

ASSEMBLY BILL NO. 151—ASSEMBLYMEN ATKINSON, OCEGUERA,
SMITH, KIRKPATRICK, CONKLIN; BOBZIEN, DONDERO
LOOP, HORNE AND MUNFORD

FEBRUARY 16, 2011

Referred to Committee on Transportation

SUMMARY—Makes various changes concerning the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle. (BDR 43-12)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

~

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

AN ACT relating to traffic laws; prohibiting a person from manually typing or entering text into a cellular telephone or other handheld wireless communications device, from sending or reading data using any such device or from engaging in voice communication using any such device unless the device provides for hands-free operation while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under the existing traffic laws of this State, it is a crime to engage in various
2 activities while operating a motor vehicle or to operate a motor vehicle in a reckless
3 or unsafe manner. (Chapters 484A-484E of NRS) **Section 2** of this bill makes it a
4 crime for a person to manually type or enter text into a cellular telephone or other
5 handheld wireless communications device, to send or read data using any such
6 device or to engage in voice communication using any such device unless the
7 device is used with an accessory which allows voice communication without using
8 his or her hands while operating a motor vehicle. **Section 2** provides an exception
9 when the cellular telephone or other device is used by certain emergency personnel
10 and persons designated by a sheriff or chief of police or the Director of the
11 Department of Public Safety who are acting within the course and scope of their
12 employment. Additional exceptions apply if the person is using the cellular



13 telephone or other device to report or request assistance relating to a medical
14 emergency, a safety hazard or criminal activity, or if the person is responding to a
15 situation requiring immediate action and stopping the vehicle would be inadvisable,
16 impractical or dangerous. Also provided is an exemption for a person in a self-
17 driving vehicle, and an exemption for employees or contractors of certain public
18 utilities using handheld wireless communications devices provided by the public
19 utility while responding to certain emergencies. A violation of the provisions of
20 **section 2** is a misdemeanor. If a violation is the proximate cause of the death of, or
21 substantial bodily harm to, another person, the violation is punishable as a category
22 B felony. **Section 3** of this bill makes the enhanced penalty for certain traffic
23 violations that occur in a temporary traffic control zone applicable to violations of
24 these new crimes. **Section 5** of this bill provides that, until January 1, 2012, a law
25 enforcement officer will not issue a citation to a person for a violation of **section 2**,
26 but will give the person a verbal or written warning.

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

1 **Section 1.** (Deleted by amendment.)

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

4 ***1. Except as otherwise provided in this section, a person shall***
5 ***not, while operating a motor vehicle on a highway in this State:***

6 ***(a) Manually type or enter text into a cellular telephone or***
7 ***other handheld wireless communications device or send or read***
8 ***data using any such device to access or search the Internet or to***
9 ***engage in nonvoice communications with another person,***
10 ***including, without limitation, texting, electronic messaging and***
11 ***instant messaging.***

12 ***(b) Use a cellular telephone or other handheld wireless***
13 ***communications device to engage in voice communication with***
14 ***another person, unless the device is used with an accessory which***
15 ***allows the person to communicate without using his or her hands,***
16 ***other than to activate, deactivate or initiate a feature or function***
17 ***on the device.***

18 ***2. The provisions of this section do not apply to:***

19 ***(a) A paid or volunteer firefighter, emergency medical***
20 ***technician, ambulance attendant or other person trained to***
21 ***provide emergency medical services who is acting within the***
22 ***course and scope of his or her employment.***

23 ***(b) A person designated by a sheriff or chief of police or the***
24 ***Director of the Department of Public Safety who is acting within***
25 ***the course and scope of his or her employment.***

26 ***(c) A person who is reporting a medical emergency, a safety***
27 ***hazard or criminal activity or who is requesting assistance relating***
28 ***to a medical emergency, a safety hazard or criminal activity.***



* A B 1 5 1 R 1 *

(d) A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.

(e) An employee or contractor of a public utility who uses a handheld wireless communications device:

(1) That has been provided by the public utility; and

(2) While responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service.

3. The provisions of this section do not prohibit the use of a voice-activated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and shall:

(a) For a first offense within the immediately preceding 7 years, pay a fine of \$50;

(b) For a second offense within the immediately preceding 7 years, pay a fine of \$100; and

(c) For a third or subsequent offense within the immediately preceding 7 years, pay a fine of \$250.

5. If a person violates any provision of subsection 1 and as a result proximately causes the death of, or substantial bodily harm to, another person, the person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years and by a fine of not less than \$2,000 but not more than \$5,000.

6. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.130.

7. For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously through the use of artificial-intelligence software and the autonomous operation of the motor vehicle is authorized by law.

8. As used in this section:

(a) "Handheld wireless communications device" means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device.

(b) "Nonvoice communication" includes, without limitation, a communication by text message, electronic message and instant message.



* A B 1 5 1 R 1 *

(c) *“Public utility” means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada.*

Sec. 3. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, *or section 2 of this act*, that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work 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 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 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. The additional penalty imposed pursuant to subsection 1 must not exceed a total of \$1,000, 6 months of imprisonment or 120 hours of community service.

3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the designation of an area as a temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:

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

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



* A B 1 5 1 R 1 *

1 (c) A sign to mark the end of the temporary traffic control zone.
2 4. A person who otherwise would be subject to an additional
3 penalty pursuant to this section is not relieved of any criminal
4 liability because signs are not erected as required by subsection 3 if
5 the violation results in injury to any person performing highway
6 construction or maintenance or other work in the temporary traffic
7 control zone or in damage to property in an amount equal to \$1,000
8 or more.

9 5. The requirements of subsection 3 do not apply to an area
10 designated as a temporary traffic control zone:

11 (a) Pursuant to an emergency which results from a natural or
12 other disaster and which threatens the health, safety or welfare of
13 the public; or

14 (b) On a public highway where the posted speed limit is 25
15 miles per hour or less and that provides access to or is appurtenant
16 to a residential area.

17 6. A person who would otherwise be subject to an additional
18 penalty pursuant to this section is not subject to an additional
19 penalty if the violation occurred in a temporary traffic control zone
20 for which signs are not erected pursuant to subsection 5, unless the
21 violation results in injury to any person performing highway
22 construction or maintenance or other work in the temporary traffic
23 control zone or in damage to property in an amount equal to \$1,000
24 or more.

25 **Sec. 4.** NRS 707.375 is hereby amended to read as follows:

26 707.375 1. ~~Any~~ *Except as otherwise provided in section 2 of*
27 *this act, an* agency, board, commission or political subdivision of
28 this State, including, without limitation, any agency, board,
29 commission or governing body of a local government, shall not
30 regulate the use of a telephonic device by a person who is operating
31 a motor vehicle.

32 2. As used in subsection 1, "telephonic device" means a
33 cellular phone, satellite phone, portable phone or any other similar
34 electronic device that is handheld and designed or used to
35 communicate with a person.

36 **Sec. 5.** Notwithstanding the provisions of section 2 of this act,
37 on or before December 31, 2011, a law enforcement officer shall not
38 issue a citation for a violation of the provisions of section 2 of this
39 act, but must issue a verbal or written warning to a person who
40 violates those provisions informing the person that he or she has
41 violated the provisions of section 2 of this act and of the penalties
42 that will apply to such a violation after December 31, 2011.

