Safety.
5. *“Participant” means an individual who has been ordered, pursuant to provisions in NRS Chapters 483 or 484C, to operate a motor vehicle, which has been equipped with a device that prevents an intoxicated person from starting a vehicle.*
6. *“Provider” means a person or company engaged in the business of manufacturing, selling, leasing, servicing, repairing or monitoring ignition interlock devices.*

NAC 484C.020 Forensic analyst of alcohol: Certification. ([NRS 484C.620](#), [484C.630](#))

1. A person must apply to the Director or his or her designee on a form furnished by the Department of Public Safety for certification as a forensic analyst of alcohol.
2. The Director or his or her designee shall certify as a forensic analyst of alcohol each applicant who:
 - (a) Possesses a baccalaureate degree in a natural, physical or forensic science;

(b) Has completed a minimum of:

(1) Twenty-four semester hours in the study of chemistry at an accredited college or university; or

(2) Eighteen semester hours in the study of chemistry at an accredited college or university and 1 year of full-time experience which has been approved by the Committee and is related to the forensic analysis of alcohol;

(c) Has successfully completed a course which has been approved by the Committee and consisted of at least 24 hours of instruction on the design, calibration and operation of the kind of breath-testing devices that the applicant will be calibrating or teaching others to operate; and

(d) Demonstrates his or her competence in calibrating breath-testing devices and in evaluating others on their competence in operating those devices.

3. Certification as a forensic analyst of alcohol is valid for 2 years after the date of certification.

NAC 484C.030 Forensic analyst of alcohol: Renewal of certificate. ([NRS 484C.620](#), [484C.630](#)) The Director or his or her designee shall renew the certificate of any person certified by him or her as a forensic analyst of alcohol who applies in writing to the Director for a renewal before the certificate expires and:

1. Successfully completes a course approved by the Committee, consisting of at least 8 hours of instruction on the subjects taught in the basic course described in paragraph (c) of subsection 2 of [NAC 484C.020](#) and demonstrates the person's competence in calibrating breath-testing devices and in evaluating others on their competence in operating such devices; or

2. Submits to the Director or designee the following documents:

(a) A current resume of the person's education and other qualifications.

(b) Verification of attendance at no less than two seminars or training programs related to the influence of alcohol on drivers. The verification must include the dates of attendance, the names of the instructors and speakers, and a general description of the curriculum.

(c) ~~Proof of acceptance as an expert in the field of breath alcohol testing in no less than four courts of law. The proof must include the names of the courts, date of acceptance and the names of the cases for which the person was accepted as an expert.~~

~~(d)~~ Verification of continued activity in the field of breath alcohol testing since the person's previous certification.

PRELIMINARY BREATH-TESTING DEVICES

NAC 484C.050 Changes in list of approved devices. ([NRS 484C.610](#))

1. Upon receipt of a ~~petition~~ *application* from any interested person to make an addition to or deletion from the list of preliminary breath-testing devices which are certified by the Committee pursuant to [NRS 484C.610](#), the Director or his or her designee shall examine the ~~petition~~ *application* on behalf of the Committee.

2. The Director or his or her designee may:

(a) Place the ~~petition~~ *application* on the agenda for the Committee's next regularly scheduled meeting;

(b) Order that the device be evaluated pursuant to subsection 4; or

(c) Deny the ~~petition~~ *application*.

3. A person who is aggrieved by the denial of such a ~~petition~~ *application* by the Director or his or her designee may appeal in writing to the Committee.

4. If a breath-testing device is to be evaluated, the Director or his or her designee shall arrange for two of the fully equipped devices to be made available to a laboratory designated by the Director or designee. The designated laboratory must have on its staff at least one certified forensic analyst of alcohol, who shall evaluate the device in accordance with established scientific methods and principles and determine whether the device, as designed and manufactured, is accurate and reliable to test a person's breath to determine the concentration of alcohol in the person's breath when the test is administered at the direction of a police officer at the scene of a vehicle accident or collision or where he or she stops a vehicle.

NAC 484C.060 Required training of operator. ([NRS 484C.630](#))

1. Before operating a preliminary breath-testing device, the operator of a preliminary breath-testing device must satisfactorily complete a course on the operation of the instrument.

2. The instructor of the course must be a forensic analyst of alcohol, a manufacturer's representative or a person approved by a forensic analyst of alcohol.

3. The course must meet the manufacturer's requirements for instruction in the proper operation of the preliminary breath-testing device and be approved by the Committee.

NAC 484C.070 Calibration of device used by law enforcement agency. ([NRS 484C.620](#), [484C.640](#))

1. Each preliminary breath-testing device used by a law enforcement agency must be calibrated by the agency or a certified forensic analyst of alcohol at least once a year.
2. The calibration must include:
 - (a) Verification by the agency or certified forensic analyst of alcohol of the response and accuracy of the device at no less than three levels of alcohol within the range which corresponds to a concentration of alcohol in the breath from 0 to 0.4 gram per 210 liters of breath, inclusive; and
 - (b) The response of the device to breath samples which do not contain alcohol.
3. In order to be used, a preliminary breath-testing device must also be tested for accuracy each month using a certified alcohol standard for calibration.

NAC 484C.080 Records of person who calibrates, maintains or repairs device. ([NRS 484C.620](#))

1. Each person who calibrates, maintains or repairs a preliminary breath-testing device shall enter, at or near the time of the activity, the following information on a form approved by the Committee:
 - (a) Whether the calibration is done monthly or annually;
 - (b) The date and time of the calibration;
 - (c) The name of the person performing the calibration; and
 - (d) The response and accuracy of the device for each test which is performed.
 - (e) The nature and extent of maintenance or repair performed on the device.

2. The form must be retained by the agency.

EVIDENTIAL BREATH-TESTING DEVICES

NAC 484C.090 Changes in list of approved devices. ([NRS 484C.610](#))

1. Upon receipt of a ~~petition~~ *application* from any interested person to make an addition to or deletion from the list of certified evidential breath-testing devices which are certified by the Committee pursuant to [NRS 484C.610](#), the Director or his or her designee shall examine the ~~petition~~ *application* on behalf of the Committee.

2. If the Director or his or her designee finds that the device named in the ~~petition~~ *application* is:

- (a) On the list of qualified products meeting the requirements of the National Highway Traffic Safety Administration, or has been deleted from that list, and that cause otherwise exists, the Director or designee may:

- (1) Place the ~~petition~~ *application* on the agenda for the Committee's next regularly scheduled meeting; or

- (2) Order that the device be evaluated pursuant to subsection 4.

- (b) Not on the list of qualified products of the National Highway Traffic Safety Administration or that cause does not exist for the Committee to consider the ~~petition~~ *application*, the Director or designee shall, within 30 days after receiving the ~~petition~~ *application*, deny the ~~petition~~ *application* in writing, stating his or her reasons.

3. A person who is aggrieved by the denial of such a ~~petition~~ *application* by the Director or his or her designee may appeal in writing to the Committee.

4. If a breath-testing device is to be evaluated, the Director or his or her designee shall arrange for two fully equipped devices to be made available to a forensic laboratory designated by the Director or designee. The designated laboratory must have on its staff at least one certified forensic analyst of alcohol, who shall evaluate the device in accordance with established scientific methods and principles and determine whether the device, as designed and manufactured, is accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath.

NAC 484C.100 Certification as operator. ([NRS 484C.630](#))

1. A person or his or her employer must apply to the Department of Public Safety on a form furnished by the Department for certification of the person as an operator of an evidential breath-testing device.

2. The Director or his or her designee shall certify as an operator of an evidential breath-testing device each applicant who has successfully completed a course of instruction on the subject of the operation of devices for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. Such a course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the devices for which certification is granted.

3. The Director or his or her designee shall certify as an operator of an additional evidential breath-testing device each applicant who:

(a) Holds a current certification as an operator of an evidential breath-testing device; and

(b) Has successfully completed a course consisting of instruction on the subject of the operation of the device for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. The course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the device for which certification is granted.

4. The certificate issued by the Director or his or her designee must specify by manufacturer and model the evidential breath-testing devices which the applicant has been certified to operate.

5. Certification as an operator of an evidential breath-testing device:

(a) Authorizes the holder of the certificate to operate any evidential breath-testing device which he or she has been certified to operate and any other such device in a series of the model of that specific evidential breath-testing device if the Committee has certified the other device in the series pursuant to [NRS 484C.610](#) and the Committee has not made a finding that the person needs additional training to operate the other device in the series; and

(b) Is valid for 3 years after the date of the certification.

NAC 484C.110 Renewal of certificate as operator. ([NRS 484C.630](#)) The Director or his or her designee shall renew the certificate of any person certified by the Director or designee as an operator of an evidential breath-testing device who:

1. Individually or through the person's employer applies in writing to the Director for such renewal before the person's certificate expires or within 6 months after the person's certificate expires; and

2. Successfully completes a course consisting of instruction on the operation of devices for testing a person's breath to determine the concentration of alcohol in his or her breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee.

NAC 484C.120 Calibration of device used by law enforcement agency. ([NRS 484C.620](#), [484C.640](#))

1. Each evidential breath-testing device used by a law enforcement agency must be calibrated by a certified forensic analyst of alcohol at least once within the 90 days immediately preceding the date on which the device is used to test a person's breath.

2. The calibration must include verification by the analyst of the response and accuracy of the device at no less than three levels of alcohol within the range which corresponds to a concentration of alcohol in the breath from 0 to 0.4 gram per 210 liters of breath, inclusive.

NAC 484C.130 Duties of operator. ([NRS 484C.620](#), [484C.640](#)) A certified operator of an evidential breath-testing device:

1. In the ordinary course of his or her business and at the time the operator is performing a test of a person's breath, shall use, follow the instructions in and enter the appropriate information on the Checklist for Operators of Breath-Testing Devices which is approved by the Committee for use with the type of device that he or she is operating.

2. Immediately before performing the evidentiary test of the person's breath, shall verify the calibration of the device by testing it using an aqueous solution or gas which is certified to contain a specific concentration of alcohol within the range that corresponds to a concentration of alcohol in the breath from .05 to .20 gram per 210 liters of breath, inclusive.

NAC 484C.140 Records of law enforcement agency using device; entries into record. ([NRS 484C.620](#))

1. Each law enforcement agency which uses an evidential breath-testing device shall keep in the ordinary course of its business a chronological record for each device.

2. The operator or forensic analyst of alcohol shall enter into the record, at or near the time of his or her activity, for the:

(a) Test of a person's breath on the device:

- (1) The name of the person tested;
- (2) The date and time of the test;
- (3) The name of the operator of the device;
- (4) The result of the test to verify the calibration of the device; and
- (5) The result of the test of the person's breath.

(b) Calibration of the device:

- (1) The date and time of the calibration;
- (2) The name of the forensic analyst of alcohol who performs the calibration; and

(3) The response and accuracy of the device for each test which is performed.

(c) Maintenance or repair of the device:

(1) The date and time of the maintenance or repair;

(2) The name of the person performing the maintenance or repair; and

(3) The nature and extent of the maintenance or repair.

NAC 484C.150 Records of forensic analyst of alcohol who calibrates device. ([NRS 484C.620](#))

1. Each forensic analyst of alcohol who calibrates or repairs evidential breath-testing devices shall keep in the ordinary course of his or her business a chronological record for each device upon which the analyst performs calibrations or repairs.

2. The analyst shall enter into his or her record, at or near the time the analyst calibrates a device:

(a) The date and time of the calibration;

(b) The analyst's name;

(c) The response and accuracy of the device for each test of calibration which is performed;

and

(d) The nature and extent of any repair which the analyst performs on the device.

**DEVICES THAT PREVENT INTOXICATED PERSONS FROM STARTING
VEHICLES**

New Section Definitions. As used in the following sections:

“Alcohol Set Point” means the Breath Alcohol Concentration (BrAC) defined in NRS 484C.450 as 0.02 that, if met or exceeded, will result in that action indicated.

“Calibrate” means the process of testing and adjusting a device to ensure accuracy.

“Camera” means a peripheral device that is electronically tethered to the ignition interlock device that captures an image of the driver’s seat as required in these rules.

“Circumvention” means to bypass the correct operation of a device by starting the vehicle, by any means, without first providing a breath test.

“Committee” means the Committee on Testing for Intoxication.

“Department” means the Department of Public Safety.

“Device” has the meaning ascribed to the term in NRS 484C.450 and is also referred to as “ignition interlock device”.

“Director” means the Director of the Department of Public Safety.

“Lockout Override” means a method of overriding a permanent lockout condition by providing a breath sample.

“Manufacturer” means an International Organization of Standards (ISO) 9001 certified organization responsible for the design, construction, and production of ignition interlock devices.

“Manufacturer Agent” means the entity designated by the manufacturer to provide services to include, but not be limited to, installation, calibration, routine maintenance, and removal of the device. Also referred to as “Provider”.

“Participant” means an individual who has been ordered, pursuant to provisions in NRS Chapters 483 or 484C, to operate a motor vehicle, which has been equipped with a device that prevents an intoxicated person from starting a vehicle.

“Permanent Lockout” means a condition where the device will not accept a breath test until serviced as defined in these rules.

“Proper Record Maintenance” means the manufacturer's complete records on every participant for a period of three (3) years from the date of removal including, but not limited to, all data retrieved from the data storage system of a device.

“Provider” means the entity designated by the manufacturer to provide services to include, but not be limited to, installation, calibration, routine maintenance, and removal of the device. Also referred to as “Manufacturer Agent”.

“Retest” means a breath test that is required after the initial engine start-up breath test and while the engine is running.

“Routine Maintenance” means simple, small-scale activities associated with regular and general upkeep of the ignition interlock device against normal wear and tear, but does not include internal repair.

“Tampering” means an attempt to physically disable, disconnect, adjust, or otherwise alter the proper operation of a device.

“Violation” means non-compliance with a law, regulation, or rule as defined by a state.

“Violation Re-set” means a feature of the device in which a service reminder is activated in response to a violation.

New Section *Ignition Interlock Device requirements.*

*1. A manufacturer shall offer for installation only an ignition interlock device that is certified by the **Committee Department** under this Section. All ignition interlock devices installed or replaced shall comply with the following:*

(a) The device shall prevent a vehicle from starting or operating if the BrAC of a breath test result meets or exceeds the alcohol set point.

(b) Upon the effective date of these rules, any new ignition interlock device installation shall be equipped with a camera that will not distract or impede the driver in any manner from safe and legal operation of the vehicle and will;

(1) Encode a digital or photographic image of the vehicle driver including the time, date and BrAC level of all breath attempts. All images and data must be stored in the device's memory to be downloaded and stored by the manufacturer who shall ensure proper record maintenance.

(2) Capture a digital image or photograph of the driver:

(A) Within five seconds after starting the vehicle.

(B) Upon initial notification that a random retest is required.

(C) When a violation reset condition is initiated.

(3) Produce a digital image, identifiable verification or a photograph of the participant in all lighting conditions.

(4) Ignition interlock devices currently installed on the effective date of these rules will be equipped with a camera within one hundred twenty days of the effective date of these rules;

(c) Have the ability to sample a minimum of 1.5 liters of expired breath that is required to test a participant's breath;

(d) Permit a restart of the motor vehicle within two (2) minutes after the engine has shut off without requiring a further breath test.

(e) Have an approved anti circumvention feature(s) activated at all times.

(f) Require a confirmatory test in response to a circumvention;

1. The device shall allow two (2) minutes for the confirmatory test;

2. An audible and or/visual indicator shall come on to alert the driver that a confirmatory test is in progress;

3. Once a confirmatory test is in progress, failure to deliver a breath test result below the alcohol set point within the time frame allowed shall:

(A) Activate the vehicle's unique audible and/or visual indicator inside the passenger compartment of the vehicle, until the engine is shutdown.

4. Once the confirmatory test is passed, the device shall enter the normal retest sequence as provided by these rules.

(g) Have a data storage system of sufficient capacity to facilitate the recording and maintaining of all daily driving activities for the period of time elapsed from one calibration to the next. All daily driving activity records in this data storage system shall be maintained by the device manufacturer and shall be provided electronically to the Department up uploading and made available upon request by the Court.

(h) Display tamper proof seals and a warning label that states: "WARNING!comm ANY ACTUAL OR ATTEMPTED TAMPERING OR CIRCUMVENTION OF THIS DEVICE CAN SUBJECT YOU TO CRIMINAL (NRS 484c.470) AND CIVIL LIABILITY". If the device consists of separate pieces (e.g. a handset and separate base unit) a separate warning label shall be placed on each piece;

(i) Require a retest while a vehicle's engine is in operation.

(1) The first retest shall occur between 5- and 15-minutes after the vehicle engine start;

(2) The second and subsequent retests shall be required at a random interval ranging from 15- to 45-minutes from the previously requested retest for the duration of travel;

(3) The device shall allow six-minutes for the retest to be completed;

(4) The device must not enter a lockout condition during the retest;

(j) A distinct audible and/or visual indicator shall come on to alert the driver that a retest is in progress. Once a retest is in progress, failure to deliver a breath test result below the alcohol set point within the time frame allowed shall:

(1) Activate a unique audible and/or visual indicator inside the passenger compartment of the vehicle, until the engine is shutdown.

(2) Record a retest violation in the data storage system, and

(3) Disable the free restart.

(k) Enter into a violation reset when the participant has:

(1) Recorded a circumvention;

(2) Recorded a retest violation;

(3) Failed to have the ignition interlock device serviced within the time period described in this chapter.

(l) Enter into a permanent lockout if a violation reset occurs unless the vehicle is serviced within five days of when the violation reset occurred.

*1. A permanent lockout shall only be remedied by a manufacturer's agent, in person, or by the manufacturer providing a lockout override code. A manufacturer shall not be authorized to provide for, or permit a lockout override unless the manufacturer's lockout override procedure has been approved by the **Committee Department**. To be approved, the*

manufacturer seeking approval of a lockout override procedure shall demonstrate compliance with the following requirements by device model:

(a) A lockout override shall only be accomplished by entering a numeric code into the device.

(b) The lockout override code must be unique to the interlock participant's device as evidenced by the device serial number;

(c) After unlocking the device, the device shall operate in accordance with the specifications outlined in these rules;

(d) The lockout override shall not be valid for more than 2 hours upon which the device shall lockout.

(e) Each lockout override shall be uniquely identified and recorded in the device.

NAC 484C.160 Changes in list of approved devices. (NRS 484C.480, 484C.610)

1. Upon receipt of a ~~petition~~ *application* from any interested person to make an addition to or a deletion from the list of devices which prevent an intoxicated person from starting a vehicle and which are certified by the **Committee Department** pursuant to NRS 484C.610, the Director or his or her ~~agent~~ *designee* shall examine the ~~petition~~ *application* on behalf of the **Committee Department**. *No device may be used in the state of Nevada unless it has been approved by the **Committee Department** on a ~~bi~~ annual basis and in accordance with the requirements in this regulation. All requests shall contain as a minimum the following items:*

(a) The name, place of principle business, telephone number of the device's manufacturer;

(b) Model name or number and the technical specifications of each model submitted for certification;

(c) Proof, current within five years, that the device meets or exceeds the current National Highway Traffic Safety Administration, Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs) as published in the Federal Register. Verification that the device complies with these standards must be provided by an International Organization for Standardization (ISO) 17025 certified testing laboratory.

(d) A copy of the manufacturer's product liability insurance certificate, issued by an insurance company authorized to transact business in Nevada with a current effective date and specifying:

(e) Written documentation and/or copies of:

(1) All forms, documents, manuals or other written materials of the manufacturer utilized in the training of drivers using the device, or marketing of its product, along with any audio-visual aids so utilized;

(2) A Quality Assurance Plan describing the calibration process used to verify the accuracy of the ignition interlock device in accordance with NAC 484C.170;

*(3) A Nevada Ignition interlock device configuration profile in a format described by the **Committee Department**; and*

(4) The manual for training installers and the manual for servicing and maintenance of the ignition interlock device

(f) Attach to the application or request a declaration that:

(1) The manufacturer, and its employees will cooperate with the Department at all times, including any inspection of the manufacturer's or its agent's installation, service, ~~repair~~, calibration, use, removal, or performance of ignition interlock device;

(2) The manufacturer agrees to provide all downloaded ignition interlock device data, reports and information related to the ignition interlock device to the Department or court having jurisdiction in an approved format;

2. The Director or his or her ~~agent~~ *designee* may:

~~(a) Place the petition application on the agenda for the next regularly scheduled meeting of the Committee;~~ *Review the application and determine approval or denial.*

(b) Order that the device be evaluated pursuant to subsection 4; or

(c) Deny the ~~petition~~ *application if the application is found to be incomplete or does not meet requirements*

3. *A manufacturer may request an appeal to the ~~Committee~~ Department in writing within ten days of written notification of any proposed denial of their ~~petition~~ application.*

4. Upon request the manufacturer shall provide an ignition interlock device model for field or forensic laboratory testing by a certified forensic analyst of alcohol.

~~If a device is to be evaluated, the Director or his or her agent shall arrange for two of the fully equipped~~

~~devices to be made available to a forensic laboratory designated by the Director or agent. The designated laboratory must have on its staff at least one certified forensic analyst of alcohol, who shall evaluate the device in accordance with established scientific methods and principles and~~

determine whether the device, as designed and manufactured, is accurate and reliable to determine the concentration of alcohol in the person's breath.

NAC 484C.161 Removal from list of approved devices.

- 1. The **Committee Department** may remove a device from the list of devices which prevent an intoxicated person from starting a vehicle and which are certified by the **Committee Department** pursuant to NRS 484C.610, for a device manufacturer's or agent's violation of any of the laws or regulations related to the installation, servicing, monitoring, removal and calibration of ignition interlock devices.*
- 2. A copy of a notice of revocation for an ignition interlock device will be provided by the **Committee Department** to the manufacturer.*
- 3. If a device manufacturer of an approved ignition interlock device is no longer in business or changes ownership, it shall immediately send written notification to the **Committee Department** informing it that the device manufacturer is no longer in business.*
- 4. A manufacturer may request an appeal to the **Committee Department** in writing within ten days of written notification of removal from the list of approved devices.*

NAC 484C.170 Calibration, testing and examination; requirements; tampering. (NRS 484C.480, 484C.620, 484C.640)

1. Each device that prevents an intoxicated person from starting a vehicle must be examined by the manufacturer or his or her agent for correct calibration at least once every 90 days by

using a dry gas standard with an alcohol reference value between .030 and .050 g/210L. All results must be recorded in the manufacturer's interlock data storage system.

2. The calibration must include:

(a) Prior to adjusting the device for accuracy, a "Calibration Check" shall be performed by introducing a reference sample into the ignition interlock device.

(1) If the result of this calibration check is $(\pm) 0.005$ g/210L of the adjusted reference value introduced into the device then no adjustment is required and the process is completed.

(2) If the result of this calibration check is not $(\pm) 0.005$ g/210L of the adjusted reference value introduced into the device, the device shall be adjusted and the process may continue.

(b) If the device was adjusted, a "Calibration Confirmation" shall be performed by introducing a reference sample into the device.

(1) If the result of this calibration confirmation is $(\pm) 0.005$ g/210L of the adjusted reference value introduced into the device then no adjustment is required and the process is completed.

(2) If the result of this calibration confirmation is not $(\pm) 0.005$ g/210L of the adjusted reference value introduced into the device, the device shall be adjusted and the process may continue.

(c) If the device was adjusted, another calibration confirmation shall be performed by introducing the reference sample into the device.

(1) If the result of this calibration confirmation is $(\pm) 0.005$ g/210L of the adjusted reference value introduced into the device then no adjustment is required and the process is completed.

(2) If the result of this calibration confirmation is not $(\pm) 0.005$ g/210L of the adjusted reference value introduced into the device, the device shall be removed from service and returned to the device manufacturer for repair and/or replacement.

(d) An ignition interlock device removed from service for not passing calibration may be placed back in service in this State only if it is repaired by the device manufacturer to meet the standards as outlined in this chapter.

(a) Verification by the manufacturer or his or her agent of the response and accuracy of the device at no less than two levels of alcohol, within the range that corresponds to a concentration of alcohol in the breath of 0.02 to 0.10 grams, inclusive, of alcohol per 210 liters of breath. The accuracy of the device must be within 10 percent of the value of the standard alcohol solution for each level.

(b) The response of the device to breath samples that do not contain alcohol.

(c) Verification that the device prevents the motor vehicle in which it is installed from starting if the concentration of alcohol in a person's breath is equal to or greater than ~~0.02 grams of alcohol per 210 liters of breath.~~ *the limits established by NRS 484C.450, subsection 2.*

3. Dry gas alcohol standards must be:

(a) Certified to a known reference value and traceable to National Institute of Standards and Technology - NIST Traceable Reference Material (NIST-NTRM) ethanol standards, and

(b) Appear on the Conforming Products List of Calibrating Units for Breath Alcohol Testers published by the National Highway Traffic Safety Administration (NHTSA).

(c) Automatically adjusted by the manufacturer's software for the elevation at which the dry gas is being used. This is the "adjusted reference value".

(d) Within plus or minus (+/-) 0.005 g/210L of the adjusted reference value.

4 Dry gas alcohol standard tanks must:

(a) Be stored in accordance with the manufacturer recommendations and shall be maintained in proper working order.

(b) Have a Certificate of Analysis which will contain the following: Components and concentration of the reference value of the gas, expiration date which must not be longer than three years from the date of preparation, and the lot or batch number.

New section. *Standards and procedures for service centers.* (NRS 484C.480)

1. All service centers shall comply with the following:

*(a) Only devices on the current **Committee Department** approved list may be installed, repaired, or serviced;*

*(b) Devices installed on existing vehicles that do not meet the requirements for listing by the **Committee Department** on its approved device list must be replaced with currently approved devices;*

(c) Ensure that installers receive appropriate formal training from the manufacturer on the make and model of devices to be installed, repaired, or serviced;

(d) Device installations can only be performed by trained installers who have not been convicted of a crime involving fraud, theft, deceptive trade practices,, any misdemeanor or gross misdemeanor violations with the past two years, a driving under the influence conviction

within the past five years, or at any time a felony conviction for a violent crime against person or property

(e) Have and maintain a designated waiting area that is separate from the installation area for the customer. The designated waiting area must be shielded from the installation area so a customer or any other unauthorized person cannot witness the installation or service of the device;

(f) Provide an area and the necessary audio-visual or computer equipment necessary for the training of participants and other affected drivers as provided by the device manufacturer

(g) Provide a customer a statement of charges in advance of any work performed that clearly specifies monthly lease amounts, warranty details, and any additional charges anticipated for routine calibration and service checks, including what items, if any, that are provided without charge. The service center shall obtain the customer's acceptance of estimated charges prior to performing any work;

(h) Provide the customer written notice of any changes in the statement of charges regardless of which person or agency may have requested or directed the change, prior to conducting any such work on the customer's behalf;

(i) Be available to answer questions and to troubleshoot any mechanical issues related to the device in the vehicle, or to repair or replace an inoperable or malfunctioning device during normal working hours;(j) Shall furnish all participants the service center's hours of operation and a twenty-four hour telephone number for use in the event of emergencies with the device.

(k) Removal of devices shall be carried out so that the vehicle ignition and other systems can be operated, reasonable wear and tear excepted, in the same manner as before the installation of the device; and

(l) Perform work on a customer's vehicle in a responsible, workmanlike manner causing no damage to the function or performance of the vehicle other than the intended function of the installed device. All collateral damage to the vehicle's function due to the installation of a device shall be corrected by the service center at no charge to the customer. The service center may use a third-party authorized vehicle service center to make any and all required repairs assuming all costs of repairs and may not pass on to the customer any such costs.

New section. *Orientation for program participants.* (NRS 484C.480)

1. A provider shall provide orientation on the correct use of an installed device:

(a) All program participants, other family members and friends who may operate the vehicle should receive orientation on the correct use of the device equipped vehicle;

(b) Follow up or subsequent visits to the provider's facility for additional training by participants or other family members and friends may be required and shall be provided by the provider upon request; and

(c) Training and orientation shall cover all functions, operations and processes necessary to use the vehicle with the device installed.

2. Provide proof of installation certificate to participant to take to DMV to obtain a driver's license with an interlock restriction with the following information:

(a) Name, address and telephone numbers of the program participant;

(b) Make, model, year, vehicle identification number, license plate number, including state of issue, for the vehicle in which the device was installed;

(c) Date of installation and name of installing technician;

(d) Name and address of the installing service center;

(e) Make, model and serial number of the device installed;

(f) Term of device installation, date or frequency of monitoring checks and payment schedule; and

(g) If the installation was ordered by a court, provide the name and location of the court having jurisdiction

New section. *Device monitoring requirements.* (NRS 484C.480)

1. *Service, inspection and monitoring of each device shall occur thirty-days following the initial installation and at every thirty-days thereafter. The provider shall maintain all records for each program participant, including the results of each monitor check.*
2. *Date of installation and term of device installation.*
3. *Data collected at each monitoring check shall include the following items and shall be included in a report maintained by the provider*
 - (a) *Name of the program participant;*
 - (b) *Make, model, year, vehicle identification number, license plate number, including state of issue, and for the vehicle in which the device was installed;*
 - (c) *Number of miles driven during the monitored period;*
 - (d) *Charges and costs assessed to the participant for the monitoring visit;*
 - (e) *Date on next scheduled monitoring visit;*
 - (f) *Details of any repair work performed on the device with a description of the probable cause requiring the repair work;*
 - (g) *Areas of discussion, if any, with the program participant regarding problems or questions the participant has with the device or the status of the participant in the program;*
 - (h) *Evidence of any alteration, tampering, bypass or removal or attempts to remove the device;*
 - (i) *Failure to abide by the terms and condition of the court order or lease agreement observed by the provider, including failure to appear for a scheduled monitoring check;*
 - (j) *Device lockouts or violations and reasons for such actions;*
 - (k) *Reports from the device of non-compliance, such as a failure to take a random or time test;*
 - (l) *Reports from the device of non-compliance with the criteria specified by NRS 484C.470, subsection 1; and*
 - (m) *Data from the device indicating that the participant attempted to start the vehicle while under the influence of alcohol with a concentration of alcohol exceeding 0.04.*
4. *If any evidence of tampering with the device is found, the tampering must be reported to the Department.*
5. *Violations report or evidence of non-compliance must be reported to the Department*

NAC 484C.180 Records of person who calibrates, maintains or repairs device. ([NRS 484C.480](#), [484C.620](#))

1. The manufacturer or its agent who calibrates, maintains or repairs a device that prevents an intoxicated person from starting a vehicle shall enter, at or near the time of the activity, the following information on a form **approved prescribed** by the **Committee Department:**

(a) For calibration of the device, the information must include:

(1) The date and time of the calibration;

- (2) The name of the person performing the calibration;
- (3) The results of each calibration test that is performed;
- (4) Verification that the device prevents the driver of the motor vehicle in which it is installed from starting the motor vehicle if a breath alcohol level ~~of 0.02 gram or more per 210 liters of the driver's breath is detected;~~ *meets or exceeds the alcohol setpoint;*

(5) Device repairs shall be performed by the device manufacturer.

2. The manufacturer or its agent shall retain ~~the form~~ *all information per NRS 484C.480, subsection 1(b)* and make it available upon request to the Director or his or her designee.

New section. *Installation and service charges by providers.* (NRS 484C.480)

A chart of fees shall be displayed in a conspicuous location at any facility providing installation, service, repair or removal of a device.

1. *The provider must provide a fee waiver for the cost of installing or removing the device and monthly cost reduction in accordance with NRS 484C.480, subsection 1(d) and must display this feature on the provider's schedule of fees.*

New section. *Fees to be collected by the manufacture/vendor to be transferred into the Departments Ignition Interlock Program Revolving Account.*

1. *The Vendor/Manufacturer shall collect from the participant and transfer to the Department:*
 - a. *A one time fee of for every new installation of the device.*
 - b. *Afee for every calibration during the entire installation period.*
2. *The Manufacturer/Vendor shall deposit into the Departments account:*
 - a. *A first time certification fee in the amount of*
 - b. *A annual fee offor recertification*
 - c. *Afee for every technician certified to provide installation, calibration, repairs, maintenance and removal of the device.*

New section. *This regulation becomes effective*

References:

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U.S. Department of Transportation, National Highway Traffic Safety Administration. (2013). *Model Guideline for State Ignition Interlock Programs*. Retrieved from: <http://www.shcmoks.com/media/images/NHTSAIgnition.pdf>

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PROPOSED REGULATION OF THE COMMITTEE ON TESTING FOR INTOXICATION

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

AUTHORITY: §§1-23 and 28-31, NRS 484C.480; §§24 and 25, NRS 484C.620; §§26 and 27, NRS 484C.630.

A REGULATION relating to breath-testing devices; establishing and revising various provisions relating to ignition interlock devices; revising provisions relating to persons certified to calibrate breath-testing devices, the calibration of preliminary breath-testing devices and the certification of operators of evidential breath-testing devices; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, a person is required to install an ignition interlock device in a motor vehicle that he or she operates in certain circumstances. (NRS 62E.640, 484C.210 and 484C.460) Existing law requires the Committee on Testing for Intoxication to adopt regulations which: (1) provide for the certification of ignition interlock devices; (2) prescribe the form and content of records respecting the calibration, installation, removal, inspection, maintenance and operation of ignition interlock devices; (3) prescribe standards and procedures for the proper installation,

removal, inspection, calibration, maintenance and operation of ignition interlock devices; and (4) require the cost of installing or removing an ignition interlock device to be waived and the cost of leasing, calibrating or monitoring an ignition interlock device to be adjusted for certain persons. (NRS 484C.480)

Section 11 of this regulation: (1) requires that only ignition interlock devices that are included on a list of devices certified by the Committee may be installed in a vehicle; (2) sets forth the requirements that an ignition interlock device must meet to be certified by the Committee; and (3) requires an ignition interlock device to be recertified every 2 years. **Section 12** of this regulation establishes the circumstances in which the Committee is authorized to remove an ignition interlock device from the list of certified devices. **Section 28** of this regulation sets forth the information that must be included in a petition to make an addition to the list. **Section 31** of this regulation requires any ignition interlock device that was installed in a vehicle before the effective date of this regulation and that does not meet the requirements established in this regulation to be replaced with an ignition interlock device that meets the requirements established in this regulation not later than 120 days after the date this regulation becomes effective.

Sections 13 and 14 of this regulation establish provisions relating to certain breath tests that must be taken. **Section 15** of this regulation establishes provisions relating to lockout overrides performed when an ignition interlock device enters into a mode in which it will not accept a breath test because of certain violations. **Section 29** of this regulation revises provisions relating to the calibration of ignition interlock devices.

Sections 16 and 17 of this regulation establish requirements relating to entities designated to provide certain services relating to ignition interlock devices. **Section 18** of this regulation requires such an entity to provide a program of orientation regarding the correct use of an ignition interlock device and the operation of a vehicle in which such a device is installed, and **section 19** of this regulation requires such an entity to issue to a driver who is required to install an ignition interlock device a certificate that contains certain information after the device is installed.

Section 20 of this regulation requires: (1) a person who is required to install an ignition interlock device to have the device inspected at least once every 30 days; and (2) certain information to be collected during each such appointment. **Section 21** of this regulation requires a chart of fees to be displayed in every facility that installs, replaces, repairs, removes or performs services on an ignition interlock device. **Section 22** of this regulation requires the manufacturer of an ignition interlock device to maintain all records for each driver using one of the manufacturer's devices and keep all such records for a period of 3 years after the date the device is removed.

Existing law requires the Committee to adopt regulations which: (1) establish methods for ascertaining the competence of persons to calibrate breath-testing devices and provide for the certification of those persons by the Department of Public Safety; and (2) prescribe the form and contents of records respecting the calibration of breath-testing devices. (NRS 484C.620) **Section 24** of this regulation revises the required documents that a person who is certified to calibrate breath-testing devices must submit when applying for recertification, and **section 25** of this

regulation revises provisions relating to the collection of information during the calibration of a preliminary breath-testing device.

Existing law requires the Committee to adopt regulations which provide for the certification of operators of breath-testing devices. (NRS 484C.630) **Sections 26 and 27** of this regulation revise provisions relating to certain courses required to be completed for the certification or recertification of an operator of an evidential breath-testing device by removing the requirement that such courses be approved by the Peace Officers' Standards and Training Commission.

Section 1. Chapter 484C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 22, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Agent” means the entity designated by a manufacturer of a device to provide services relating to the device, including, without limitation, the installation, replacement, calibration, maintenance and removal of a device.*

Sec. 4. *“Circumvention” means the bypassing of the correct operation of a device by starting a vehicle by any means without first providing a breath test.*

Sec. 5. *“Department” means the Department of Public Safety.*

Sec. 6. *“Device” has the meaning ascribed to it in NRS 484C.450.*

Sec. 7. *“Driver” means a person who is required to install a device in a motor vehicle pursuant to NRS 62E.640, 484C.210 or 484C.460.*

Sec. 8. *“Permanent lockout” means a device mode in which the device will not accept a breath test until a lockout override is performed pursuant to section 15 of this regulation.*

Sec. 9. *“Service center” means a facility where certain services relating to a device are performed, including, without limitation, the installation, replacement, calibration, maintenance and removal of a device.*

Sec. 10. *“Tamper” means an attempt to physically disable, disconnect, adjust or otherwise alter the proper operation of a device.*

Sec. 11. 1. *A manufacturer shall only offer for installation or replacement a device that is included on the list of devices which are certified by the Committee pursuant to NRS 484C.610.*

2. To be certified by the Committee, a device must:

(a) Be manufactured by a manufacturer that is certified by the International Organization of Standards to ISO 9001 and is responsible for the design, construction and production of devices.

(b) Prevent a vehicle from starting if the results of a breath test indicate that a person has a concentration of alcohol of 0.02 or more in his or her breath.

(c) Have a data storage system that has the capacity to facilitate the recording and maintenance of all daily driving activities for the period between each calibration test performed pursuant to NAC 484C.170.

(d) Be equipped with a camera that:

(1) Is electronically tethered to the device.

(2) Will not distract or impede the person driving the vehicle in any manner from the safe and legal operation of the vehicle.

(3) Is capable of producing a digital image, photograph or other identifiable verification of the person driving the vehicle in all lighting conditions.

(4) Captures a digital image or photograph of the person driving the vehicle:

(I) Not more than 5 seconds after the vehicle's engine starts;

(II) Each time a notification is given that a retest is in progress; and

(III) Each time a violation reset is recorded.

(e) Record the date, time and results of each breath test taken.

(f) Store all digital images and recorded data in the device's data storage system.

(g) Be capable of:

(1) Sampling 1.5 liters or more of expired breath; and

(2) Adjusting the sample amount to 1.2 liters of expired breath with a medical recommendation and documentation by a physician.

(h) Except as otherwise provided in paragraph (c) of subsection 4 of section 13 of this regulation, allow a vehicle to restart within 2 minutes after the engine is shut off without requiring a subsequent breath test.

(i) Have an approved anti-circumvention feature that is activated at all times.

(j) Require a confirmatory test that is conducted in accordance with section 14 of this regulation if a circumvention is recorded.

(k) Require a retest that is conducted in accordance with section 13 of this regulation while the vehicle's engine is running.

(l) If the device records a circumvention or retest violation or the driver fails to have the device inspected at a service center within the period required by subsection 1 of section 20 of this regulation, display a violation reset.

(m) If the device records a violation reset, enter into and remain in a permanent lockout unless a lockout override is performed pursuant to section 15 of this regulation not more than 5 days after the permanent lockout occurred.

(n) Have tamper-proof seals and display, on each separate piece of the device, a warning label that includes the following statement:

WARNING! ANY ADULT REQUIRED TO USE THIS DEVICE WHO TAMPERS WITH OR OPERATES A MOTOR VEHICLE WITHOUT THIS DEVICE SHALL BE PUNISHED IN ACCORDANCE WITH NRS 484C.470.

3. To remain on the list of devices which are certified by the Committee, a device must be recertified by the Committee every 2 years.

4. As used in this section, “violation reset” means a feature of a device that activates a service reminder.

Sec. 12. 1. *The Committee may remove a device from the list of devices which are certified by the Committee pursuant to NRS 484C.610 if:*

(a) The manufacturer or agent violates any law or regulation relating to the device, including, without limitation, the installation, replacement, calibration, maintenance or removal of a device;

(b) The device is not recertified in accordance with subsection 3 of section 11 of this regulation; or

(c) Upon receipt of the written notice from a manufacturer pursuant to subsection 4.

2. *If the Committee removes a device from the list, the Committee will provide a copy of the notice of revocation to the manufacturer.*

3. *A manufacturer may, within 10 days of receiving a notice pursuant to subsection 2, request an appeal from the Committee in writing.*

4. *If the manufacturer of a device that is certified by the Committee is no longer in business or changes ownership, the manufacturer shall immediately notify the Committee in writing.*

Sec. 13. 1. *After an initial breath test is taken for the purposes of starting a vehicle, a retest must be taken not less than 5 minutes and not more than 15 minutes after the vehicle's engine starts.*

2. *For the duration of travel until the vehicle's engine is shut off, one or more subsequent retests must be taken at a random interval that is not less than 15 minutes and not more than 45 minutes after the previous retest.*

3. *When a retest begins, a distinct audible or visual indicator must alert the driver that a retest is in progress.*

4. *A retest must be completed within 6 minutes. If the driver fails to take a breath test that registers a concentration of alcohol lower than 0.02 in his or her breath within that period:*

(a) *A unique audible or visual indicator inside the passenger compartment of the vehicle will be activated and remain activated until the vehicle's engine is shut off;*

(b) *A retest violation will be recorded in the data storage system; and*

(c) *The restart feature allowed pursuant to paragraph (h) of subsection 2 of section 11 of this regulation will be disabled.*

5. *The device must not enter into a permanent lockout when a retest is in progress.*

Sec. 14. 1. *If a device records a circumvention, the driver must take a confirmatory breath test.*

2. When a confirmatory breath test begins, a distinct audible or visual indicator must alert the driver that a confirmatory breath test is in progress.

3. A confirmatory breath test must be completed within 2 minutes. If the driver fails to take a breath test that registers a concentration of alcohol lower than 0.02 in his or her breath within that period, a unique audible or visual indicator inside the passenger compartment of the vehicle will be activated and remain activated until the vehicle's engine is shut off.

4. If a confirmatory breath test registers a concentration of alcohol lower than 0.02 in the driver's breath, the device will revert to the normal retest sequence in accordance with section 13 of this regulation.

Sec. 15. 1. *If a device enters into a permanent lockout pursuant to paragraph (m) of subsection 2 of section 11 of this regulation, a lockout override may be performed only by the manufacturer or agent.*

2. A lockout override must not be performed unless the manufacturer's lockout override procedure for the device model has been approved by the Committee in accordance with this section.

3. The Committee will approve a manufacturer's lockout override procedure for a device model if the manufacturer demonstrates compliance with the following requirements:

(a) A lockout override may only be performed on a device by entering a numeric lockout override code into the device. The lockout override code must be unique to the device, as evidenced by the device serial number.

(b) A lockout override must only remain valid for a period of 2 hours. If a breath test is not taken within that period, the device will revert to a permanent lockout.

(c) Except as otherwise provided in paragraph (b), after a lockout override is performed, the device must continue to operate as normal.

4. Each lockout override performed pursuant to this section must be uniquely identified and recorded in the device's data storage system.

Sec. 16. 1. *Except as otherwise provided in subsection 4, a service center may only install, replace or perform other services relating to a device if the device is included on the list of devices which are certified by the Committee pursuant to NRS 484C.610.*

2. Any person who installs, replaces or performs services on a device must:

(a) Have received appropriate formal training from the manufacturer on the make and model of the device; and

(b) Not have been convicted of:

(1) A gross misdemeanor, misdemeanor or crime involving fraud, theft or deceptive trade practices within the immediately preceding 2 years;

(2) Driving under the influence of alcohol or a controlled substance within the immediately preceding 5 years; or

(3) A crime of violence at any time.

3. A service center must have a designated waiting area for customers that is separate from the area where services are performed on a device. The designated waiting area must be shielded from the area where services are performed on a device so that a customer or any unauthorized person is unable to see the installation, replacement or servicing of a device.

4. Only the manufacturer of a device may perform repairs on the device.

5. *As used in this section, “crime of violence” means any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.*

Sec. 17. *An agent must:*

1. *Before any work is performed for a driver:*

(a) *Provide a statement of charges to the driver that clearly specifies:*

(1) *The warranty details for the device;*

(2) *The monthly lease amount for the device;*

(3) *Any anticipated additional charges for routine calibration and service checks; and*

(4) *Any services or items that are provided without charge;*

(b) *Obtain the driver’s acceptance of the estimated charges; and*

(c) *Provide to the driver written notice of any changes in the statement of charges, regardless of who requested or directed the change.*

2. *Have someone available at the service center during normal working hours to answer questions or troubleshoot any mechanical issues related to the device or to replace an inoperable or malfunctioning device.*

3. *Provide to all drivers the service center’s hours of operation and a 24-hour telephone number to call in the event of an emergency with the device.*

4. *Ensure that a person who installs, replaces or performs services on a device receives appropriate formal training from the manufacturer on the make and model of the device.*

5. *Perform work on a vehicle in a responsible, workmanlike manner without causing any damage to or affecting the function or performance of the vehicle in any way other than the way in which the vehicle is intended to function or perform with the device installed. If there is*

any damage to the function or performance of the vehicle that is caused by the installation of a device, the service center:

(a) Must repair the damage;

(b) May use an authorized third-party vehicle service center to make the repairs; and

(c) Must assume all costs of the repairs and must not pass any such costs on to the customer.

6. When the device is authorized to be removed from the vehicle, remove the device in such a way that the vehicle ignition and other systems may, aside from reasonable wear and tear, be operated in the same manner as before the device was installed.

Sec. 18. 1. *An agent shall provide a program of orientation regarding the correct use of a device and the operation of a vehicle in which a device is installed.*

2. Any driver or other person who might operate a vehicle in which a device is installed may participate in the program.

3. The program must include training on all functions, operations and processes necessary to operate a vehicle while a device is installed.

4. An agent shall, upon request, provide any additional training that is needed by a driver or other person who might operate a vehicle in which a device is installed.

5. An agent shall provide the space and any audio-visual or computer equipment necessary for any training pursuant to this section.

Sec. 19. *After a device is installed in a vehicle, the agent shall issue a certificate to the driver and transmit a copy of the certificate to the Department of Motor Vehicles. The certificate must contain the following information:*

1. The name, address and telephone number of the driver.

2. *The make, model, year, vehicle identification number, license plate number and state of registration of the vehicle in which the device is installed.*

3. *The date the device was installed and the name of the person who installed the device.*

4. *The name and address of the service center where the device was installed.*

5. *The make, model and serial number of the device that was installed.*

6. *The period for which the driver is required to have the device installed.*

7. *The scheduled frequency of service center appointments.*

8. *The payment schedule.*

9. *If the installation was ordered by a court, the name and location of the court.*

Sec. 20. 1. *After a device is installed in a vehicle, a driver shall have the device inspected at a service center at least once every 30 days.*

2. *An agent shall collect the following information during each service center appointment:*

(a) *The name of the driver.*

(b) *The make, model, year, vehicle identification number, license plate number and state of registration of the vehicle in which the device is installed.*

(c) *The date the device was installed in the vehicle.*

(d) *The period for which the driver is required to have the device installed.*

(e) *If the installation was ordered by a court, the name and location of the court.*

(f) *The number of miles driven during the period since the last service center appointment.*

(g) *The charges and costs assessed to the driver for the service center appointment.*

(h) *The date of the next scheduled service center appointment.*

3. *In addition to the information required to be collected pursuant to subsection 2, an agent shall collect the following information, if applicable:*

(a) Any areas of discussion with the driver regarding problems with or questions about the device or the status of the driver in the program.

(b) Any failure by the driver to abide by the terms and conditions of the court order or lease agreement that the agent observes, including, without limitation, failure to appear for a scheduled service center appointment.

(c) Any permanent lockouts or violations recorded by the device and the reasons for such actions.

(d) Any records of noncompliance from the device, including, without limitation, any:

(1) Failure by the driver to take a required breath test; and

(2) Record that any of the incidents specified in subsection 1 of NRS 484C.470 have occurred.

(e) Any data from the device indicating that the driver attempted to start the vehicle with a concentration of alcohol of 0.04 or more in his or her breath.

(f) Any evidence of actual or attempted alteration, tampering, circumvention or removal.

4. *An agent shall report any evidence of tampering, noncompliance or other violation to the Department and, if requested, to the court that ordered the installation of the device.*

Sec. 21. 1. *A chart of fees must be displayed in a conspicuous location in every facility that installs, replaces, repairs, removes or performs services on a device.*

2. *In accordance with paragraph (d) of subsection 1 of NRS 484C.480, a manufacturer or agent must waive the cost of installing or removing a device and charge a reduced fee to lease, calibrate or monitor a device if the driver meets the requirements set forth in subparagraph (1)*

or (2) of paragraph (d) of subsection 1 of NRS 484C.480. Such a waiver and reduction of costs must be displayed on the chart of fees.

Sec. 22. *A manufacturer shall:*

- 1. Maintain all records for each driver using one of the manufacturer's devices, including, without limitation, all records of daily driving activities and records relating to the calibration, installation, removal, inspection, maintenance and operation of the device.*
- 2. Keep all such records for a period of 3 years after the date the device is removed.*
- 3. Make all such records available upon request to the Director or his or her designee and the court that ordered the installation of the device.*

Sec. 23. NAC 484C.010 is hereby amended to read as follows:

484C.010 As used in NAC 484C.010 to ~~484C.180,~~ *484C.170*, inclusive, *and sections 2 to 22, inclusive, of this regulation*, unless the context otherwise requires:

1. "Committee" means the Committee on Testing for Intoxication.
2. ~~The phrase "device that prevents an intoxicated person from starting a vehicle" has the meaning ascribed to the term "device" in NRS 484C.450.~~
- ~~3.~~ "Director" means the Director of the Department of Public Safety.

Sec. 24. NAC 484C.030 is hereby amended to read as follows:

484C.030 The Director or his or her designee shall renew the certificate of any person certified by him or her as a forensic analyst of alcohol who applies in writing to the Director for a renewal before the certificate expires and:

1. Successfully completes a course approved by the Committee, consisting of at least 8 hours of instruction on the subjects taught in the basic course described in paragraph (c) of

subsection 2 of NAC 484C.020 and demonstrates the person's competence in calibrating breath-testing devices and in evaluating others on their competence in operating such devices; or

2. Submits to the Director or designee the following documents:

(a) A current resume of the person's education and other qualifications.

(b) Verification of attendance at no less than two seminars or training programs related to the influence of alcohol on drivers. The verification must include the dates of attendance, the names of the instructors and speakers, and a general description of the curriculum.

(c) ~~{Proof of acceptance as an expert in the field of breath alcohol testing in no less than four courts of law. The proof must include the names of the courts, date of acceptance and the names of the cases for which the person was accepted as an expert.~~

~~—(d)}~~ Verification of continued activity in the field of breath alcohol testing since the person's previous certification.

Sec. 25. NAC 484C.080 is hereby amended to read as follows:

484C.080 1. Each person who calibrates, maintains or repairs a preliminary breath-testing device shall ~~{enter,}~~ **record**, at or near the time of the activity, the following information : ~~{on a form approved by the Committee.}~~

(a) Whether the calibration is done monthly or annually;

(b) The date and time of the calibration;

(c) The name of the person performing the calibration; and

(d) The response and accuracy of the device for each test which is performed.

(e) The nature and extent of maintenance or repair performed on the device.

2. The ~~{form}~~ **information** must be retained by the agency.

Sec. 26. NAC 484C.100 is hereby amended to read as follows:

484C.100 1. A person or his or her employer must apply to the Department of Public Safety on a form furnished by the Department for certification of the person as an operator of an evidential breath-testing device.

2. The Director or his or her designee shall certify as an operator of an evidential breath-testing device each applicant who has successfully completed a course of instruction on the subject of the operation of devices for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. Such a course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the devices for which certification is granted.

3. The Director or his or her designee shall certify as an operator of an additional evidential breath-testing device each applicant who:

(a) Holds a current certification as an operator of an evidential breath-testing device; and

(b) Has successfully completed a course consisting of instruction on the subject of the operation of the device for testing a person's breath to determine the concentration of alcohol in the person's breath which has been approved by ~~the Peace Officers' Standards and Training Commission and~~ the Committee. The course must be taught by a certified forensic analyst of alcohol and must include instruction on and a determination of the applicant's proficiency in the operation of the device for which certification is granted.

4. The certificate issued by the Director or his or her designee must specify by manufacturer and model the evidential breath-testing devices which the applicant has been certified to operate.

5. Certification as an operator of an evidential breath-testing device:

(a) Authorizes the holder of the certificate to operate any evidential breath-testing device which he or she has been certified to operate and any other such device in a series of the model of that specific evidential breath-testing device if the Committee has certified the other device in the series pursuant to NRS 484C.610 and the Committee has not made a finding that the person needs additional training to operate the other device in the series; and

(b) Is valid for 3 years after the date of the certification.

Sec. 27. NAC 484C.110 is hereby amended to read as follows:

484C.110 The Director or his or her designee shall renew the certificate of any person certified by the Director or designee as an operator of an evidential breath-testing device who:

1. Individually or through the person's employer applies in writing to the Director for such renewal before the person's certificate expires or within 6 months after the person's certificate expires; and

2. Successfully completes a course consisting of instruction on the operation of devices for testing a person's breath to determine the concentration of alcohol in his or her breath which has been approved by ~~{the Peace Officers' Standards and Training Commission and}~~ the Committee.

Sec. 28. NAC 484C.160 is hereby amended to read as follows:

484C.160 1. Upon receipt of a petition from any interested person to make an addition to or a deletion from the list of devices ~~{which prevent an intoxicated person from starting a vehicle and}~~ which are certified by the Committee pursuant to NRS 484C.610, the Director or his or her ~~{agent}~~ *designee* shall examine the petition on behalf of the Committee. *A petition to make an addition to the list of devices must include:*

(a) The name, telephone number and address of the principal place of business of the manufacturer.

(b) The model name or model number of the device and the technical specifications of each model submitted for certification.

(c) Proof, dated within the immediately preceding 5 years and verified by an accredited laboratory, that the device meets or exceeds the current “Model Specifications for Breath Alcohol Ignition Interlock Devices” published in the Federal Register by the National Highway Traffic Safety Administration of the United States Department of Transportation. As used in this paragraph, “accredited laboratory” means a laboratory that is accredited in accordance with ISO/IEC 17025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(d) A copy of the manufacturer’s current valid product liability insurance certificate that is issued by a provider of insurance authorized to transact business in this State.

(e) Written documentation or copies of:

(1) All forms, documents, manuals, written materials and audio-visual aids that are used in the:

(I) Training provided pursuant to section 18 of this regulation; or

(II) Marketing of the device.

(2) A quality assurance plan that describes the calibration process used to verify the accuracy of the device in accordance with NAC 484C.170.

(3) A device configuration profile in a format prescribed by the Committee.

(4) The training manual used to train a person authorized to install the device.

(5) The servicing and maintenance manual for the device.

(f) A declaration that:

(1) The manufacturer and the employees of the manufacturer will cooperate with the Department at all times, including, without limitation, allowing the Department to inspect the installation, use, removal, repair, calibration or performance of the device; and

(2) The manufacturer agrees to provide, upon request and in a format prescribed by the Committee, all downloaded device data, reports and information related to the device to the Department or a court that orders the installation of the device.

2. The Director or his or her ~~agent~~ *designee* may:

(a) Place the petition on the agenda for the next regularly scheduled meeting of the Committee;

(b) Order that the device be ~~evaluated~~ *tested* pursuant to subsection 4; or

(c) Deny the petition ~~if it is found to be incomplete or does not otherwise meet the requirements set forth in this section.~~

3. ~~A person who is aggrieved by the denial of a petition~~ *If a petition is denied, the manufacturer* may *request an* appeal in writing to the Committee ~~if it is found to be incomplete or does not otherwise meet the requirements set forth in this section.~~ *within 10 days of receiving written notification that the petition was denied.*

4. ~~If a device is to be evaluated, the Director or his or her agent~~ *Upon the request of the Committee, a manufacturer* shall ~~arrange for~~ *provide* two of the fully equipped devices ~~to be made available to a~~ *for field or* forensic laboratory ~~designated by the Director or agent. The designated laboratory must have on its staff at least one~~ *testing by a* certified forensic analyst of alcohol. ~~who shall evaluate the device in accordance with established scientific methods and principles and determine whether the device, as designed and manufactured, is accurate and reliable to determine the concentration of alcohol in the person's breath.~~

Sec. 29. NAC 484C.170 is hereby amended to read as follows:

484C.170 1. Each device ~~{that prevents an intoxicated person from starting a vehicle}~~ must be ~~{calibrated, tested and}~~ examined by the manufacturer or ~~{his or her}~~ agent *for correct calibration* at least once every 90 days ~~{}~~ *by using a certified dry gas standard with an alcohol concentration between 0.03 and 0.05 grams per 210 liters of breath. The calibration process used by the manufacturer must have a mechanism to make adjustments for the elevation at which the dry gas is being used.*

2. ~~{The}~~ *Each time a calibration test is performed, the following information* must ~~{include:}~~ *be recorded in the device's data storage system:*

(a) *The date and time of the calibration test.*

(b) *The name of the person who performed the calibration test.*

(c) *The results of the calibration test.*

(d) Verification by the manufacturer or ~~{his or her}~~ agent of the response and accuracy of the device . ~~{at no less than two levels of alcohol, within the range that corresponds to a concentration of alcohol in the breath of 0.02 to 0.10 grams, inclusive, of alcohol per 210 liters of breath.}~~ The accuracy of the device must be within 10 percent *or 0.005 grams per 210 liters of breath of the certified concentration* of the ~~{value of the}~~ *dry gas* standard ~~{alcohol solution for each level.}~~

~~{(b)}~~ *, whichever is greater.*

(e) The response of the device to breath samples that do not contain alcohol.

~~{(e)}~~ (f) Verification that the device prevents the motor vehicle in which it is installed from starting if ~~{the}~~ *a person has a* concentration of alcohol ~~{in a person's breath is equal to or greater than}~~ *of 0.02 grams* ~~{of alcohol per 210 liters of}~~ *or more in his or her* breath.

3. ~~Each device must meet the following requirements established by the Committee:~~ *If the results of a calibration test determine that the accuracy of the device is not within the range required by paragraph (d) of subsection 2, the device must:*

(a) ~~Ability to sample a minimum volume of expired breath that is required to test a person's breath;~~ *Be adjusted until its accuracy is within the required range; or*

(b) ~~Ability to test a minimum concentration of alcohol in the breath that is required to prevent the motor vehicle from starting and a minimum concentration of alcohol in the breath that is required for subsequent tests of the person's breath while the person is driving the motor vehicle;~~

~~—(c) Requirements for calibrating a device before installation;~~

~~—(d) Options for restricting the hours of operation of the vehicle;~~

~~—(e) The frequency with which the device will require a person's breath to be tested while driving the motor vehicle; and~~

~~—(f) The ability of the device to prevent a person who has the device installed in his or her motor vehicle from starting the vehicle if the person:~~

~~—(1) Fails to submit the device for a mandatory calibration;~~

~~—(2) Tampers with the device; or~~

~~—(3) Receives a result on the test of the person's breath that is at or above a prohibited~~

~~level.]~~ *Except as otherwise provided in subsection 4, not be used to test a person's breath to determine the concentration of alcohol therein.*

4. ~~If any evidence of tampering with the device is found, the device must not be used.]~~ *A device that is not used for breath tests pursuant to paragraph (b) of subsection 3 may only be*

used again if the device is repaired by the manufacturer and meets all applicable requirements after such repair.

5. Dry gas alcohol standards must:

(a) Be certified to a known reference value and traceable to the NIST Traceable Reference Material (NTRM) program of the National Institute of Standards and Technology.

(b) Appear on the “Conforming Products List of Calibrating Units for Breath Alcohol Testers” published in the Federal Register by the National Highway Traffic Safety Administration of the United States Department of Transportation.

(c) Within plus or minus 0.005 grams per 210 liters of breath of the adjusted reference value.

6. Dry gas alcohol standard tanks must:

(a) Be stored in accordance with the gas manufacturer’s recommendations and maintained in proper working order.

(b) Have a certificate of analysis that contains:

(1) The components and the concentration of the reference value of the gas;

(2) An expiration date that is not more than 3 years after the date of preparation; and

(3) The lot or batch number.

Sec. 30. NAC 484C.180 is hereby repealed.

Sec. 31. Any device which was installed in a vehicle before the effective date of this regulation and which does not meet the requirements established in this regulation must be replaced with a device that meets the requirements established in this regulation not later than 120 days after the effective date of this regulation. As used in this section, “device” has the meaning ascribed to it in NRS 484C.450.

TEXT OF REPEALED SECTION

484C.180 Records of person who calibrates, maintains or repairs device. (NRS 484C.480, 484C.620)

1. The manufacturer or its agent who calibrates, maintains or repairs a device that prevents an intoxicated person from starting a vehicle shall enter, at or near the time of the activity, the following information on a form approved by the Committee:

(a) For calibration of the device, the information must include:

- (1) The date and time of the calibration;
- (2) The name of the person performing the calibration;
- (3) The response and accuracy of the device for each test that is performed;
- (4) Verification that the device prevents the driver of the motor vehicle in which it is installed from starting the motor vehicle if a breath alcohol level of 0.02 gram or more per 210 liters of the driver's breath is detected; and

(5) The nature and extent of maintenance or repair performed on the device.

(b) For maintenance or repair of the device, the information must include:

- (1) The date and time of the maintenance or repair;
- (2) The name of the person performing the maintenance or repair; and
- (3) The nature and extent of maintenance or repair performed on the device.

2. The manufacturer or its agent shall retain the form and make it available upon request to the Director or his or her designee.