

# COMMITTEE ON TESTING FOR INTOXICATION

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Website – <https://ots.nv.gov/Programs/NCOTT/TestingForIntoxication/>

Agenda and Minutes – <https://ots.nv.gov/Meetings/Home/>

## **NEVADA REVISED STATUTES (NRS) 484C.600 THROUGH 484C.640**

### COMMITTEE MEMBERS (NRS 484C.600)

The Committee consists of five members. The director of DPS or his or her delegate is the chair of the Committee. The remaining members are appointed by the director and serve at the pleasure of the director:

- At least three of the members appointed by the director must be technically qualified in fields related to testing for intoxication
- Not more than three members may be from any one county.

### POWERS AND DUTIES OF THE COMMITTEE

The Committee shall adopt regulations which (NRS 484C.480):

- Provide for the certification of each model of those devices, described by manufacturer and model, which it approves as designed and manufactured to be accurate and reliable to test a person's breath to determine the concentration of alcohol in the person's breath and, if the results of the test indicate that the person has a concentration of alcohol of 0.02 or more in his or her breath, prevent the motor vehicle in which it is installed from starting;
- Prescribe the form and content of records respecting the calibration of devices, which must be kept by the manufacturer of the device or its agent, and other records respecting the installation, removal, inspection, maintenance and operation of the devices which it finds should be kept by the manufacturer or its agent;
- Prescribe standards and procedures for the proper installation, removal, inspection, calibration, maintenance, and operation of a device installed by the manufacturer or its agent; and
- Require the manufacturer or its agent to waive the cost of installing or removing the device and adjust the fee to lease, calibrate, or monitor the device, if the person required to install a device pursuant to NRS 484C.210 or 484C.460:
  - Has an income which is at or below 100 percent of the federally designated level signifying poverty, to 50 percent of the fee; or
  - Receives supplemental nutritional assistance, as defined in NRS 422A.072, was determined indigent pursuant to NRS 171.188, or has an income which is at or below 149 percent of the federally designated level signifying poverty, to 75 percent of the fee.

The Committee shall establish its own standards and procedures for evaluating the models of the devices and obtain evaluations of those models from the director of DPS or the manufacturer of the device or its agent (NRS 484C.480).

The Committee shall ([NRS 484C.610](#)):

- Certify a device that the Committee determines is designed and manufactured to be accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath; and
- Create, maintain, and make available to the public, free of charge, a list of those devices certified by the Committee, described by manufacturer and type.

The Committee shall adopt regulations which ([NRS 484C.620](#)):

- Prescribe standards and procedures for calibrating devices used for testing a person's breath to determine the concentration of alcohol in the person's breath;
- Establish methods for ascertaining the competence of persons to calibrate such devices and provide for the examination and certification of those persons by DPS; and
- Prescribe the form and contents of records respecting the calibration of such devices which must be kept by a law enforcement agency and any other records respecting the maintenance or operation of those devices which it finds should be kept by such an agency.

The Committee shall adopt regulations which ([NRS 484C.630](#)):

- Establish methods for ascertaining the competence of persons to:
  - Operate devices for testing a person's breath to determine the concentration of alcohol in the person's breath;
  - Examine prospective operators and determines their competence; and
- Provide for certification of operators and examiners by DPS.

The Committee may adopt regulations that require ([NRS 484C.640](#))

- The calibration of devices which are used to test a person's blood or urine to determine the concentration of alcohol or the presence of a controlled substance or another prohibited substance in the person's blood or urine;
- The certification of persons who make those calibrations;
- The certification of persons who operate devices for testing a person's blood or urine to determine the concentration of alcohol or presence of a controlled substance or another prohibited substance in the person's blood or urine; and
- The certification of persons who examine those operators.

The committee may adopt regulations that prescribe the essential procedures for the proper operation of the various types of devices used to test a person's blood or urine to determine the concentration of alcohol or the presence of a controlled substance or another prohibited substance in the person's blood or urine ([NRS 484C.640](#)).

## OPERATIONS OF THE COMMITTEE

- The Committee shall meet at the call of the director of DPS and as frequently as the Committee deems necessary. Three members of the Committee constitute a quorum. If a member is unable to attend a meeting, the member may be represented by an alternate approved by the director ([NRS 484C.600](#)).

- Any person who is aggrieved by a decision of the Committee may appeal in writing to a hearing officer of DPS ([NRS 484C.600](#)).

## BACKGROUND

### LEGISLATION

1983—[Senate Bill 390](#) (Chapter 597, *Statutes of Nevada*), sponsored by the Senate Committee on Judiciary, created the Committee on Testing for Intoxication and set forth its duties to certify and approve testing devices to determine the amount of alcohol in a person's blood, to keep a list of such approved devices, and to certify individuals in the proper use of such devices.

1985—[Assembly Bill 57](#) (Chapter 114, *Statutes of Nevada*), sponsored by the Assembly Committee on Government Affairs, removed the Committee members' authority to receive travel expenses permitted for state officers and employees.

1985—[SB 185](#) (Chapter 618, *Statutes of Nevada*), sponsored by the Senate Committee on Transportation, removed references to the Department of Motor vehicles (DMV) from provisions governing the Committee.

1993—[AB 389](#) (Chapter 505, *Statutes of Nevada*), sponsored by the Assembly Committee on Judiciary, removed the Committee's authority to certify devices which are used to test a person's blood or urine to determine the amount of alcohol or the presence of a controlled substance in the person's blood. Instead, the Committee was required to certify devices for testing a person's breath to determine the percent by weight of alcohol in the person's breath.

1999—[SB 152](#) (Chapter 480, *Statutes of Nevada*), sponsored by the Senate Committee on Transportation, clarified the definition of "driving under the influence" throughout the NRS and inserted a reference to the concentration of alcohol in blood or breath in each section of NRS that referred to the definition of intoxication.

1999—[AB 620](#) (Chapter 228, *Statutes of Nevada*), sponsored by the Assembly Committee on Judiciary, required the Committee to certify devices it determines are designed and manufactured to be accurate and reliable for the purpose of testing a person's breath to determine the level of intoxication. In addition, the measure required the committee to create, maintain, and make available to the public, free of charge, a list of the devices certified by the committee.

2005—[AB 445](#) (Chapter 30, *Statutes of Nevada*), Sponsored by the Assembly Committee on Judiciary, transferred the Committee from the DMV to DPS.

### LEGISLATIVE HISTORY

The following legislative histories have been compiled and are available on the website of the Research Library:

- The legislative history for SB 390 (1983) can be found here:
  - <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1983/SB390,1983.pdf>
- The legislative history for AB 57 (1985) can be found here:
  - <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1985/AB057,1985.pdf>

- The legislative history for SB 185 (1985) can be found here:
  - <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1985/SB185,1985.pdf>
- The legislative history for AB 389 (1993) can be found here:
  - <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1993/AB389,1993.pdf>
- The legislative history for SB 152 (1999) can be found here:
  - <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1999/SB152,1999pt1.pdf>
  - <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1999/SB152,1999pt2.pdf>

## REPORT TO THE LEGISLATURE

There is no requirement for the Committee on Testing for Intoxication to submit a report to the Legislature.

## **REVIEWED BY THE SUNSET SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION**

The Sunset Subcommittee has not previously reviewed the Committee on Testing for Intoxication.