

453 of NRS or a chemical, poison , ~~[or]~~ organic solvent ~~[;]~~ *or another prohibited substance*, or the identity of a controlled substance alleged to have been in the possession of a person;

That on (date) I obtained certain evidence from (person, or evidence vault in sealed container), the evidence bearing Identification No. of (agency) and consisting of for the purpose of performing a chemical analysis on the contents thereof;

That on (date) I analyzed the sample or substance and determined it to be or contain (name of controlled substance, chemical, poison , ~~[or]~~ organic solvent ~~[;]~~ *or other prohibited substance*);

That on (date) I replaced the sample or substance in its container and sealed the container with a seal bearing my initials

That the evidence was in my sole custody or control from the time I obtained it until I resealed its container, at which time it was in substantially the same condition as when I first obtained it; and

That on (date) I returned the evidence to (person or evidence vault) or that I still have the evidence in my possession.

.....

Affiant's Signature

.....

Affiant's Title

FLUSH Subscribed and sworn to before me on the
..... day of the month of the year
.....

Notary Public

2. If the sample contained alcohol:

FLUSH State of Nevada }

}ss.

FLUSH County of }

I,, being first duly sworn, depose and say:

That I am (occupation) employed by (employer);

That on (date) I first qualified in the District Court of County as an expert witness for the purpose of testifying regarding the presence and amount of alcohol in the blood or urine of a person;

That on (date) I obtained evidence from (person, or evidence vault in sealed container), the evidence bearing Identification No. of (agency) and consisting of a sample of (blood or urine);

That on (date) I analyzed the sample and determined that the blood of the person from whom the sample was taken contained ~~[..... (percent) by weight]~~ **a concentration** of alcohol ~~[]~~ **of (grams per 100 milliliters of blood);**

That on (date) I replaced the sample in its container and sealed the container with a seal bearing my initials

That the evidence was in my sole custody or control from the time I first obtained it until I resealed its container, at which time it was in substantially the same condition as when I first obtained it; and

That on (date) I returned the evidence to (person or evidence vault) or that I still have the evidence in my possession.

.....

Affiant's Signature

.....

Affiant's Title

FLUSH

Subscribed and sworn to before me on the day of the month of the year
.....

Notary Public

Sec. 2. NAC 50.015 is hereby amended to read as follows:

50.015 A declaration of an expert referred to in NRS 50.320 must be substantially in one of the following forms:

1. If the sample or substance contained a controlled substance as defined in chapter 453 of NRS or a chemical, poison , ~~or~~ organic solvent ~~or~~ *or another prohibited substance:*

I,, hereby declare:

That I am (occupation) employed by (employer);

That on (date) I first qualified in the District Court of County as an expert witness for the purpose of testifying regarding the presence and identity in the blood or urine of a person of a controlled substance the use or possession of which is regulated by chapter 453 of NRS or a chemical, poison, ~~or~~ organic solvent ~~or~~ *or another prohibited substance*, or the identity of a controlled substance alleged to have been in the possession of a person;

That on (date) I obtained certain evidence from (person, or evidence vault in sealed container), the evidence bearing Identification No. of (agency) and consisting of for the purpose of performing a chemical analysis on the contents thereof;

That on (date) I analyzed the sample or substance and determined it to be or contain (name of controlled substance, chemical, poison, ~~or~~ organic solvent ~~or~~ *or other prohibited substance*);

That on (date) I replaced the sample or substance in its container and sealed the container with a seal bearing my initials

That the evidence was in my sole custody or control from the time I obtained it until I resealed its container, at which time it was in substantially the same condition as when I first obtained it; and

That on (date) I returned the evidence to (person or evidence vault) or that I still have the evidence in my possession.

I declare under penalty of perjury that the foregoing is true and correct.

FLUSH

Executed on.....

.....

(Date)

(Declarant's Signature)

.....

(Declarant's Title)

2. If the sample contained alcohol:

I,, hereby declare:

That I am (occupation) employed by (employer);

That on (date) I first qualified in the District Court of County as an expert witness for the purpose of testifying regarding the presence and amount of alcohol in the blood or urine of a person;

That on (date) I obtained evidence from (person, or evidence vault in sealed container), the evidence bearing Identification No. of (agency) and consisting of a sample of (blood or urine);

That on (date) I analyzed the sample and determined that the blood of the person from whom the sample was taken contained ~~[..... (percent) by weight]~~ **a concentration** of alcohol ~~[:]~~ **of (grams per 100 milliliters of blood);**

That on (date) I replaced the sample in its container and sealed the container with a seal bearing my initials

That the evidence was in my sole custody or control from the time I first obtained it until I resealed its container, at which time it was in substantially the same condition as when I first obtained it; and

That on (date) I returned the evidence to (person or evidence vault) or that I still have the evidence in my possession.

I declare under penalty of perjury that the foregoing is true and correct.

FLUSH Executed on..... (Date) (Declarant's Signature) (Declarant's Title)

Sec. 3. NAC 50.020 is hereby amended to read as follows:

50.020 An affidavit which is referred to in subsection 1 of NRS 50.315 must be in substantially the following form:

FLUSH State of Nevada } }ss. FLUSH County of }

I,, being first duly sworn, depose and say:

That I am (occupation) employed by (employer);

That I was certified on (date) by the director of the department of motor vehicles and public safety as being competent to operate a (name of breath-testing device), a device of a type which, as designed and manufactured, has been certified by the committee on testing for intoxication to be accurate and reliable for testing a person's breath to determine the ~~[percent by weight]~~ *concentration* of alcohol in his breath;

That on (date) I obtained a sample of the breath of (name of person tested) and tested it in accordance with the prescribed checklist on a (name of device) which was functioning properly; and

That the tests indicated the breath of the person tested contained the following ~~[percents by weight]~~ *concentrations* of alcohol (grams per 210 liters of breath):

1st test 2nd test 3rd test

.....

Affiant's Signature

.....

Affiant's Title

FLUSH

Subscribed and sworn to before me on the
..... day of the month of the year
.....

Notary Public

Sec. 4. NAC 50.025 is hereby amended to read as follows:

50.025 A declaration which is referred to in subsection 1 of NRS 50.315 must be in substantially the following form:

I,, hereby declare:

That I am (occupation) employed by (employer);

That I was certified on (date) by the director of the department of motor vehicles and public safety as being competent to operate a (name of breath-testing device), a device of a type which, as designed and manufactured, has been certified by the committee on testing for intoxication to be accurate and reliable for testing a person's breath to determine the ~~[percent by weight]~~ *concentration* of alcohol in his breath;

That on (date) I obtained a sample of the breath of (name of person tested) and tested it in accordance with the prescribed checklist on a (name of device) which was functioning properly; and

That the tests indicated the breath of the person tested contained the following ~~[percents by weight]~~ *concentrations* of alcohol (grams per 210 liters of breath):

1st test 2nd test 3rd test

I declare under penalty of perjury that the foregoing is true and correct.

FLUSH Executed on.....

(Date)

(Declarant's Signature)

.....
(Declarant's Title)

Sec. 5. NAC 50.040 is hereby amended to read as follows:

That the calibration was performed within the period required and that the device was otherwise maintained as required by the regulations of the committee on testing for intoxication; and

That upon completion of the calibration the (name and serial number of device) was operating properly.

.....

Affiant's Signature

.....

Affiant's Title

FLUSH

Subscribed and sworn to before me on the day of the month of the year

.....

Notary Public

Sec. 6. NAC 50.045 is hereby amended to read as follows:

50.045 A declaration referred to in subsection 3 of NRS 50.315 must be in substantially the following form:

I,, hereby declare:

That I am a forensic analyst of alcohol employed by (name of employer);

That I was certified by the director of the department of motor vehicles and public safety on (date) as a person competent to calibrate evidential breath-testing devices;

That on (date) I calibrated a (name of device) bearing serial number which is located at the (name of law enforcement agency) in (city or county), Nevada;

That the (name of device) is certified by the committee on testing for intoxication, as designed and manufactured, to be accurate and reliable for the purpose of testing a person's breath to determine the ~~[percent by weight]~~ **concentration** of alcohol in the person's breath (grams per 210 liters of breath);

That the calibration was performed by verifying the response and accuracy of the device, as prescribed in the regulations of the committee on testing for intoxication, by (description of procedure used);

That the calibration was performed within the period required and that the device was otherwise maintained as required by the regulations of the committee on testing for intoxication; and

That upon completion of the calibration the (name and serial number of device) was operating properly.

I declare under penalty of perjury that the foregoing is true and correct.

FLUSH Executed on..... (Date) (Declarant's Signature)

..... (Declarant's Title)

Sec. 7. NAC 484.615 is hereby amended to read as follows:

484.615 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 ~~[in NAC 484.605,]~~ *which are certified by the committee pursuant to NRS 484.3882*, the director ~~[of the department of motor vehicles and public safety]~~ or his designee shall examine the petition on behalf of the committee ~~. [on testing for intoxication.]~~

2. The director or his 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 designee may appeal in writing to the committee.

4. If a breath-testing device is to be evaluated, the director or his designee shall arrange for two of the fully equipped devices to be made available to a laboratory designated by him. 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 ~~[percent by weight]~~ *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 stops a vehicle.

Sec. 8. NAC 484.621 is hereby amended to read as follows:

484.621 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 ~~percentage by weight~~ *a concentration* of alcohol in the breath from 0 to 0.4 ~~percent~~ *grams 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.

Sec. 9. NAC 484.635 is hereby amended to read as follows:

484.635 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 ~~in NAC 484.631,~~ *which are certified by the committee pursuant to NRS 484.3882*, the director ~~of the department of motor vehicles and public safety~~ or his designee shall examine the petition on behalf of the committee ~~. on testing for intoxication.~~

2. If the director or his 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, he 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, he shall, within 30 days after receiving the petition, deny the petition in writing, stating his reasons.

3. A person who is aggrieved by the denial of such a petition by the director or his designee may appeal in writing to the committee.

4. If a breath-testing device is to be evaluated, the director or his designee shall arrange for two fully equipped devices to be made available to a forensic laboratory designated by him. 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 ~~[percent by weight]~~ *concentration* of alcohol in the person's breath.

Sec. 10. NAC 484.640 is hereby amended to read as follows:

484.640 1. A person or his employer must apply to the department of motor vehicles and 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 designee shall certify as an operator of an evidential breath-testing device each applicant who has successfully completed a course consisting of at least 4 hours of instruction on the subject of the operation of devices for testing a person's breath to determine the ~~[percent by weight]~~ *concentration* of alcohol in his breath which has been approved by the peace officers' standards and training ~~[committee.]~~ *commission*. 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 specific devices for which certification is granted.

3. The director or his 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 evidentiary breath-testing device; and
- (b) Has successfully completed a course consisting of at least 2 hours of instruction on the subject of the operation of the device for testing a person's breath to determine the ~~percent by weight~~ *concentration* of alcohol in his breath which has been approved by the peace officers' standards and training ~~committee~~ *commission*. 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 specific device for which certification is granted.

4. The certificate issued by the director or his 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 is valid for 3 years after the date of the certification.

Sec. 11. NAC 484.650 is hereby amended to read as follows:

484.650 The director ~~of the department of motor vehicles and public safety~~ or his designee shall renew the certificate of any person certified by him as an operator of an evidential breath-testing device who:

1. Individually or through his 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 at least 2 hours of instruction on the operation of devices for testing a person's breath to determine the ~~percent by weight~~ *concentration* of alcohol in his breath which has been approved by the peace officers' standards

and training ~~[committee.]~~ *commission*. 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 specific devices for which renewal of certification will be granted.

Sec. 12. NAC 484.660 is hereby amended to read as follows:

484.660 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 every 90 days.

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 ~~[percentage by weight]~~ *a concentration* of alcohol in the breath from 0 to 0.4 ~~[percent,]~~ *grams per 210 liters of breath*, inclusive.

Sec. 13. NAC 484.670 is hereby amended to read as follows:

484.670 A certified operator of an evidential breath-testing device:

1. In the ordinary course of his business and at the time he 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 ~~[on testing for intoxication]~~ for use with the specific type of device that he 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 which is certified to contain a specific concentration of alcohol within the range that corresponds to ~~[percentage by weight]~~ *concentration* of alcohol in the breath from .05 to .20 ~~[percent,]~~ *grams per 210 liters of breath*, inclusive.

Sec. 14. NAC 484.705 is hereby amended to read as follows:

484.705 1. Upon receipt of a petition from any interested person to make an addition to or a deletion from the list of devices ~~[that]~~ *which* prevent an intoxicated person from starting a vehicle ~~[]~~ *and which are certified by the committee pursuant to NRS 484.3882*, the director or his agent shall examine the petition on behalf of the committee.

2. The director or his 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 agent shall arrange for two of the fully equipped devices to be made available to a forensic laboratory designated by him. 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.

Sec. 15. NAC 484.715 is hereby amended to read as follows:

484.715 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 ~~percent~~ *grams* 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 designee.

Sec. 16. NAC 484.605, 484.631 and 484.701 are hereby repealed.

TEXT OF REPEALED SECTIONS

484.605 List of approved devices. (NRS 484.3882) The following preliminary breath-testing devices are approved and certified as being designed and manufactured to be accurate and reliable to determine the percent by weight of alcohol in a 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 stops a vehicle:

1. Alcosensor pass-suspect-fail model, manufactured by Intoximeters, Inc.
2. Alcosensor III, digital, manufactured by Intoximeters, Inc.
3. Alcosensor IV, manufactured by Intoximeters, Inc.
4. A.L.E.R.T. J-4 digifail model, manufactured by Alcohol Countermeasure Systems.
5. A.L.E.R.T. J-4 pass-suspect-fail model, manufactured by Alcohol Countermeasure Systems.
6. A.L.E.R.T. J-4X software version 1.83, hardware revision 7, manufactured by Alcohol Countermeasure Systems.
7. Intoxilyzer 1400, manufactured by CMI, Inc.
8. SD-2, manufactured by CMI, Inc.
9. RBT IV, manufactured by Intoximeters, Inc.
10. PBA 3000, manufactured by LIFE-LOC, Inc.
11. Breathalyzer 7410, manufactured by Draeger.

484.631 List of approved devices. The following evidential breath-testing devices are approved and certified as being designed and manufactured to be accurate and reliable for testing a person's breath to determine the percent by weight of alcohol in the person's breath:

1. Breathalyzer Model 900 A, manufactured by Smith & Wesson Electronics Company (Mechanical-photoelectric).
2. Breathalyzer Model 1000, manufactured by Smith & Wesson Electronics Company (Mechanical-photoelectric).
3. Gas Chromatograph Intoximeter Mark IV, manufactured by Intoximeters, Inc. (Gas chromatograph).

4. Gas Chromatograph Intoximeter Mark IV A, manufactured by Intoximeters, Inc. (Gas chromatograph).
5. Intoxilyzer Model 4011, manufactured by CMI, Inc. (Infrared absorption).
6. Intoxilyzer Model 4011A, manufactured by CMI, Inc. (Infrared absorption).
7. Intoxilyzer 4011A 27-10100, manufactured by CMI, Inc. (Infrared absorption).
8. Intoxilyzer 4011A 27-10100 with the optional capability of fixed-filter calibration, manufactured by CMI, Inc. (Infrared absorption).
9. Intoxilyzer 4011AS, manufactured by CMI, Inc. (Infrared absorption).
10. Intoxilyzer Model 4011, manufactured by Omicron Systems Corporation (Infrared absorption).
11. Intoximeter 3000, manufactured by Intoximeters, Inc. (Infrared absorption).
12. BAC Verifier, manufactured by Verax Systems, Inc., manufacturing rights held by National Patent Analytical Systems, Inc. (Infrared absorption).
13. Intoxilyzer 5000, manufactured by CMI, Inc. (Infrared absorption).
14. BAC Datamaster, manufactured by National Patent Analytical Systems, Inc. (Infrared absorption).
15. Intoxilyzer 1400, manufactured by CMI, Inc. (Infrared absorption).

484.701 List of approved devices. (NRS 484.3882) The following devices are approved and certified as being designed and manufactured to be accurate and reliable to determine the percent by weight of alcohol in a person's breath when the test is taken to prevent an intoxicated person from starting a vehicle:

1. Intoxalock, manufactured by Consumer Safety Technology, Inc.

2. Draeger Interlock, manufactured by Draeger.
3. National Interlock model WR2, manufactured by National Interlock Systems, Inc.