

**Assembly Bill 200  
Proposed Amendment  
February 27, 2019**

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**Intent:** Clarifying amendments are offered after discussions with stakeholders and legislators.

**EXPLANATION:** Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) **red strikethrough** is deleted language in the original bill; (4) **purple double strikethrough** is language proposed to be deleted in this amendment; (5) **orange double underlining** is deleted language in the original bill proposed to be retained in this amendment.

Amend Section 1(1) and Section 1(2) as follows:

**Intent:** This amendment allows a person to voluntarily consent to a search of their device for evidence of physical use at the time of a crash involving serious injury or death. Further amendments clarify how the time of a crash may be determined, that the use of a device after a crash is not a violation, and that the driver may refuse the search and an officer shall obtain a warrant at that time.

*1. Any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall **may** be deemed to have given his or her consent to the use by a peace officer of an investigative technology device on any handheld wireless communications device in the possession of the person when such use is requested by the peace officer at the scene of a traffic crash **involving serious injury or death** pursuant to subsection 2. ~~If the person refuses the request of the peace officer to use an investigative technology device on the handheld wireless communications device, the officer shall seize the driver's license or permit of the person pursuant to subsection 5, and any such driver's license or permit must be suspended for 90 days.~~*

*2. A peace officer at the scene of a traffic crash **involving serious injury or death** may request access to the handheld wireless communications device in the possession of the driver of any vehicle involved in the crash for the purpose of using an investigative technology device on the handheld wireless communications device when, based upon personal investigation, the peace officer has reasonable and probable grounds to believe the driver violated NRS 484B.165 at or near the time of the crash.*

**(a) If the time of the crash is not known, the officer may use the time the accident was reported to emergency services or law enforcement, or other appropriate protocol.**

**(b) Use of a handheld wireless communications device after a crash shall not be a violation of NRS 484B.165.**

**(c) If the driver refuses the request of the officer to a voluntary phone use search using this technology, the officer shall obtain a warrant.**

Definition of serious injury: [https://safety.fhwa.dot.gov/hsip/spm/conversion\\_tbl/pdfs/nv.pdf](https://safety.fhwa.dot.gov/hsip/spm/conversion_tbl/pdfs/nv.pdf)

Amend Section 1(3) as follows:

**Intent:** The investigating officer needs access to the device only as necessary to connect a USB cable or similar physical interface cable capable of connecting the device. The driver or motorist should maintain physical possession of the device and allow the investigating officer access to the connection port.

An investigating officer will need an additional warrant to access content of the device. This technology is only to be used to determine physical use of the device and cannot access content.

3. *When using an investigative technology device on a handheld wireless communications device pursuant to this section, a peace officer may access and view only evidence of use of the handheld wireless communications device which violates NRS 484B.165 and shall not intentionally access or view any other content on the handheld wireless communications device. The motorist shall be allowed to maintain possession of their device during the investigation.*

If a police officer has probable cause to obtain additional information from the device, beyond evidence of use, they shall obtain an additional warrant.

Delete subsections 5-9 in their entirety:

**Intent:** Due to the deletion in subsection 1 regarding license suspension and revocation if a person refuses to consent to a search, these subsections are unnecessary.

- ~~5. If a driver refuses the request of a peace officer pursuant to subsection 2 the officer shall immediately serve a 90-day order of suspension of the license, permit or privilege to drive on the person who failed to submit to the request by the officer and seize the license or permit to drive of the person. The officer shall then, unless the information is expressly set forth in the order of suspension, advise the person of his or her right to administrative and judicial review of the suspension pursuant to this section and, except as otherwise provided in this subsection, that the person has a right to request a temporary license. If the person currently is driving with a temporary license that was issued pursuant to this section, the person is not entitled to request an additional temporary license pursuant to this section, and the order of suspension issued by the officer must suspend the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue the person a temporary license on a form approved by the Department if the person requests one. The temporary license must be effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate that the officer had reasonable and probable grounds to believe that the person violated NRS 484B.165 at or near the time of the crash. The certificate must also indicate whether the officer issued the person a temporary license.~~
- ~~6. At any time while a person is not eligible for a license, permit or privilege to drive following an order of suspension issued pursuant to subsection 5, the person may request in writing a hearing by the Department to review the order of suspension, but the person is only entitled to one hearing. The hearing must be conducted as soon as is practicable at any location, if the hearing officer permits each party and witness to attend the hearing by telephone, videoconference or other electronic means. The Director or agent of the Director may issue subpoenas for the attendance of witnesses~~

~~and the production of relevant books and papers and may require a reexamination of the requester. Unless the person is ineligible for a temporary license pursuant to subsection 5, the Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.~~

~~7. The scope of the hearing conducted pursuant to subsection 6 must be limited to whether the person refused the request of the peace officer to use an investigative technology device on the handheld wireless communications device in the possession of the person at the time of the crash pursuant to this section. Upon an affirmative finding on this issue, the Department shall affirm the order of suspension. Otherwise, the order of suspension must be rescinded.~~

~~If, after the hearing, the order of suspension is affirmed, the person whose license, privilege or permit has been suspended is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.~~

~~8. If a hearing officer grants a continuance of a hearing held pursuant to subsection 6 at the request of the person whose license, permit or privilege to drive was suspended, or a court does so after issuing a stay of the suspension, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to the person's last known address.~~