

SENATE BILL NO. 45—SENATOR WASHINGTON

PREFILED JANUARY 30, 2007

Referred to Committee on Judiciary

SUMMARY—Provides for the imposition of an administrative assessment on a person convicted of driving while under the influence of intoxicating liquor or a controlled substance. (BDR 14-672)

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 administrative assessments; imposing an administrative assessment on a person convicted of driving while under the influence of intoxicating liquor or a controlled substance; creating the Fund for Programs Relating to Impaired Driving into which a portion of the money collected from such assessments must be deposited; providing for grants to be awarded from the Fund to governmental entities and nonprofit agencies which provide programs to address issues relating to driving under the influence of intoxicating liquor or a controlled substance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill requires a court to impose an administrative assessment of
2 \$100, in addition to any other fine or assessment imposed, any time a person pleads
3 guilty or nolo contendere to, or is found guilty of, a charge of driving while under
4 the influence of intoxicating liquor or a controlled substance. **Sections 1 and 6** of
5 this bill provide that a portion of any amounts collected from the administrative
6 assessment must be credited to the Fund for Programs Relating to Impaired Driving
7 which is created as a special revenue fund within the State Treasury and will be
8 administered by the Department of Public Safety. **Section 6** of this bill provides
9 that money in the Fund will be used to support ongoing intervention efforts relating
10 to driving while under the influence of intoxicating liquor or a controlled substance.



* S B 4 5 *

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, in addition to any other administrative assessment imposed, when a defendant pleads guilty or nolo contendere to, or is found guilty of, a charge of driving while under the influence of intoxicating liquor or a controlled substance, the justice or judge, of the justice, municipal or district court, as applicable, shall include in the sentence the sum of \$100 as an administrative assessment for the provision of programs relating to impaired driving and render a judgment against the defendant for the assessment. If the defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

2. The money collected for an administrative assessment for the provision of programs relating to impaired driving must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be dispersed pursuant to subsection 4. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

3. If the justice or judge permits the fine and administrative assessment for the provision of programs relating to impaired driving to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;



* S B 4 5 *

1 (c) *To pay the unpaid balance of an administrative assessment*
2 *for the provision of specialty court programs pursuant to*
3 *NRS 176.0613;*

4 (d) *To pay the unpaid balance of an administrative assessment*
5 *for the provision of programs relating to impaired driving*
6 *pursuant to this section; and*

7 (e) *To pay the fine.*

8 4. *Except as otherwise provided in subsections 5, 6 and 7, the*
9 *money collected for an administrative assessment for the provision*
10 *of programs relating to impaired driving must be paid by the clerk*
11 *of the court to the State Treasurer on or before the fifth day of*
12 *each month for the preceding month for credit to the Fund for*
13 *Programs Relating to Impaired Driving created pursuant to*
14 *section 6 of this act.*

15 5. *Ten percent of the amount collected in district court for an*
16 *administrative assessment for the provision of programs relating*
17 *to impaired driving must be paid by the clerk of the court to the*
18 *State Treasurer on or before the fifth day of each month for the*
19 *preceding month for credit to a special revenue fund for the use of*
20 *the district courts.*

21 6. *Ten percent of the amount collected in municipal court for*
22 *an administrative assessment for the provision of programs*
23 *relating to impaired driving must be paid by the clerk of the court*
24 *to the city treasurer on or before the fifth day of each month for*
25 *the preceding month for credit to a special revenue fund for the*
26 *use of the municipal courts.*

27 7. *Ten percent of the amount collected in justice court for an*
28 *administrative assessment for the provision of programs relating*
29 *to impaired driving must be paid by the clerk of the court to the*
30 *county treasurer on or before the fifth day of each month for the*
31 *preceding month for credit to a special revenue fund for the use of*
32 *the justice courts.*

33 8. *As used in this section “driving while under the influence*
34 *of intoxicating liquor or a controlled substance” means an act*
35 *which is unlawful under NRS 484.379.*

36 **Sec. 2.** NRS 176.0611 is hereby amended to read as follows:

37 176.0611 1. A county or a city, upon recommendation of the
38 appropriate court, may, by ordinance, authorize the justices or
39 judges of the justice or municipal courts within its jurisdiction to
40 impose for not longer than 50 years, in addition to the administrative
41 assessments imposed pursuant to NRS 176.059 and 176.0613, *and*
42 *section 1 of this act*, an administrative assessment for the provision
43 of court facilities.



* S B 4 5 *

2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or is found guilty of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613; ~~and~~



* S B 4 5 *

(d) *To pay the unpaid balance of an administrative assessment for the provision of programs relating to impaired driving pursuant to section 1 of this act; and*

(e) To pay the fine.

6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(c) Renovate or remodel existing facilities for the municipal courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.

Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:



(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.

(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.

(c) Renovate or remodel existing facilities for the justice courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.

Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such issues as the size of the regional justice center, the manner in which the center will be used and the apportionment of fiscal responsibility for the center.

Sec. 3. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, *and section 1 of this act*, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or is found guilty of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$7 as an



* S B 4 5 *

1 administrative assessment for the provision of specialty court
2 programs and render a judgment against the defendant for the
3 assessment. If a defendant is sentenced to perform community
4 service in lieu of a fine, the sentence must include the administrative
5 assessment required pursuant to this subsection.

6 3. The provisions of subsection 2 do not apply to:

7 (a) An ordinance regulating metered parking; or

8 (b) An ordinance which is specifically designated as imposing a
9 civil penalty or liability pursuant to NRS 244.3575 or 268.019.

10 4. The money collected for an administrative assessment for
11 the provision of specialty court programs must not be deducted
12 from the fine imposed by the justice or judge but must be taxed
13 against the defendant in addition to the fine. The money collected
14 for such an administrative assessment must be stated separately on
15 the court's docket and must be included in the amount posted for
16 bail. If bail is forfeited, the administrative assessment included in
17 the bail pursuant to this subsection must be disbursed pursuant to
18 subsection 6 or 7. If the defendant is found not guilty or the charges
19 are dismissed, the money deposited with the court must be returned
20 to the defendant. If the justice or judge cancels a fine because the
21 fine has been determined to be uncollectible, any balance of the fine
22 and the administrative assessment remaining unpaid shall be
23 deemed to be uncollectible and the defendant is not required to pay
24 it. If a fine is determined to be uncollectible, the defendant is not
25 entitled to a refund of the fine or administrative assessment he has
26 paid and the justice or judge shall not recalculate the administrative
27 assessment.

28 5. If the justice or judge permits the fine and administrative
29 assessment for the provision of specialty court programs to be paid
30 in installments, the payments must be applied in the following
31 order:

32 (a) To pay the unpaid balance of an administrative assessment
33 imposed pursuant to NRS 176.059;

34 (b) To pay the unpaid balance of an administrative assessment
35 for the provision of court facilities pursuant to NRS 176.0611;

36 (c) To pay the unpaid balance of an administrative assessment
37 for the provision of specialty court programs; ~~and~~

38 (d) *To pay the unpaid balance of an administrative assessment*
39 *for the provision of programs relating to impaired driving*
40 *pursuant to section 1 of this act; and*

41 (e) To pay the fine.

42 6. The money collected for an administrative assessment for
43 the provision of specialty court programs in municipal court must be



1 paid by the clerk of the court to the city treasurer on or before the
2 fifth day of each month for the preceding month. On or before the
3 15th day of that month, the city treasurer shall deposit the money
4 received for each administrative assessment with the State
5 Controller for credit to a special account in the State General Fund
6 administered by the Office of Court Administrator.

7 7. The money collected for an administrative assessment for
8 the provision of specialty court programs in justice courts must be
9 paid by the clerk of the court to the county treasurer on or before the
10 fifth day of each month for the preceding month. On or before the
11 15th day of that month, the county treasurer shall deposit the money
12 received for each administrative assessment with the State
13 Controller for credit to a special account in the State General Fund
14 administered by the Office of Court Administrator.

15 8. The Office of Court Administrator shall allocate the money
16 credited to the State General Fund pursuant to subsections 6 and 7 to
17 courts to assist with the funding or establishment of specialty court
18 programs.

19 9. Money that is apportioned to a court from administrative
20 assessments for the provision of specialty court programs must be
21 used by the court to:

22 (a) Pay for the treatment and testing of persons who participate
23 in the program; and

24 (b) Improve the operations of the specialty court program by any
25 combination of:

26 (1) Acquiring necessary capital goods;

27 (2) Providing for personnel to staff and oversee the specialty
28 court program;

29 (3) Providing training and education to personnel;

30 (4) Studying the management and operation of the program;

31 (5) Conducting audits of the program;

32 (6) Supplementing the funds used to pay for judges to
33 oversee a specialty court program; or

34 (7) Acquiring or using appropriate technology.

35 10. As used in this section:

36 (a) "Office of Court Administrator" means the Office of Court
37 Administrator created pursuant to NRS 1.320; and

38 (b) "Specialty court program" means a program established by a
39 court to facilitate testing, treatment and oversight of certain persons
40 over whom the court has jurisdiction and who the court has
41 determined suffer from a mental illness or abuses alcohol or drugs.
42 Such a program includes, without limitation, a program established
43 pursuant to NRS 176A.250 or 453.580.



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Sec. 4. NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

(a) If the prisoner is returned to this State from another state, the fees paid to the officers of the state on whose governor the requisition is made;

(b) If the prisoner is returned to this State from a foreign country or jurisdiction, the fees paid to the officers and agents of this State or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this State from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this State, and the necessary traveling expenses and subsistence allowances in the amounts authorized by NRS 281.160 incurred in returning the prisoner.

2. If a person is returned to this State pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty or nolo contendere to, the criminal charge for which he was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062 ~~H~~, and *section 1 of this act.*

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning him to this State. The court shall not order the person to make restitution if payment of restitution will prevent him from paying any existing obligations described in subsection 2. Any amount of restitution remaining



* S B 4 5 *

1 unpaid constitutes a civil liability arising upon the date of the
2 completion of his sentence.

3 4. The Attorney General may adopt regulations to carry out the
4 provisions of this section.

5 **Sec. 5.** NRS 211.245 is hereby amended to read as follows:

6 211.245 1. If a prisoner fails to make a payment within 10
7 days after it is due, the district attorney for a county or the city
8 attorney for an incorporated city may file a civil action in any court
9 of competent jurisdiction within this State seeking recovery of:

10 (a) The amount of reimbursement due;

11 (b) Costs incurred in conducting an investigation of the financial
12 status of the prisoner; and

13 (c) Attorney's fees and costs.

14 2. A civil action brought pursuant to this section must:

15 (a) Be instituted in the name of the county or city in which the
16 jail, detention facility or alternative program is located;

17 (b) Indicate the date and place of sentencing, including, without
18 limitation, the name of the court which imposed the sentence;

19 (c) Include the record of judgment of conviction, if available;

20 (d) Indicate the length of time served by the prisoner and, if he
21 has been released, the date of his release; and

22 (e) Indicate the amount of reimbursement that the prisoner owes
23 to the county or city.

24 3. The county or city treasurer of the county or incorporated
25 city in which a prisoner is or was confined shall determine the
26 amount of reimbursement that the prisoner owes to the city or
27 county. The county or city treasurer may render a sworn statement
28 indicating the amount of reimbursement that the prisoner owes and
29 submit the statement in support of a civil action brought pursuant to
30 this section. Such a statement is prima facie evidence of the amount
31 due.

32 4. A court in a civil action brought pursuant to this section may
33 award a money judgment in favor of the county or city in whose
34 name the action was brought.

35 5. If necessary to prevent the disposition of the prisoner's
36 property by the prisoner, or his spouse or agent, a county or city
37 may file a motion for a temporary restraining order. The court may,
38 without a hearing, issue ex parte orders restraining any person from
39 transferring, encumbering, hypothecating, concealing or in any way
40 disposing of any property of the prisoner, real or personal, whether
41 community or separate, except for necessary living expenses.

42 6. The payment, pursuant to a judicial order, of existing
43 obligations for:



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(a) Child support or alimony;
(b) Restitution to victims of crimes; and
(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062, *and section 1 of this act*,
➡ has priority over the payment of a judgment entered pursuant to this section.

Sec. 6. Chapter 480 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Fund for Programs Relating to Impaired Driving is hereby created in the State Treasury as a special revenue fund. The portion of any administrative assessment imposed and collected pursuant to subsection 4 of section 1 of this act must be deposited with the State Treasurer for credit to the Fund.

2. The Department shall administer the Fund.

3. The Fund is a continuing fund without reversion. Money in the Fund must be invested as the money in other funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

4. The Department may accept gifts, grants and donations from any source for deposit in the Fund.

5. The Department may use the money in the Fund to support ongoing intervention efforts relating to driving while under the influence of intoxicating liquor or a controlled substance, including, without limitation:

(a) Awarding grants to state and local governmental entities, including, without limitation, the judicial branches of state and local government that provide programs to address issues relating to driving while under the influence of intoxicating liquor or a controlled substance.

(b) Awarding grants to nonprofit agencies that provide programs to address issues relating to driving while under the influence of intoxicating liquor or a controlled substance.

(c) Conducting public service announcement campaigns to increase awareness of issues relating to driving while under the influence of intoxicating liquor or a controlled substance.

(d) Reimbursing expenses of the Nevada Impaired Driving Advisory Council.

6. The Department shall establish:

(a) The procedures by which governmental entities and nonprofit agencies may apply for a grant from the Fund;



- 1 *(b) The criteria for determining whether to award a grant from*
- 2 *the Fund; and*
- 3 *(c) The services for which governmental entities and nonprofit*
- 4 *agencies may use money from a grant.*

