

ASSEMBLY BILL NO. 23—ASSEMBLYMAN MANENDO

PREFILED JANUARY 8, 1999

Referred to Committee on Judiciary

SUMMARY—Increases fines for driving under influence of alcohol or controlled substance.
(BDR 43-1093)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

2

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

AN ACT relating to traffic laws; increasing the minimum fine for an offender convicted of driving under the influence of alcohol or a controlled substance for the first or second offense; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 484.3792 is hereby amended to read as follows:
2 484.3792 1. A person who violates the provisions of NRS 484.379:
3 (a) For the first offense within 7 years, is guilty of a misdemeanor.
4 Unless he is allowed to undergo treatment as provided in NRS 484.37937,
5 the court shall:
6 (1) Except as otherwise provided in subsection 6, order him to pay
7 tuition for an educational course on the abuse of alcohol and controlled
8 substances approved by the department and complete the course within the
9 time specified in the order, and the court shall notify the department if he
10 fails to complete the course within the specified time;
11 (2) Unless the sentence is reduced pursuant to NRS 484.37937,
12 sentence him to imprisonment for not less than 2 days nor more than 6
13 months in jail, or to perform 96 hours of work for the community while
14 dressed in distinctive garb that identifies him as having violated the
15 provisions of NRS 484.379; and
16 (3) Fine him not less than ~~[\$200]~~ \$400 nor more than \$1,000.
17 (b) For a second offense within 7 years, is guilty of a misdemeanor.
18 Unless the sentence is reduced pursuant to NRS 484.3794, the court:
19 (1) Shall sentence him to:

1 (I) Imprisonment for not less than 10 days nor more than 6 months
2 in jail; or

3 (II) Residential confinement for not less than 10 days nor more
4 than 6 months, in the manner provided in NRS 4.376 to 4.3768, inclusive,
5 or 5.0755 to 5.078, inclusive;

6 (2) Shall fine him not less than ~~[\$500]~~ \$750 nor more than \$1,000;

7 (3) Shall order him to perform not less than 100 hours, but not more
8 than 200 hours, of work for the community while dressed in distinctive
9 garb that identifies him as having violated the provisions of NRS 484.379,
10 unless the court finds that extenuating circumstances exist; and

11 (4) May order him to attend a program of treatment for the abuse of
12 alcohol or drugs pursuant to the provisions of NRS 484.37945.

13 A person who willfully fails or refuses to complete successfully a term of
14 residential confinement or a program of treatment ordered pursuant to this
15 paragraph is guilty of a misdemeanor.

16 (c) For a third or subsequent offense within 7 years, is guilty of a
17 category B felony and shall be punished by imprisonment in the state
18 prison for a minimum term of not less than 1 year and a maximum term of
19 not more than 6 years, and shall be further punished by a fine of not less
20 than \$2,000 nor more than \$5,000. An offender so imprisoned must, insofar
21 as practicable, be segregated from offenders whose crimes were violent
22 and, insofar as practicable, be assigned to an institution or facility of
23 minimum security.

24 2. An offense that occurred within 7 years immediately preceding the
25 date of the principal offense or after the principal offense constitutes a prior
26 offense for the purposes of this section when evidenced by a conviction,
27 without regard to the sequence of the offenses and convictions. The facts
28 concerning a prior offense must be alleged in the complaint, indictment or
29 information, must not be read to the jury or proved at trial but must be
30 proved at the time of sentencing and, if the principal offense is alleged to be
31 a felony, must also be shown at the preliminary examination or presented to
32 the grand jury.

33 3. A person convicted of violating the provisions of NRS 484.379 must
34 not be released on probation, and a sentence imposed for violating those
35 provisions must not be suspended except, as provided in NRS 4.373, 5.055,
36 484.37937 and 484.3794, that portion of the sentence imposed that exceeds
37 the mandatory minimum. A prosecuting attorney shall not dismiss a charge
38 of violating the provisions of NRS 484.379 in exchange for a plea of guilty,
39 guilty but mentally ill or nolo contendere to a lesser charge or for any other
40 reason unless he knows or it is obvious that the charge is not supported by
41 probable cause or cannot be proved at the time of trial.

42 4. A term of confinement imposed pursuant to the provisions of this
43 section may be served intermittently at the discretion of the judge or justice

1 of the peace, except that a person who is convicted of a second or
2 subsequent offense within 7 years must be confined for at least one segment
3 of not less than 48 consecutive hours. This discretion must be exercised
4 after considering all the circumstances surrounding the offense, and the
5 family and employment of the offender, but any sentence of 30 days or less
6 must be served within 6 months after the date of conviction or, if the
7 offender was sentenced pursuant to NRS 484.37937 or 484.3794 and the
8 suspension of his sentence was revoked, within 6 months after the date of
9 revocation. Any time for which the offender is confined must consist of not
10 less than 24 consecutive hours.

11 5. Jail sentences simultaneously imposed pursuant to this section and
12 NRS 483.560 or 485.330 must run consecutively.

13 6. If the person who violated the provisions of NRS 484.379 possesses
14 a driver's license issued by a state other than the State of Nevada and does
15 not reside in the State of Nevada, in carrying out the provisions of
16 subparagraph (1) of paragraph (a) or (b) of subsection 1, the court shall:

17 (a) Order the person to pay tuition for and submit evidence of
18 completion of an educational course on the abuse of alcohol and controlled
19 substances approved by a governmental agency of the state of his residence
20 within the time specified in the order; or

21 (b) Order him to complete an educational course by correspondence on
22 the abuse of alcohol and controlled substances approved by the department
23 within the time specified in the order,
24 and the court shall notify the department if the person fails to complete the
25 assigned course within the specified time.

26 7. If the defendant was transporting a person who is less than 15 years
27 of age in the motor vehicle at the time of the violation, the court shall
28 consider that fact as an aggravating factor in determining the sentence of
29 the defendant.

30 8. As used in this section, unless the context otherwise requires,
31 "offense" means a violation of NRS 484.379 or 484.3795 or a homicide
32 resulting from the driving of a vehicle while under the influence of
33 intoxicating liquor or a controlled substance, or the violation of a law of
34 any other jurisdiction that prohibits the same or similar conduct.

35 **Sec. 2.** The amendatory provisions of this act do not apply to offenses
36 committed before October 1, 1999.