

## 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 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 on behalf of the Committee.
2. The Director or his or her designee may:
  - (a) Place the petition 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.
3. A person who is aggrieved by the denial of such a petition 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 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 on behalf of the Committee.

2. If the Director or his or her designee finds that the device named in the petition 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 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, the Director or designee shall, within 30 days after receiving the petition, deny the petition in writing, stating his or her reasons.

3. A person who is aggrieved by the denial of such a petition 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.

**Comment [VH1]:** AIIPA standardized definition

“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.

**Comment [VH2]:** AIIPA standardized definition.

“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 an “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.

**Comment [VH3]:** AIIPA standardized definition

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

**Comment [VH4]:** AIIPA standardized definition. This modification also conforms to the “Manufacturer Oversight” Best Practice Recommendation of the American Association of Motor Vehicle Administrators (AAMVA).

“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”.

**Comment [VH5]:** AIIPA standardized definition

“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.

**Comment [VH6]:** AIIPA standardized definition

“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.

**Comment [VH7]:** Oklahoma Definition.

“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”.

**Comment [VH8]:** AIIPA standardized definition

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

**Comment [VH9]:** AIIPA standardized definition

“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.

Comment [VH10]: AllIPA standardized definition

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

Comment [VH11]: AllIPA standardized definition

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

Comment [VH12]: AllIPA standardized definition

#### **New Section** Ignition Interlock Device requirements.

1. A manufacturer shall offer for installation only an ignition interlock device that is certified by the Committee 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 sample 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:

Comment [VH13]: Best Practice Recommendation by AAMVA.

(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 with the ability to adjust to 1.2 liters with a medical recommendation and/or documentation that is required to test a participant's breath;

Comment [VH14]: NHTSA Model Specifications, AllIPA Best Practice recommendation with concurrence by AAMVA.

(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.

Comment [VH15]: AllIPA recommendation with concurrence by AAMVA.

(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 made available upon request by the **DPS and/or Court**.

(h) Display tamper proof seals and a warning label that states: “WARNING! 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;

**Comment [VH16]:** AllIPA Best Practice with concurrence by AAMVA.

(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 emergency flashers or 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.

**Comment [VH17]:** In accordance with NHTSA’s recommendation on February 15, 2006 to “merely warn the driver at the time of the infraction with a unique audible or visual cue” (71 FR 8058). Lights and horn were considered by NHTSA and “rejected as a safety hazard”.

(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. 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 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. *No device may be used in the state of Nevada unless it has been approved by the Committee on a*



biannual basis and in accordance with the requirements in this regulation. All ~~applications requests~~ shall contain as a minimum the following items:

**Comment [VH18]:** Renewal can be a simple process and allows the possibility for future fees. An application form may simplify this process.

(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 (BAIDs) 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.

**Comment [VH19]:** In accordance with the "Model Guideline for State Ignition Interlock Programs" published by the National Highway Traffic Safety Administration (NHTSA).

(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:

**Comment [VH20]:** AIIPA Beat Practice recommendation with concurrence from AAMVA. Committee members understand this

(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;

**Comment [VH21]:** AIIPA Best Practice with concurrence by AAMVA and in accordance with the "Model Guideline for State Ignition Interlock Programs" published by the National Highway Traffic Safety Administration (NHTSA).

(3) A Nevada Ignition interlock device configuration profile in a format described by the Committee; 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 ~~its possible 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 ~~collect and pay all incurred costs~~, 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; ~~and~~

~~(3) The manufacturer, or any of their employees or agents agree to provide testimony relating to any aspect of the installation, service, repair, calibration, use, removal or performance of the ignition interlock device at no cost on behalf of the State or any of its political subdivisions.~~

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 pursuant to subsection 4; or

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

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

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~~

**Comment [VH22]:** Committee establishes standards and procedures for the evaluation. Process to be discussed and determined by Committee members. If ISO 17025 lab evaluation is more extensive and acceptable, other criteria may be considered.

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 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 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 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 informing it that the device manufacturer is no longer in business.

4. A manufacturer may request an appeal to the Committee 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 ~~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 .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.

Comment [VH23]: Committee establishes calibration standards

(a) ~~Verification by the manufacturer or his or her agent of the response and accuracy of the device using a certified dry gas standard with an alcohol concentration between .030 and .050 g/210L 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 the greater of 10 percent or 0.005 g/210L of the certified concentration of the dry gas standard, of the value of the standard alcohol solution for each level.~~

**Comment [VH24]:** This appears to be a duplication of some of the above language. Recommendation needed from Breath Alcohol analysts

(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) The manufacturer's calibration process must have a mechanism to correct for the elevation at which the dry gas is being used.

(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.

**Comment [VH25]:** In accordance with AIIPA Service Center/Best Practices

**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 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 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 with the service center's hours of operation and a twenty-four hour telephone number for use in the event of emergencies with the device. ~~Calls to the twenty-four hour telephone number must be answered or returned within one hour by a knowledgeable service representative;~~
- (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

**Comment [VH26]:** There is a question as to whether DMV's process requires proof of installation.

**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 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, and if installation was ordered by a court, provide the name and location of the court having jurisdiction.
- 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. A violations report or evidence of non-compliance must be reported to the Department; and to the court if requested.

**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:

(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 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;~~ *meets or exceeds the alcohol setpoint; and*

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

~~(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.~~

~~(c) Violation reporting of data monitoring collected in Section X, device monitoring requirements, above.~~

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.** *This regulation becomes effective October 1, 2018.* (SB 259, Sec. 10)

**References:**

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