

ASSEMBLY BILL NO. 295—ASSEMBLYMEN LESLIE,
SMITH AND OCEGUERA

MARCH 21, 2005

Referred to Committee on Judiciary

SUMMARY—Creates crime of vehicular manslaughter.
(BDR 43-205)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 crimes; creating the crime of vehicular manslaughter; providing a penalty; 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 483.460 is hereby amended to read as follows:
2 483.460 1. Except as otherwise provided by specific statute,
3 the Department shall revoke the license, permit or privilege of any
4 driver upon receiving a record of his conviction of any of the
5 following offenses, when that conviction has become final, and
6 the driver is not eligible for a license, permit or privilege to drive for
7 the period indicated:
8 (a) For a period of 3 years if the offense is:
9 (1) A violation of subsection 2 of NRS 484.377.
10 (2) A third or subsequent violation within 7 years of
11 NRS 484.379.
12 (3) A violation of NRS 484.3795 or a homicide resulting
13 from driving or being in actual physical control of a vehicle while
14 under the influence of intoxicating liquor or a controlled substance
15 or resulting from any other conduct prohibited by NRS 484.379 or
16 484.3795.
17 ➔ The period during which such a driver is not eligible for a
18 license, permit or privilege to drive must be set aside during any



1 period of imprisonment and the period of revocation must resume
2 upon completion of the period of imprisonment or when the person
3 is placed on residential confinement.

4 (b) For a period of 1 year if the offense is:

5 (1) Any other manslaughter, *including vehicular*
6 *manslaughter as described in section 2 of this act*, resulting from
7 the driving of a motor vehicle or felony in the commission of which
8 a motor vehicle is used, including the unlawful taking of a motor
9 vehicle.

10 (2) Failure to stop and render aid as required pursuant to the
11 laws of this State in the event of a motor vehicle accident resulting
12 in the death or bodily injury of another.

13 (3) Perjury or the making of a false affidavit or statement
14 under oath to the Department pursuant to NRS 483.010 to 483.630,
15 inclusive, or pursuant to any other law relating to the ownership or
16 driving of motor vehicles.

17 (4) Conviction, or forfeiture of bail not vacated, upon three
18 charges of reckless driving committed within a period of 12 months.

19 (5) A second violation within 7 years of NRS 484.379, and
20 the driver is not eligible for a restricted license during any of that
21 period.

22 (6) A violation of NRS 484.348.

23 (c) For a period of 90 days, if the offense is a first violation
24 within 7 years of NRS 484.379.

25 2. The Department shall revoke the license, permit or privilege
26 of a driver convicted of violating NRS 484.379 who fails to
27 complete the educational course on the use of alcohol and controlled
28 substances within the time ordered by the court and shall add a
29 period of 90 days during which the driver is not eligible for a
30 license, permit or privilege to drive.

31 3. When the Department is notified by a court that a person
32 who has been convicted of a first violation within 7 years of NRS
33 484.379 has been permitted to enter a program of treatment pursuant
34 to NRS 484.37937, the Department shall reduce by one-half the
35 period during which he is not eligible for a license, permit or
36 privilege to drive, but shall restore that reduction in time if notified
37 that he was not accepted for or failed to complete the treatment.

38 4. The Department shall revoke the license, permit or privilege
39 to drive of a person who is required to install a device pursuant to
40 NRS 484.3943 but who operates a motor vehicle without such a
41 device:

42 (a) For 3 years, if it is his first such offense during the period of
43 required use of the device.

44 (b) For 5 years, if it is his second such offense during the period
45 of required use of the device.



5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.

6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.

7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.

Sec. 2. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who, while driving or in actual physical control of any vehicle, proximately causes the death of another person through an act or omission that constitutes simple negligence is guilty of vehicular manslaughter and shall be punished for a misdemeanor.

2. A person who commits an offense of vehicular manslaughter may be subject to the additional penalty set forth in NRS 484.3667.

3. Upon the conviction of a person for a violation of the provisions of subsection 1, the court shall notify the Department of the conviction.

4. Upon receipt of notification from a court pursuant to subsection 3, the Department shall cause an entry of the conviction to be made upon the driving record of the person so convicted.

Sec. 3. NRS 484.3667 is hereby amended to read as follows:

484.3667 1. Except as otherwise provided in subsection 2, a person who is convicted of a violation of a speed limit, or of NRS 484.254, 484.278, 484.289, 484.291 to 484.301, inclusive, 484.305, 484.309, 484.311, 484.335, 484.337, 484.361, 484.363, 484.3765, 484.377, 484.379, 484.448, 484.453 or 484.479, *or section 2 of this act*, that occurred:

(a) In an area designated as a temporary traffic control zone in which construction, maintenance or repair of a highway is conducted; and

(b) At a time when the workers who are performing the construction, maintenance or repair of the highway are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the



1 designated alignment and uneven or temporary surfaces, including,
2 without limitation, modifications to road beds, cement-treated bases,
3 chip seals and other similar conditions,

4 ➤ shall be punished by imprisonment or by a fine, or both, for a
5 term or an amount equal to and in addition to the term of
6 imprisonment or amount of the fine, or both, that the court imposes
7 for the primary offense. Any term of imprisonment imposed
8 pursuant to this subsection runs consecutively with the sentence
9 prescribed by the court for the crime. This subsection does not
10 create a separate offense, but provides an additional penalty for the
11 primary offense, whose imposition is contingent upon the finding of
12 the prescribed fact.

13 2. The additional penalty imposed pursuant to subsection 1
14 must not exceed a total of \$1,000, 6 months of imprisonment or 120
15 hours of community service.

16 3. A governmental entity that designates an area as a temporary
17 traffic control zone in which construction, maintenance or repair of
18 a highway is conducted, or the person with whom the governmental
19 entity contracts to provide such service, shall cause to be erected:

20 (a) A sign located before the beginning of such an area stating
21 "DOUBLE PENALTIES IN WORK ZONES" to indicate a double
22 penalty may be imposed pursuant to this section;

23 (b) A sign to mark the beginning of the temporary traffic control
24 zone; and

25 (c) A sign to mark the end of the temporary traffic control zone.

26 4. A person who otherwise would be subject to an additional
27 penalty pursuant to this section is not relieved of any criminal
28 liability because signs are not erected as required by subsection 3 if
29 the violation results in injury to any person performing highway
30 construction or maintenance in the temporary traffic control zone or
31 in damage to property in an amount equal to \$1,000 or more.

32 **Sec. 4.** NRS 200.040 is hereby amended to read as follows:

33 200.040 1. Manslaughter is the unlawful killing of a human
34 being, without malice express or implied, and without any mixture
35 of deliberation.

36 2. Manslaughter must be voluntary, upon a sudden heat of
37 passion, caused by a provocation apparently sufficient to make the
38 passion irresistible, or involuntary, in the commission of an
39 unlawful act, or a lawful act without due caution or circumspection.

40 **3. *Manslaughter does not include vehicular manslaughter as***
41 ***described in section 2 of this act.***

42 **Sec. 5.** NRS 200.050 is hereby amended to read as follows:

43 200.050 1. In cases of voluntary manslaughter, there must be
44 a serious and highly provoking injury inflicted upon the person
45 killing, sufficient to excite an irresistible passion in a reasonable



1 person, or an attempt by the person killed to commit a serious
2 personal injury on the person killing.

3 **2. Voluntary manslaughter does not include vehicular**
4 **manslaughter as described in section 2 of this act.**

5 **Sec. 6.** NRS 200.070 is hereby amended to read as follows:

6 200.070 **1.** Except under the circumstances provided in NRS
7 484.348 and 484.377, involuntary manslaughter is the killing of a
8 human being, without any intent to do so, in the commission of an
9 unlawful act, or a lawful act which probably might produce such a
10 consequence in an unlawful manner, but where the involuntary
11 killing occurs in the commission of an unlawful act, which, in its
12 consequences, naturally tends to destroy the life of a human being,
13 or is committed in the prosecution of a felonious intent, the offense
14 is murder.

15 **2. Involuntary manslaughter does not include vehicular**
16 **manslaughter as described in section 2 of this act.**

17 **Sec. 7.** NRS 207.360 is hereby amended to read as follows:

18 207.360 "Crime related to racketeering" means the commission
19 of, attempt to commit or conspiracy to commit any of the following
20 crimes:

- 21 1. Murder;
- 22 2. Manslaughter ~~H~~, **except vehicular manslaughter as**
23 **described in section 2 of this act;**
- 24 3. Mayhem;
- 25 4. Battery which is punished as a felony;
- 26 5. Kidnapping;
- 27 6. Sexual assault;
- 28 7. Arson;
- 29 8. Robbery;
- 30 9. Taking property from another under circumstances not
31 amounting to robbery;
- 32 10. Extortion;
- 33 11. Statutory sexual seduction;
- 34 12. Extortionate collection of debt in violation of
35 NRS 205.322;
- 36 13. Forgery;
- 37 14. Any violation of NRS 199.280 which is punished as a
38 felony;
- 39 15. Burglary;
- 40 16. Grand larceny;
- 41 17. Bribery or asking for or receiving a bribe in violation of
42 chapter 197 or 199 of NRS which is punished as a felony;
- 43 18. Battery with intent to commit a crime in violation of
44 NRS 200.400;
- 45 19. Assault with a deadly weapon;



- 1 20. Any violation of NRS 453.232, 453.316 to 453.3395,
2 inclusive, or 453.375 to 453.401, inclusive;
- 3 21. Receiving or transferring a stolen vehicle;
- 4 22. Any violation of NRS 202.260, 202.275 or 202.350 which
5 is punished as a felony;
- 6 23. Any violation of subsection 2 or 3 of NRS 463.360 or
7 chapter 465 of NRS;
- 8 24. Receiving, possessing or withholding stolen goods valued
9 at \$250 or more;
- 10 25. Embezzlement of money or property valued at \$250 or
11 more;
- 12 26. Obtaining possession of money or property valued at \$250
13 or more, or obtaining a signature by means of false pretenses;
- 14 27. Perjury or subornation of perjury;
- 15 28. Offering false evidence;
- 16 29. Any violation of NRS 201.300 or 201.360;
- 17 30. Any violation of NRS 90.570, 91.230 or 686A.290, or
18 insurance fraud pursuant to NRS 686A.291;
- 19 31. Any violation of NRS 205.506, 205.920 or 205.930; or
- 20 32. Any violation of NRS 202.445 or 202.446.



