

**ADOPTED REGULATION OF THE
COMMITTEE ON TESTING FOR INTOXICATION**

LCB File No. R112-97

Effective May 26, 1998

EXPLANATION – Matter in *italics* is new; matter in brackets [] is material to be omitted.

AUTHORITY: §§ 2 and 8, NRS 50.320; §§ 3-7 and 9-13, NRS 50.315; §§ 14-18, NRS 484.3882; §§ 19-20 and 23-30, NRS 484.3884; §§ 21-22, NRS 484.3886.

Section 1. Chapter 50 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *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:

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 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);

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.

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 of alcohol;

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.

Executed on

(Date)

.....

(Declarant's Signature)

.....

(Declarant's Title)

Sec. 3. *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 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 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.

Executed on

(Date)

.....

(Declarant's Signature)

.....

(Declarant's Title)

Sec. 4. *A declaration which is referred to in subsection 2 of NRS 50.315 must be in substantially the following form:*

I,, hereby declare:

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

That on (date) I prepared a (chemical solution or gas) consisting of (description and composition of solution or gas) as necessary for accurately calibrating the (name of device).

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

Executed on

(Date)

.....

(Declarant's Signature)

.....

(Declarant's Title)

Sec. 5. *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 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.

Executed on

(Date)

.....

(Declarant's Signature)

.....

(Declarant's Title)

Sec. 6. *A declaration referred to in subsection 4 of NRS 50.315 must be in substantially the following form:*

I,, hereby declare:

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

That a regular part of my duties is the withdrawing of blood samples from persons and I am authorized to do so by the (name of appropriate licensing or certifying agency);

That on (date) at o'clock ...m., I withdrew a sample of blood in a medically accepted manner from a person known to me as (name); and

That I kept the sample of blood in my sole custody or control and it remained in substantially the same condition as when I first obtained it until on (date) I delivered the sample to (name of person) of the (name of law enforcement agency).

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

Executed on

(Date)

.....

(Declarant's Signature)

.....

(Declarant's Title)

Sec. 7. *A declaration referred to in subsection 5 of NRS 50.315 must be in substantially the following form:*

I,, hereby declare:

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

That on (date) I received from (name of person) certain evidence bearing Identification No. of the (law enforcement agency), consisting of (description of evidence); and

That I kept the evidence in my sole custody or control and in substantially the same condition as when I first received it until on (date) when I delivered the evidence to (name of person).

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

Executed on

(Date)

.....

(Declarant's Signature)

.....

(Declarant's Title)

Sec. 8. NAC 50.010 is hereby amended to read as follows:

50.010 [The] *An* affidavit of an expert referred to in [subsection 1 of NRS 50.315] *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:

State of Nevada

ss.

County of }

I,, being first duly sworn, [**deposes and says:**] *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 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 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);

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] *Affiant's Signature*

.....

Affiant's Title

Subscribed and sworn to before me this

..... day of, 19...

.....

Notary Public

2. If the sample contained alcohol:

State of Nevada

ss.

County of }

I,, being first duly sworn, [**deposes and says:**] *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 of alcohol;

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**] *Affiant's Signature*

.....

Affiant's Title

Subscribed and sworn to before me this

..... day of, 19...

.....

Notary Public

Sec. 9. NAC 50.020 is hereby amended to read as follows:

50.020 [The] *An* affidavit which is referred to in subsection [2] *I* of NRS 50.315 must be in substantially the following form:

State of Nevada

ss.

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 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 of alcohol [:] (*grams per 210 liters of breath*):

1st test 2nd test 3rd test

.....

[Affiant] *Affiant's Signature*

.....

Affiant's Title

Subscribed and sworn to before me this

..... day of, 19...

.....

Notary Public

Sec. 10. NAC 50.030 is hereby amended to read as follows:

50.030 [The] *An* affidavit which is referred to in subsection [3] 2 of NRS 50.315 must be in substantially the following form:

State of Nevada

ss.

County of }

I,, being first duly sworn, [**deposes and says:**] *depose and say:*

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

That on (date) I prepared a (chemical solution or gas) consisting of
..... (description and composition of solution or gas) as necessary for accurately
calibrating the (name of device).

I do hereby swear under penalty of perjury that the assertions of this affidavit are true.

.....

[**Affiant**] *Affiant's Signature*

.....

Affiant's Title

Subscribed and sworn to before me this

..... day of, 19...

.....

Notary Public

Sec. 11. NAC 50.040 is hereby amended to read as follows:

50.040 [The] An affidavit referred to in subsection [4] 3 of NRS 50.315 must be in substantially the following form:

State of Nevada

ss.

County of }

I,, being first duly sworn, [deposes and says:] *depose and say:*

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 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.

.....

[Affiant] *Affiant's Signature*

.....

Affiant's Title

Subscribed and sworn to before me this

..... day of, 19...

.....

Notary Public

Sec. 12. NAC 50.050 is hereby amended to read as follows:

50.050 [The] *An* affidavit referred to in subsection [5] 4 of NRS 50.315 must be in substantially the following form:

State of Nevada

ss.

County of }

I,, being first duly sworn, [**deposes and says:**] *depose and say:*

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

That a regular part of my duties is the withdrawing of blood samples from persons and I am authorized to do so by the (name of appropriate licensing or certifying agency);

That on (date) at o'clock ...m., I withdrew a sample of blood in a medically accepted manner from a person known to me as (name); and

That I kept the sample of blood in my sole custody or control and it remained in substantially the same condition as when I first obtained it until on (date) I delivered the sample to (name of person) of the (name of law enforcement agency).

I do hereby swear under penalty of perjury that the assertions of this affidavit are true.

.....

[**Affiant**] *Affiant's Signature*

.....

Affiant's Title

Subscribed and sworn to before me this

..... day of, 19...

.....

Notary Public

Sec. 13. NAC 50.060 is hereby amended to read as follows:

50.060 [The] *An* affidavit referred to in subsection [6] 5 of NRS 50.315 must be in substantially the following form:

State of Nevada

ss.

County of }

I,, being first duly sworn, [**deposes and says:**] *depose and say:*

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

That on (date) I received from (name of person) certain evidence bearing Identification No. of the (law enforcement agency), consisting of (description of evidence); and

That I kept the evidence in my sole custody or control and in substantially the same condition as when I first received it until on (date) when I delivered the evidence to (name of person).

.....

[**Affiant**] *Affiant's Signature*

.....

Affiant's Title

Subscribed and sworn to before me this

..... day of, 19...

.....

Notary Public

Sec. 14. NAC 484.590 is hereby amended to read as follows:

484.590 As used in NAC 484.590 to [484.695,] 484.690, 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 484.3941.
3. “Director” means the director of the department of motor vehicles and public safety.

Sec. 15. NAC 484.605 is hereby amended to read as follows:

484.605 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.

Sec. 16. NAC 484.607 is hereby amended to read as follows:

484.607 The [INTOXALOCK, manufactured by Consumer Safety Technology, Inc., is] *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.

Sec. 17. NAC 484.610 is hereby amended to read as follows:

484.610 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 in NAC 484.600, 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 of alcohol in the person's breath.

Sec. 18. 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, 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 [agent] *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 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. 19. NAC 484.620 is hereby amended to read as follows:

484.620 1. A person must apply to the director of the department of motor vehicles and public safety *or his designee* on a form furnished by the department for certification as a forensic analyst of alcohol.

2. The director *or his 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 24 semester hours in the study of chemistry at an accredited college or university;

(c) Has successfully completed a course which has been approved by the committee on testing for intoxication and consisted of at least 24 hours of instruction on the design, calibration and operation of the kind of breath-testing devices that he will be calibrating or teaching others to operate; and

(d) Demonstrates his 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.

Sec. 20. NAC 484.630 is hereby amended to read as follows:

484.630 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 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 on testing for intoxication, 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 484.620 and demonstrates his competence in calibrating breath-testing devices and in evaluating others on their competence in operating such devices; or

2. Submits to him the following documents:

(a) A current resume of his 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 [testing breath for alcoholic content] *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 he was accepted as an expert.

(d) Verification of continued activity in the field of [testing breath for alcoholic content] *breath alcohol testing* since his previous certification.

Sec. 21. NAC 484.640 is hereby amended to read as follows:

484.640 1. A person or his employer must apply to the [director of 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 of alcohol in his breath which has been approved by the peace officers' standards and training 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 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 of alcohol in his breath which has been approved by the peace officer's standards and training 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 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. 22. NAC 484.655 is hereby amended to read as follows:

484.655 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 [the committee.] *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.

Sec. 23. NAC 484.665 is hereby amended to read as follows:

484.665 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 [, using an appropriate certified alcohol standard,] within the range which corresponds to percentage by weight of alcohol in the breath from 0 to 0.4 percent, 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. 24. NAC 484.666 is hereby amended to read as follows:

484.666 1. Each device that prevents an intoxicated person from starting a vehicle must be calibrated, tested and examined by the manufacturer or his agent at least once every 90 days.

2. The calibration must include:

(a) Verification by the manufacturer *or agent* of the response and accuracy of the device at no less than two levels of alcohol [, using an appropriate certified standard alcohol solution] within the range that corresponds to percentage by weight of alcohol in the breath of [0.05] 0.02 to 0.10 percent, inclusive. The accuracy of the device must be within 10 percent of the value of the certified 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 results of the test of a person's breath indicate that the person has] a breath alcohol level of [0.05] 0.02 percent or more [.] *is detected.*

3. If any evidence of tampering with the device is found, the device must not be used.

Sec. 25. NAC 484.667 is hereby amended to read as follows:

484.667 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.

Sec. 26. NAC 484.668 is hereby amended to read as follows:

484.668 1. The manufacturer or [his] *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 [manufacturer and analyst] *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 motor vehicle in which it is installed from starting [is the results of the test of a person's breath indicate that the person has] *if* a breath alcohol level of [0.05] *0.02* percent or more [;] *is detected*; and

(5) The nature and extent of [any] 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 [manufacturer and analyst] *person* performing the maintenance or repair;

and

(3) The nature and extent of [the] maintenance or repair [.] *performed on the device.*

2. The manufacturer or [his] *its* agent shall [submit] *retain* the form *and make it available upon request* to the director [and any report of tampering within 5 days after calibrating, maintaining or repairing a device.] *or his designee.*

Sec. 27. 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 [prepared by the director of the department of motor vehicles and public safety] *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 of alcohol in the breath from .05 to .20 percent, inclusive.

Sec. 28. NAC 484.680 is hereby amended to read as follows:

484.680 1. Each law enforcement agency which uses an evidential breath-esting device shall keep in the ordinary course of its business a chronological record for each device.

2. The operator [,] *or* forensic analyst of alcohol [or person who maintains or repairs the device] shall enter into the record, at or near the time of his 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 . [*; and*
- (4) *The nature and extent of any maintenance or repair which is performed on the device.*]
- (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.

Sec. 29. NAC 484.690 is hereby amended to read as follows:

484.690 1. Each forensic analyst of alcohol who calibrates *or repairs* evidential breath-testing devices shall keep in the ordinary course of his business a chronological record for each device upon which he performs calibrations [*.*] *or repairs*.

2. The analyst shall enter into his record, at or near the time he 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 [*maintenance or*] repair which he performs on the device.

Sec. 30. NAC 484.695 is hereby repealed.

TEXT OF REPEALED SECTION

484.695 Preliminary breath-testing device: Records of forensic analyst of alcohol. Each forensic analyst of alcohol who calibrates preliminary breath-testing devices shall keep a chronological record for each device upon which he performs calibrations. The record must include:

1. The date and time of the calibration;
2. The analyst's name;
3. The response and accuracy of the device for each test of calibration which is performed;

and

4. The nature and extent of any maintenance or repair which is performed on the device.