

Nevada District Attorneys Association

2025 Legislative Session PROPOSED AMENDMENT TO SB 309

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Intent:

The intent of this amendment is to limit the scope of SB 309 to the following changes:

1. Reduce the concentration of alcohol threshold from 0.18 to 0.16;
2. Add fentanyl to the list of per se substances;
3. Change “on or off the highways of this State” to “a highway or on premises to which the public has access” to use consistent verbiage throughout the DUI statutes;
4. Increase the incarceration time on a DUI 2nd from 10 days in jail to 20 days in jail, consistent with the penalty for a BDV 2nd.
5. Allow for enhanced penalties when a subsequent DUI is obtained while a person is undergoing a program of treatment for an alcohol or other substance use disorder pursuant to NRS 484C.320, 484C.330 or 484C.340; and
6. Amend NRS 484C.250 keeping only the immunity provisions for phlebotomists.

All other proposed changes contained in SB 309 would be removed from the bill.

Amendments:

Retain sections 1, 2, 8, 9, 10, 11, 13, and 18.

Amend sections 3 (striking references to MDMA), 5 (strike everything except the fentanyl per se levels), 7 (strike everything except retain “on or off the highways”), 12 (strike everything except retain the 20 days in jail for a subsequent offense and the references to enhancing a DUI when the person is in a program of treatment), 14 (strike everything except retain “on or off the highways”), 15 (striking everything except the fentanyl per se levels),

Strike sections 4, 6, 16, 17, strike the repeal of NRS 484C.250, remove any section making conforming changes.

Add a new section to the Bill:

Amend NRS 484C.250 ~~Admissibility of results of blood test in hearing or~~

~~criminal action;~~ immunity from liability for person
administering blood test in certain circumstances.

~~1. The results of any blood test administered under the
provisions of NRS 484C.160 or 484C.180 are not admissible in any
hearing or criminal action arising out of acts alleged to have been
committed by a person who was driving or in actual physical control
of a vehicle while under the influence of intoxicating liquor or a
controlled substance or with a prohibited substance in his or her
blood or urine or who was engaging in any other conduct prohibited
by NRS 484C.110, 484C.120, 484C.130 or 484C.430 unless:~~

~~(a) The blood tested was withdrawn by a person, other than an
arresting officer, who:~~

~~(1) Is a physician, physician assistant licensed pursuant to
chapter 630 or 633 of NRS, registered nurse, licensed practical
nurse, advanced emergency medical technician, paramedic or a
phlebotomist, technician, technologist or assistant employed in a
medical laboratory; or~~

~~(2) Has special knowledge, skill, experience, training and
education in withdrawing blood in a medically acceptable manner,
including, without limitation, a person qualified as an expert on that
subject in a court of competent jurisdiction or a person who has
completed a course of instruction that qualifies him or her to take an
examination in phlebotomy that is administered by the American
Medical Technologists or the American Society for Clinical
Pathology; and~~

~~(b) The test was performed on whole blood, except if the sample
was clotted when it was received by the laboratory, the test may be
performed on blood serum or plasma.~~

~~2. The limitation contained in paragraph (a) of subsection 1
does not apply to the taking of a chemical test of the urine, breath or~~

~~other bodily substance.~~

~~3. No person listed in paragraph (a) of subsection 1~~ incurs any civil or criminal liability as a result of the administering of a blood test when requested by a police officer or the person to be tested to administer the test.