

SENATE BILL NO. 152—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF CLARK COUNTY)

FEBRUARY 10, 1999

Referred to Committee on Transportation

SUMMARY—Revises definition regarding minimum content of alcohol required to be in blood or breath of person to be considered driving under influence of intoxicating liquor. (BDR 43-275)

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

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

AN ACT relating to traffic laws; providing in skeleton form for a revised definition of the phrase describing the minimum content of alcohol required to be in the blood or breath of a person for the person to be considered to be driving under the influence of intoxicating liquor; 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 484.0135 is hereby amended to read as follows:
2 484.0135 The phrase ~~["0.10 percent"]~~ ***"concentration of alcohol of***
3 ***0.10*** or more ~~[by weight of alcohol]~~ in his ~~[blood]~~ ***includes blood or***
4 ***breath"*** ***means*** a concentration of alcohol ~~[in the blood or breath of a~~
5 ~~person]~~ of 0.10 gram or more ~~[by weight of alcohol]:~~
6 ~~1. Per] per~~ 100 milliliters of his blood ~~[- or~~
7 ~~2. Per] or~~ 210 liters of his breath.
8 **Sec. 2.** NRS 484.379 is hereby amended to read as follows:
9 484.379 1. It is unlawful for any person who:
10 (a) Is under the influence of intoxicating liquor;
11 (b) Has ~~[0.10 percent]~~ ***a concentration of alcohol of 0.10*** or more ~~[by~~
12 ~~weight of alcohol]~~ in his blood ~~[-] or breath; or~~

1 (c) Is found by measurement within 2 hours after driving or being in
2 actual physical control of a vehicle to have **a concentration of alcohol of**
3 **0.10 [percent] or more [by weight of alcohol] in his blood [,] or breath,**
4 to drive or be in actual physical control of a vehicle on a highway or on
5 premises to which the public has access.

6 2. It is unlawful for any person who is an habitual user of or under the
7 influence of any controlled substance, or is under the combined influence
8 of intoxicating liquor and a controlled substance, or any person who
9 inhales, ingests, applies or otherwise uses any chemical, poison or organic
10 solvent, or any compound or combination of any of these, to a degree
11 which renders him incapable of safely driving or exercising actual physical
12 control of a vehicle to drive or be in actual physical control of a vehicle on
13 a highway or on premises to which the public has access. The fact that any
14 person charged with a violation of this subsection is or has been entitled to
15 use that drug under the laws of this state is not a defense against any charge
16 of violating this subsection.

17 3. If consumption is proven by a preponderance of the evidence, it is
18 an affirmative defense under paragraph (c) of subsection 1 that the
19 defendant consumed a sufficient quantity of alcohol after driving or being
20 in actual physical control of the vehicle, and before his blood **or breath** was
21 tested, to cause ~~the~~ **him to have a concentration of alcohol of 0.10 or**
22 **more** in his blood ~~[to equal or exceed 0.10 percent.]~~ **or breath.** A defendant
23 who intends to offer this defense at a trial or preliminary hearing must, not
24 less than 14 days before the trial or hearing or at such other time as the
25 court may direct, file and serve on the prosecuting attorney a written notice
26 of that intent.