

SENATE BILL NO. 23—COMMITTEE ON
GROWTH AND INFRASTRUCTURE

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

PREFILED NOVEMBER 15, 2018

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to testing of a driver for the presence of alcohol or controlled substances. (BDR 43-345)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 1, 2)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 governing the testing of a driver for the presence and quantity of controlled substances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a driver shall be deemed to have given his or her consent to an evidentiary test to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the request of a police officer having reasonable grounds to believe that the driver was driving while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine or that the driver engaged in another prohibited act. (NRS 484C.160) **Section 1** of this bill provides that upon the request of the arresting officer, a sample of blood obtained pursuant to an evidentiary test must be tested for the presence and quantity of certain controlled substances for which the laboratory is licensed to test.

Existing law provides that in all cases in which a death has occurred as a result of a crash involving a motor vehicle, a blood sample must be drawn from each decedent involved in the crash to be analyzed for the presence and concentration of alcohol within 8 hours of the crash. (NRS 484C.170) **Section 2** of this bill removes the requirement to take the sample within 8 hours and requires the blood or another



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17 biological sample of the decedent to be tested for the presence and quantity of
18 certain controlled substances for which the laboratory is licensed to test.

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

1 **Section 1.** NRS 484C.160 is hereby amended to read as
2 follows:

3 484C.160 1. Except as otherwise provided in subsections 4
4 and 5, any person who drives or is in actual physical control of a
5 vehicle on a highway or on premises to which the public has access
6 shall be deemed to have given his or her consent to an evidentiary
7 test of his or her blood, urine, breath or other bodily substance to
8 determine the concentration of alcohol in his or her blood or breath
9 or to determine whether a controlled substance, chemical, poison,
10 organic solvent or another prohibited substance is present, if such a
11 test is administered at the request of a police officer having
12 reasonable grounds to believe that the person to be tested was:

13 (a) Driving or in actual physical control of a vehicle while under
14 the influence of intoxicating liquor or a controlled substance or with
15 a prohibited substance in his or her blood or urine; or

16 (b) Engaging in any other conduct prohibited by NRS 484C.110,
17 484C.120, 484C.130 or 484C.430.

18 2. A police officer who requests that a person submit to a test
19 pursuant to subsection 1 shall inform the person that his or her
20 license, permit or privilege to drive will be revoked if he or she fails
21 to submit to the test.

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

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

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

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

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



witnesses whose testimony in court or an administrative hearing is necessary because of the use of the blood test. The expenses of such a witness may be assessed at an hourly rate of not less than:

(1) Fifty dollars for travel to and from the place of the proceeding; and

(2) One hundred dollars for giving or waiting to give testimony.

(c) Except as otherwise provided in NRS 484C.200, not more than three samples of the person's blood or breath may be taken during the 5-hour period immediately following the time of the initial arrest.

6. Except as otherwise provided in subsection 7, if the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may request that the person submit to a blood or urine test, or both.

7. If the presence of marijuana in the blood of the person is in issue, the officer may request that the person submit to a blood test.

8. Except as otherwise provided in subsections 4 and 6, a police officer shall not request that a person submit to a urine test.

9. If a person to be tested fails to submit to a required test as requested by a police officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine; or

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

the officer may apply for a warrant or court order directing that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested.

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

11. Upon the request of an arresting officer, a sample of blood obtained pursuant to this section must be tested for the presence and quantity of any controlled substance listed in schedule I, II, III or IV which the laboratory conducting the testing is licensed to perform.

Sec. 2. NRS 484C.170 is hereby amended to read as follows:

484C.170 1. Any coroner, or other public official performing like duties, shall in all cases in which a death has occurred as a result of a crash involving a motor vehicle, whether the person killed is a driver, passenger or pedestrian, cause to be drawn from



1 each decedent ~~[, within 8 hours of the crash,]~~ a blood *or other*
2 *biological* sample to be analyzed for the presence and concentration
3 of alcohol ~~[.]~~ *and the presence and quantity of any controlled*
4 *substance listed in schedule I, II, III or IV which the laboratory*
5 *conducting the analysis is licensed to perform.*

6 2. The findings of the examinations are a matter of public
7 record and must be reported to the Department by the coroner or
8 other public official within 30 days after the death.

9 3. ~~[Blood alcohol analyses]~~ *Analyses of the presence and*
10 *concentration of alcohol and the presence and quantity of any*
11 *controlled substance performed pursuant to subsection 1* are
12 acceptable only if made by laboratories licensed to perform this
13 function.

14 **Sec. 3.** The provisions of NRS 354.599 do not apply to any
15 additional expenses of a local government that are related to the
16 provisions of this act.

17 **Sec. 4.** This act becomes effective on January 1, 2020.

