

SENATE BILL NO. 134—SENATOR COFFIN

FEBRUARY 12, 2009

Referred to Committee on Energy, Infrastructure and Transportation

SUMMARY—Revises provisions concerning the increased penalty imposed for certain traffic violations occurring in work zones. (BDR 43-180)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; revising provisions concerning the increased penalty imposed for certain traffic violations that occur in work zones; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the doubling of the penalty imposed against a person
2 convicted of speeding or convicted of certain other traffic offenses that occur in a
3 highway construction zone if: (1) workers are present; or (2) the effects of the
4 offense are otherwise aggravated because of certain highway conditions that exist
5 as a result of the highway construction. (NRS 484.3667) This bill maintains the
6 double penalty if such an offense occurs in a highway construction zone when
7 workers are present. However, this bill provides that a court may, but is not
8 required to, impose a reduced additional penalty of not more than one-half the
9 penalty imposed for the primary offense if the offense occurs in a highway
10 construction zone when workers are not present but where the effects of the offense
11 are still otherwise aggravated because of certain highway conditions that exist as a
12 result of the highway construction.

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

1 **Section 1.** NRS 484.254 is hereby amended to read as follows:
2 484.254 1. It is unlawful for a driver of a vehicle to fail or
3 refuse to comply with any signal of an authorized flagman serving
4 in a traffic control capacity in a clearly marked area of highway
5 construction or maintenance.



1 2. A district attorney shall prosecute all violations of
2 subsection 1 which occur in his jurisdiction and which result in
3 injury to any person performing highway construction or
4 maintenance unless the district attorney has good cause for not
5 prosecuting the violation. In addition to any other penalty, if a driver
6 violates any provision of subsection 1 and the violation results in
7 injury to any person performing highway construction or
8 maintenance, or in damage to property in an amount of not less than
9 \$1,000, the driver shall be punished by a fine of not less than \$1,000
10 or more than \$2,000, and ordered to perform 120 hours of
11 community service.

12 3. A person who violates any provision of subsection 1 may be
13 subject to the additional penalty set forth in *subsection 1 of*
14 *NRS 484.3667*.

15 4. As used in this section, "authorized flagman serving in a
16 traffic control capacity" means:

17 (a) An employee of the Department of Transportation or of a
18 contractor performing highway construction or maintenance for the
19 Department of Transportation while he is carrying out the duties of
20 his employment;

21 (b) An employee of any other governmental entity or of a
22 contractor performing highway construction or maintenance for the
23 governmental entity while he is carrying out the duties of his
24 employment; or

25 (c) Any other person employed by a private entity performing
26 highway construction or maintenance while he is carrying out the
27 duties of his employment if the person has satisfactorily completed
28 training as a flagman approved or recognized by the Department of
29 Transportation.

30 **Sec. 2.** NRS 484.3667 is hereby amended to read as follows:

31 484.3667 1. Except as otherwise provided in subsection ~~2,~~
32 ~~3, if~~ a person ~~who~~ is convicted of a violation of a speed limit, or of
33 NRS 484.254, 484.278, 484.289, 484.2895, 484.291 to 484.301,
34 inclusive, 484.305, 484.309, 484.311, 484.335, 484.337, 484.361,
35 484.363, 484.3765, 484.377, 484.3775, 484.379, 484.379778,
36 484.448, 484.453 or 484.479, that occurred:

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

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



~~designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,~~
~~↪ shall be punished}~~

↪ the appropriate court shall punish the person by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. **Except as otherwise provided in this subsection and subsection 3, if a person is convicted of a violation of a speed limit, or of NRS 484.278, 484.289, 484.2895, 484.291 to 484.301, inclusive, 484.305, 484.309, 484.311, 484.335, 484.337, 484.361, 484.363, 484.3765, 484.377, 484.3775, 484.379, 484.379778, 484.448, 484.453 or 484.479, 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 not present, but 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 designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,**

↪ the appropriate court may punish the person by imprisonment or by a fine, or both, for a term or an amount in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any additional term of imprisonment or fine, or both, imposed pursuant to this subsection must not exceed 50 percent of the term of imprisonment or fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.



1 3. The additional penalty imposed pursuant to subsection 1 *or*
2 2 must not exceed a total of \$1,000, 6 months of imprisonment or
3 120 hours of community service.

4 ~~3.~~ 4. A governmental entity that designates an area as a
5 temporary traffic control zone in which construction, maintenance
6 or repair of a highway is conducted, or the person with whom the
7 governmental entity contracts to provide such service, shall cause to
8 be erected:

9 (a) A sign located before the beginning of such an area stating
10 ~~["DOUBLE"]~~ *"INCREASED* PENALTIES IN WORK ZONES" to
11 indicate ~~{a double}~~ *that an increased* penalty may be imposed
12 pursuant to this section;

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

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

16 ~~4.~~ 5. A person who otherwise would be subject to an
17 additional penalty pursuant to this section is not relieved of any
18 criminal liability because signs are not erected as required by
19 subsection ~~3~~ 4 if the violation results in injury to any person
20 performing highway construction or maintenance in the temporary
21 traffic control zone or in damage to property in an amount equal to
22 \$1,000 or more.

