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CHAPTER 484C - TESTING FOR INTOXICATION

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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. 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.
(Added to NAC by Com. on Testing for Intoxication, eff. 1-4-91; A 1-18-96; R112-97, 5-26-98; R032-05, 10-31-2005) — (Substituted in revision for NAC 484.590)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A 3-11-86; R112-97, 5-26-98; R032-05, 10-31-2005; R141-10, 5-5-2011) — (Substituted in revision for NAC 484.596)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A 3-11-86; R112-97, 5-26-98) — (Substituted in revision for NAC 484.598)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 9-26-86; A 9-9-94; R112-97, 5-26-98; R137-99, 12-13-99) — (Substituted in revision for NAC 484.615)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 9-26-86; A by R112-97, 5-26-98) — (Substituted in revision for NAC 484.618)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 9-26-86; A 7-18-88; 11-23-93; 9-9-94; R112-97, 5-26-98; R137-99, 12-13-99) — (Substituted in revision for NAC 484.621)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 9-26-86; A 7-18-88; 11-23-93; R112-97, 5-26-98) — (Substituted in revision for NAC 484.624)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A 3-11-86; 9-9-94; R112-97, 5-26-98; R137-99, 12-13-99) — (Substituted in revision for NAC 484.635)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A 3-11-86; 7-18-88; 11-23-93; 9-9-94; R112-97, 5-26-98; R137-99, 12-13-99; R032-05, 10-31-2005; R086-12, 6-23-2014) — (Substituted in revision for NAC 484.640)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A 3-11-86; 9-9-94; R137-99, 12-13-99; R032-05, 10-31-2005; R086-12, 6-23-2014) — (Substituted in revision for NAC 484.650)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A 3-11-86; 9-9-94; R137-99, 12-13-99; R032-05, 10-31-2005) — (Substituted in revision for NAC 484.660)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A 3-11-86; 11-23-93; 9-9-94; R112-97, 5-26-98; R137-99, 12-13-99; R032-05, 10-31-2005) — (Substituted in revision for NAC 484.670)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A by R112-97, 5-26-98) — (Substituted in revision for NAC 484.680)

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.

(Added to NAC by Com. on Testing for Intoxication, eff. 10-26-83; A by R112-97, 5-26-98) — (Substituted in revision for NAC 484.690)

DEVICES THAT PREVENT INTOXICATED PERSONS FROM STARTING VEHICLES

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 shall examine the petition on behalf of the Committee.

- 2. The Director or his or her agent 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.

3. A person who is aggrieved by the denial of a petition may appeal in writing to the Committee.

4. 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.

(Added to NAC by Com. on Testing for Intoxication, eff. 1-4-91; A by R193-97, 5-26-98; R137-99, 12-13-99) — (Substituted in revision for NAC 484.705)

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 at least once every 90 days.

2. The calibration must include:

(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.

3. Each device must meet the following requirements established by the Committee:

(a) Ability to sample a minimum volume of expired breath that is required to test a person's breath;

(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) Tamper with the device; or
 - (3) Receives a result on the test of the person's breath that is at or above a prohibited level.
4. If any evidence of tampering with the device is found, the device must not be used.
(Added to NAC by Com. on Testing for Intoxication, eff. 1-4-91; A 9-9-94; R112-97 & R193-97, 5-26-98) —
(Substituted in revision for NAC 484.711)

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 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.
(Added to NAC by Com. on Testing for Intoxication, eff. 1-4-91; A by R112-97, 5-26-98; R137-99, 12-13-99) — (Substituted in revision for NAC 484.715)