

ASSEMBLY BILL NO. 400—COMMITTEE ON JUDICIARY

MARCH 25, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to prohibited acts concerning the use of marijuana and certain other controlled substances. (BDR 43-485)

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

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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; revising provisions relating to prohibited acts concerning the use of marijuana and certain other controlled substances; establishing provisions relating to administrative suspensions of commercial drivers' licenses, permits and driving privileges; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from driving or being in actual physical control of a vehicle on a highway or on premises to which the public has access or operating or being in actual physical control of a vessel under power or sail on the waters of this State if the person: (1) is under the influence of intoxicating liquor or a controlled substance; (2) has specified amounts of certain prohibited substances in his or her blood or urine; or (3) has specified amounts of marijuana or marijuana metabolite in his or her blood. (NRS 484C.110, 488.410) For the purposes of any such offense punishable as a misdemeanor, **sections 1.7 and 6** of this bill remove the prohibition against such a person having specified amounts of marijuana or marijuana metabolite in his or her blood, thereby providing that a person who uses marijuana is subject to the general prohibition against driving or being in actual physical control of a vehicle on a highway or on premises to which the public has access or operating or being in actual physical control of a vessel under power or sail on the waters of this State if the person is under the influence of a controlled substance. Thus, **sections 1.7 and 6** provide that the specified amounts of marijuana or marijuana metabolite apply to those circumstances where the violation is punishable as a felony.

Existing law provides that in certain circumstances compensation is not payable to employees in this State for an injury that occurred while an employee was under the influence of a controlled or prohibited substance unless the employee can prove



21 that being under the influence of a controlled or prohibited substance was not the
22 proximate cause of the injury. Existing law specifies that an employee is under the
23 influence of a controlled or prohibited substance for the purpose of such a provision
24 when the employee has an amount of certain prohibited substances, including
25 marijuana or marijuana metabolite, in his or her system that is equal to or greater
26 than the amount that prohibits a person from driving or being in actual physical
27 control of a vehicle on a highway or on premises to which the public has access and
28 for which the employee does not have a current and lawful prescription. (NRS
29 616C.230) **Section 17** of this bill retains the amounts of such prohibited substances
30 that are currently set forth in existing law for the purpose of determining whether
31 an employee is under the influence of a prohibited substance, but removes the
32 specified amount of marijuana metabolite.

33 Existing law also prohibits a person from driving or being in actual physical
34 control of a commercial motor vehicle on a highway or on premises to which the
35 public has access if the person: (1) is under the influence of intoxicating liquor or a
36 controlled substance; (2) has specified amounts of certain prohibited substances in
37 his or her blood or urine; or (3) has specified amounts of marijuana or marijuana
38 metabolite in his or her blood. (NRS 484C.120) **Section 2** of this bill prohibits a
39 person from driving or being in control of a commercial motor vehicle if there is
40 any prohibited substance, as defined by 21 C.F.R. 1308.11, including, without
41 limitation, marijuana, in the blood or urine of the person.

42 Existing law provides that if certain tests show that a person less than 21 years
43 of age had a concentration of alcohol of 0.02 or more but less than 0.08 in his or her
44 blood or breath at the time of the test, the person's driver's license, permit or
45 privilege to drive must be suspended for 90 days. (NRS 483.461) **Section 1** of this
46 bill establishes similar provisions relating to commercial motor vehicles.
47 Specifically, **section 1** provides that if certain tests show that a person 18 years of
48 age or older had a concentration of alcohol of 0.04 or more but less than 0.08 in his
49 or her blood or breath at the time of the test, or the person had any detectable
50 amount of a schedule I controlled substance in his or her blood or urine at the time
51 of the test, the person's commercial driver's license, commercial learner's permit or
52 privilege to drive a commercial motor vehicle must be suspended for 1 year.
53 **Sections 1.1-1.3 and 17.5** of this bill make conforming changes relating to such
54 suspensions.

55 Existing law prohibits a person from driving a commercial motor vehicle at any
56 time when the driving privilege of the person is subject to disqualification and
57 directs the Department of Motor Vehicles, upon receipt of notice of a
58 disqualification, to: (1) suspend the privilege of the person to drive a commercial
59 motor vehicle; and (2) charge the person a civil penalty. (NRS 483.924, 483.939)
60 **Sections 1.4 and 1.5** of this bill expressly provide that the disqualifying conduct
61 includes disqualifications described by certain federal regulations.

62 Existing federal regulations prohibit an employer from allowing, requiring,
63 permitting or authorizing a driver to operate a commercial motor vehicle if the
64 employer should have reasonably known that certain circumstances exist,
65 including, a violation of an out-of-service order. (49 C.F.R. § 383.37) Existing state
66 law authorizes the Department to impose a civil penalty against an employer who
67 should have reasonably known that there was a violation of an out-of-service
68 declaration. (NRS 483.939) **Section 1.6** expands the circumstances under which the
69 Department may impose the civil penalty on the employer to all the circumstances
70 described in the federal regulation. **Section 2** authorizes the imposition of the civil
71 penalty described in **section 1.6** on a person who commits certain unlawful acts
72 relating to driving or being in actual physical control of a commercial motor vehicle
73 on a highway or on a premises to which the public has access.



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

1 **Section 1.** Chapter 483 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *If the result of a test given pursuant to NRS 484C.150 or*
4 *484C.160 shows that a person 18 years of age or older had a*
5 *concentration of alcohol of 0.04 or more but less than 0.08 in his*
6 *or her blood or breath or any detectable amount of a substance*
7 *described in 21 C.F.R. 1308.11 in his or her blood or urine at the*
8 *time of the test, the person's commercial driver's license,*
9 *commercial learner's permit or privilege to drive a commercial*
10 *motor vehicle must be suspended for a period of 1 year.*

11 2. *This section does not preclude:*

12 (a) *The prosecution of a person for a violation of any other*
13 *provision of law; or*

14 (b) *The suspension or revocation of a person's commercial*
15 *driver's license, commercial learner's permit or privilege to drive a*
16 *commercial motor vehicle pursuant to any other provision of*
17 *law.*

18 **Sec. 1.1.** NRS 483.461 is hereby amended to read as follows:

19 483.461 1. If the result of a test given pursuant to NRS
20 484C.150 or 484C.160 shows that a person less than 21 years of age
21 had a concentration of alcohol of 0.02 or more but less than 0.08 in
22 his or her blood or breath at the time of the test, the person's license,
23 permit or privilege to drive must be suspended for a period of 90
24 days.

25 2. If a revocation or suspension of a person's license, permit or
26 privilege to drive for a violation of NRS 62E.640, ~~484C.110,~~
27 484C.120, 484C.130 or 484C.430 follows a suspension ordered
28 pursuant to subsection 1, the Department shall:

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

30 (b) Give the person credit toward the period of revocation or
31 suspension ordered pursuant to NRS 62E.640, ~~484C.110,~~
32 484C.120, 484C.130 or 484C.430, whichever is applicable, for any
33 period during which the person's license, permit or privilege to
34 drive was suspended pursuant to subsection 1.

35 3. *This section does not preclude:*

36 (a) *The prosecution of a person for a violation of any other*
37 *provision of law; or*

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

40 **Sec. 1.2.** NRS 483.900 is hereby amended to read as follows:

41 483.900 The purposes of NRS 483.900 to 483.940, inclusive,
42 *and section 1 of this act* are to implement the Commercial Motor



1 Vehicle Safety Act of 1986, as amended, 49 U.S.C. chapter 313 (§§
2 31301 et seq.), and reduce or prevent commercial motor vehicle
3 crashes, fatalities and injuries by:

4 1. Permitting drivers of commercial motor vehicles to hold
5 only one license;

6 2. Providing for the disqualification of drivers of commercial
7 motor vehicles who have committed certain serious traffic violations
8 or other specified offenses;

9 3. Strengthening the licensing and testing standards for drivers
10 of commercial motor vehicles; and

11 4. Ensuring that drivers of commercial motor vehicles carrying
12 hazardous materials are qualified to operate a commercial motor
13 vehicle in accordance with all regulations pertaining to the
14 transportation of hazardous materials and have the skills and
15 knowledge necessary to respond appropriately to any emergency
16 arising out of the transportation of hazardous materials.

17 **Sec. 1.3.** NRS 483.902 is hereby amended to read as follows:

18 483.902 The provisions of NRS 483.900 to 483.940, inclusive,
19 *and section 1 of this act* apply only with respect to commercial
20 drivers' licenses.

21 **Sec. 1.4.** NRS 483.904 is hereby amended to read as follows:

22 483.904 As used in NRS 483.900 to 483.940, inclusive, *and*
23 *section 1 of this act*, unless the context otherwise requires:

24 1. "Commercial driver's license" means a license issued to a
25 person which authorizes the person to drive a class or type of
26 commercial motor vehicle.

27 2. "Commercial Driver's License Information System" means
28 the information system maintained by the Secretary of
29 Transportation pursuant to 49 U.S.C. § 31309 to serve as a
30 clearinghouse for locating information relating to the licensing,
31 identification and disqualification of operators of commercial motor
32 vehicles.

33 ~~3. "Out of service order" means a temporary prohibition~~
34 ~~against:~~

35 ~~—(a) A person operating a commercial motor vehicle as such a~~
36 ~~prohibition is described in 49 C.F.R. § 395.13; or~~

37 ~~—(b) The operation of a commercial motor vehicle as such a~~
38 ~~prohibition is described in 49 C.F.R. § 396.9(c).]~~

39 **Sec. 1.5.** NRS 483.924 is hereby amended to read as follows:

40 483.924 A person shall not drive a commercial motor vehicle
41 on the highways of this State:

42 1. Unless the person has been issued and has in his or her
43 immediate possession a:



1 (a) Commercial driver's license with applicable endorsements
2 valid for the vehicle the person is driving issued by this State or by
3 any other jurisdiction in accordance with the minimum federal
4 standards for the issuance of a commercial driver's license; or

5 (b) Valid learner's permit for the operation of a commercial
6 motor vehicle and is accompanied by the holder of a commercial
7 driver's license valid for the vehicle being driven.

8 2. At any time while the person's driving privilege is
9 suspended, revoked or cancelled, or while subject to a
10 disqualification, including, without limitation, a disqualification for
11 ~~violating an out of service order that is imposed pursuant to~~ *any*
12 *conduct described in* 49 C.F.R. § ~~383.51(e).~~ *383.51.*

13 **Sec. 1.6.** NRS 483.939 is hereby amended to read as follows:

14 483.939 1. If the Department receives notice that a person
15 who holds a commercial driver's license has been convicted of
16 driving a commercial motor vehicle in violation of ~~an out of~~
17 ~~service declaration, as~~ *the prohibitions* described in 49 C.F.R. §
18 395.13, the Department shall:

19 (a) Suspend the privilege of the person to operate a commercial
20 motor vehicle for the period set forth in 49 C.F.R. § ~~383.51(e);~~
21 *383.51;* and

22 (b) In addition to any other applicable fees and penalties that
23 must be paid to reinstate the commercial driver's license after
24 suspension, impose against the person a civil penalty in the amount
25 set forth in 49 C.F.R. § 383.53(b)(1).

26 2. If the Department receives notice that the employer of a
27 person who holds a commercial driver's license has been convicted
28 of a violation of 49 C.F.R. § ~~383.37(e)~~ *383.37* for knowingly
29 allowing, requiring, permitting or authorizing the person to operate a
30 commercial motor vehicle during any period in which the person or
31 the commercial motor vehicle is subject to ~~an out of service order,~~
32 *the circumstances described in 49 C.F.R. § 383.37,* the Department
33 shall impose against the employer a civil penalty in the amount set
34 forth in 49 C.F.R. § ~~383.53(b)(2).~~ *383.53.*

35 3. All money collected by the Department pursuant to
36 paragraph (b) of subsection 1 or subsection 2 must be deposited in
37 the State Treasury for credit to the Motor Vehicle Fund.

38 4. The Department shall adopt regulations to carry out the
39 provisions of this section.

40 **Sec. 1.7.** NRS 484C.110 is hereby amended to read as follows:

41 484C.110 1. It is unlawful for any person who:

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

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



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

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

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 driving or exercising actual physical control of a vehicle,

↳ to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access. The fact that any person charged with a violation of this subsection is or has been entitled to use that drug under the laws of this State is not a defense against any charge of violating this subsection.

3. It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access 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 Nanograms per milliliter	Blood 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 paragraph (c) of subsection 1 of NRS 484C.400, it is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access 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
3	Prohibited substance	per 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 driving or being in actual physical control of the
12 vehicle, and before his or her blood or breath was tested, to cause
13 the defendant to have a concentration of alcohol of 0.08 or more in
14 his or her blood or breath. A defendant who intends to offer this
15 defense at a trial or preliminary hearing must, not less than 14 days
16 before the trial or hearing or at such other time as the court may
17 direct, file and serve on the prosecuting attorney a written notice of
18 that intent.

19 6. A person who violates any provision of this section may be
20 subject to any additional penalty set forth in NRS 484B.130 or
21 484B.135.

22 **Sec. 2.** NRS 484C.120 is hereby amended to read as follows:

23 484C.120 1. It is unlawful for any person who:

- 24 (a) Is under the influence of intoxicating liquor;
25 (b) Has a concentration of alcohol of 0.04 or more but less than
26 0.08 in his or her blood or breath; or

27 (c) Is found by measurement within 2 hours after driving or
28 being in actual physical control of a commercial motor vehicle to
29 have a concentration of alcohol of 0.04 or more but less than 0.08 in
30 his or her blood or breath,

31 ➤ to drive or be in actual physical control of a commercial motor
32 vehicle on a highway or on premises to which the public has access.

33 2. It is unlawful for any person who:

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

37 (c) Inhales, ingests, applies or otherwise uses any chemical,
38 poison or organic solvent, or any compound or combination of any
39 of these, to a degree which renders the person incapable of safely
40 driving or exercising actual physical control of a commercial motor
41 vehicle,

42 ➤ to drive or be in actual physical control of a commercial motor
43 vehicle on a highway or on premises to which the public has access.

44 The fact that any person charged with a violation of this subsection



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

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

8			
9		Urine	Blood
10		Nanograms	Nanograms
11	—	Prohibited substance	per milliliter
12			
13	—	(a) Amphetamine	500
14	—	(b) Cocaine	150
15	—	(c) Cocaine metabolite	150
16	—	(d) Heroin	2,000
17	—	(e) Heroin metabolite:	50
18	—	(1) Morphine	2,000
19	—	(2) 6 monoacetyl morphine	10
20	—	(f) Lysergic acid diethylamide	25
21	—	(g) Methamphetamine	500
22	—	(h) Phencyclidine	25

23 *As used in this subsection, "prohibited substance" means any*
24 *substance described in 21 C.F.R. 1308.11.*

25
26 4. ~~[It is unlawful for any person to drive or be in actual~~
27 ~~physical control of a commercial motor vehicle on a highway or on~~
28 ~~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			
32			Blood
33			Nanograms
34	—	Prohibited substance	per milliliter
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 commercial motor vehicle, and before his or her blood or breath was
44 tested, to cause the defendant to have a concentration of alcohol of
45 0.04 or more in his or her blood or breath. A defendant who intends



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

5 ~~[6.]~~ 5. A person who violates any provision of this section may
6 be subject to any additional penalty set forth in NRS **483.939**,
7 484B.130 or 484B.135.

8 ~~[7.]~~ 6. As used in this section:

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

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

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

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

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

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

28 **Sec. 3.** (Deleted by amendment.)

29 **Sec. 4.** (Deleted by amendment.)

30 **Sec. 5.** (Deleted by amendment.)

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

32 488.410 1. It is unlawful for any person who:

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

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

36 (c) Is found by measurement within 2 hours after operating or
37 being in actual physical control of a vessel to have a concentration
38 of alcohol of 0.08 or more in his or her blood or breath,

39 ↪ to operate or be in actual physical control of a vessel under power
40 or sail on the waters of this State.

41 2. It is unlawful for any person who:

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

43 (b) Is under the combined influence of intoxicating liquor and a
44 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 vessel under power or sail,
↳ to operate or be in actual physical control of a vessel under power or sail on the waters of this State.

3. It is unlawful for any person to operate or be in actual physical control of a vessel under power or sail 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. ~~It~~ *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 vessel under power or sail 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:

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

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his or her blood was tested, to cause the



1 defendant to have a concentration of 0.08 or more of alcohol in his
2 or her blood or breath. A defendant who intends to offer this defense
3 at a trial or preliminary hearing must, not less than 14 days before
4 the trial or hearing or at such other time as the court may direct, file
5 and serve on the prosecuting attorney a written notice of that intent.

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

8 **Sec. 7.** (Deleted by amendment.)

9 **Sec. 8.** (Deleted by amendment.)

10 **Sec. 9.** (Deleted by amendment.)

11 **Sec. 10.** (Deleted by amendment.)

12 **Sec. 11.** (Deleted by amendment.)

13 **Sec. 12.** (Deleted by amendment.)

14 **Sec. 13.** (Deleted by amendment.)

15 **Sec. 14.** (Deleted by amendment.)

16 **Sec. 15.** (Deleted by amendment.)

17 **Sec. 16.** (Deleted by amendment.)

18 **Sec. 17.** NRS 616C.230 is hereby amended to read as follows:

19 616C.230 1. Compensation is not payable pursuant to the
20 provisions of chapters 616A to 616D, inclusive, or chapter 617 of
21 NRS for an injury:

22 (a) Caused by the employee's willful intention to injure himself
23 or herself.

24 (b) Caused by the employee's willful intention to injure another.

25 (c) That occurred while the employee was in a state of
26 intoxication, unless the employee can prove by clear and convincing
27 evidence that his or her state of intoxication was not the proximate
28 cause of the injury. For the purposes of this paragraph, an employee
29 is in a state of intoxication if the level of alcohol in the bloodstream
30 of the employee meets or exceeds the limits set forth in subsection 1
31 of NRS 484C.110.

32 (d) That occurred while the employee was under the influence of
33 a controlled or prohibited substance, unless the employee can prove
34 by clear and convincing evidence that his or her being under the
35 influence of a controlled or prohibited substance was not the
36 proximate cause of the injury. For the purposes of this paragraph, an
37 employee is under the influence of a controlled or prohibited
38 substance if the employee had an amount of a controlled or
39 prohibited substance *for which the employee did not have a current
40 and lawful prescription issued in the employee's name* in his or her
41 system at the time of his or her injury that was equal to or greater
42 than ~~[the limits set forth in subsection 3 or 4 of NRS 484C.110 and
43 for which the employee did not have a current and lawful
44 prescription issued in the employee's name.]~~ :



<i>Prohibited substance</i>	<i>Urine Nanograms per milliliter</i>	<i>Blood Nanograms per milliliter</i>
<i>Amphetamine</i>	<i>500</i>	<i>100</i>
<i>Cocaine</i>	<i>150</i>	<i>50</i>
<i>Cocaine metabolite</i>	<i>150</i>	<i>50</i>
<i>Heroin</i>	<i>2,000</i>	<i>50</i>
<i>Heroin metabolite:</i>		
<i>Morphine</i>	<i>2,000</i>	<i>50</i>
<i>6-monoacetyl morphine</i>	<i>10</i>	<i>10</i>
<i>Lysergic acid diethylamide</i>	<i>25</i>	<i>10</i>
<i>Methamphetamine</i>	<i>500</i>	<i>100</i>
<i>Phencyclidine</i>	<i>25</i>	<i>10</i>
<i>Marijuana (delta-9-tetrahydrocannabinol)</i>		<i>2</i>

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS 50.310, 50.315 or 50.320 is admissible to prove the existence of an impermissible quantity of alcohol or the existence, quantity or identity of an impermissible controlled or prohibited substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled or prohibited substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

(c) The results of any testing for the use of alcohol or a controlled or prohibited substance, irrespective of the purpose for performing the test, must be made available to an insurer or employer upon request, to the extent that doing so does not conflict with federal law.

3. No compensation is payable for the death, disability or treatment of an employee if the employee's death is caused by, or insofar as the employee's disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his or her recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his or her recovery, the employee's compensation may be reduced or suspended.



1 5. An injured employee's compensation, other than accident
2 benefits, must be suspended if:

3 (a) A physician or chiropractor determines that the employee is
4 unable to undergo treatment, testing or examination for the
5 industrial injury solely because of a condition or injury that did not
6 arise out of and in the course of employment; and

7 (b) It is within the ability of the employee to correct the
8 nonindustrial condition or injury.

9 ➔ The compensation must be suspended until the injured employee
10 is able to resume treatment, testing or examination for the industrial
11 injury. The insurer may elect to pay for the treatment of the
12 nonindustrial condition or injury.

13 6. As used in this section, "prohibited substance" ~~[has the~~
14 ~~meaning ascribed to it in NRS 484C.080.]~~ *means any of the*
15 *following substances if the person who uses the substance has not*
16 *been issued a valid prescription to use the substance and the*
17 *substance is classified in schedule I or II pursuant to NRS 453.166*
18 *or 453.176 when it is used:*

19 (a) *Amphetamine.*

20 (b) *Cocaine.*

21 (c) *Cocaine metabolite.*

22 (d) *Heroin.*

23 (e) *Heroin metabolite:*

24 (1) *Morphine.*

25 (2) *6-monoacetyl morphine.*

26 (f) *Lysergic acid diethylamide.*

27 (g) *Methamphetamine.*

28 (h) *Phencyclidine.*

29 (i) *Marijuana (delta-9-tetrahydrocannabinol).*

30 **Sec. 17.5.** Section 1 of this act is hereby amended to read as
31 follows:

32 Section 1. Chapter 483 of NRS is hereby amended by
33 adding thereto a new section to read as follows:

34 1. If the result of a test given pursuant to NRS 484C.150
35 or 484C.160 shows that a person 18 years of age or older had
36 a concentration of alcohol of 0.04 or more but less than ~~[0.08]~~
37 **0.10** in his or her blood or breath or any detectable amount of
38 a substance described in 21 C.F.R. 1308.11 in his or her
39 blood or urine at the time of the test, the person's commercial
40 driver's license, commercial learner's permit or privilege to
41 drive a commercial motor vehicle must be suspended for a
42 period of 1 year.

43 2. This section does not preclude:

44 (a) The prosecution of a person for a violation of any
45 other provision of law; or



1 (b) The suspension or revocation of a person's
2 commercial driver's license, commercial learner's permit or
3 privilege to drive a commercial motor vehicle pursuant to any
4 other provision of law.

5 **Sec. 18.** 1. This section and sections 1 to 17, inclusive, of
6 this act become effective on July 1, 2021.

7 2. Section 17.5 of this act becomes effective on the date of the
8 repeal of the federal law requiring each state to make it unlawful for
9 a person to operate a motor vehicle with a blood alcohol
10 concentration of 0.08 percent or greater as a condition to receiving
11 federal funding for the construction of highways in this State.



