

ASSEMBLY BILL NO. 173—ASSEMBLYMEN
MUNFORD; AND HOGAN

FEBRUARY 16, 2011

Referred to Committee on Transportation

SUMMARY—Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-104)

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.

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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; prohibiting a person from using a cellular telephone or other handheld wireless communications device 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 similar device, or to send or read data using any such device while operating a
6 motor vehicle. **Section 2** further prohibits a person from using such a device for
7 voice communications unless the device is used with an accessory which allows the
8 person to communicate without using his or her hands, with certain limited
9 exceptions. **Section 2** provides an exception to the prohibitions when the cellular
10 telephone or other device is used by law enforcement officers and other emergency
11 personnel who are acting within the course and scope of their employment.
12 Additional exceptions apply if the person is using the cellular telephone or other
13 device to report or request assistance relating to a medical emergency, a safety
14 hazard or criminal activity, or if the person is responding to a situation requiring
15 immediate action and stopping the vehicle would be inadvisable, impractical or
16 dangerous. A first or second violation of the provisions added by **section 2** within
17 the immediately preceding 7 years is a misdemeanor, and a third or subsequent
18 violation within the immediately preceding 7 years is a gross misdemeanor. If a



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19 violation is the proximate cause of the death of, or substantial bodily harm to,
20 another person, the violation is punishable as a category B felony and, pursuant to
21 **section 1** of this bill, will result in the revocation of the driver's license of the
22 person for 3 years. **Section 3** of this bill makes the enhanced penalty for certain
23 traffic violations that occur in a temporary traffic control zone applicable to
24 violations of these new crimes.

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 or her conviction of any of the
5 following offenses, when that conviction has become final, and the
6 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 5 of NRS 484B.653.
10 (2) *A violation of section 2 of this act resulting in a felony*
11 *conviction.*
12 (3) A third or subsequent violation within 7 years of NRS
13 484C.110 or 484C.120.
14 ~~(3)~~ (4) A violation of NRS 484C.110 or 484C.120
15 resulting in a felony conviction pursuant to NRS 484C.400 or
16 484C.410.
17 ~~(4)~~ (5) A violation of NRS 484C.430 or a homicide
18 resulting from driving or being in actual physical control of a
19 vehicle while under the influence of intoxicating liquor or a
20 controlled substance or resulting from any other conduct prohibited
21 by NRS 484C.110, 484C.130 or 484C.430.
22 ↪ The period during which such a driver is not eligible for a
23 license, permit or privilege to drive must be set aside during any
24 period of imprisonment and the period of revocation must resume
25 when the Department is notified pursuant to NRS 209.517 or
26 213.12185 that the person has completed the period of
27 imprisonment or that the person has been placed on residential
28 confinement or parole.
29 (b) For a period of 1 year if the offense is:
30 (1) Any other manslaughter, including vehicular
31 manslaughter as described in NRS 484B.657, resulting from the
32 driving of a motor vehicle or felony in the commission of which a
33 motor vehicle is used, including the unlawful taking of a motor
34 vehicle.



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

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

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

(5) A second violation within 7 years of NRS 484C.110 or 484C.120 and the driver is not eligible for a restricted license during any of that period.

(6) A violation of NRS 484B.550.

(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484C.110 or 484C.120.

2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484C.110 or 484C.120 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.

3. When the Department is notified by a court that a person who has been convicted of a first violation within 7 years of NRS 484C.110 has been permitted to enter a program of treatment pursuant to NRS 484C.320, the Department shall reduce by one-half the period during which the person is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that the person was not accepted for or failed to complete the treatment.

4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484C.460 but who operates a motor vehicle without such a device:

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

(b) For 5 years, if it is his or her second such offense during the period 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, chapters 484A to 484E,



1 inclusive, of NRS or any other provision of law, the Department
2 shall take such actions as are necessary to carry out the court's
3 order.

4 7. As used in this section, "device" has the meaning ascribed to
5 it in NRS 484C.450.

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

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

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

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

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

23 ***(a) A paid or volunteer firefighter, law enforcement officer,***
24 ***emergency medical technician, ambulance attendant or other***
25 ***person trained to provide emergency medical services who is***
26 ***acting within the course and scope of his or her employment.***

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

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

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

37 ***4. Unless a greater penalty is provided pursuant to subsection***
38 ***5, a person who violates any provision of subsection 1 is guilty of:***

39 ***(a) For a first or second offense within the immediately***
40 ***preceding 7 years, a misdemeanor.***

41 ***(b) For a third or subsequent offense within the immediately***
42 ***preceding 7 years, a gross misdemeanor.***

43 ***5. If a person violates any provision of subsection 1 and as a***
44 ***result proximately causes the death of, or substantial bodily harm***
45 ***to, another person, the person is guilty of a category B felony and***



1 *shall be punished by imprisonment in the state prison for a*
2 *minimum term of not less than 1 year and a maximum term of not*
3 *more than 6 years and by a fine of not less than \$2,000 but not*
4 *more than \$5,000.*

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

7 7. As used in this section, "handheld wireless
8 communications device" means a handheld device for the transfer
9 of information without the use of electrical conductors or wires
10 and includes, without limitation, a cellular telephone, a personal
11 digital assistant, a pager and a text messaging device.

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

13 484B.130 1. Except as otherwise provided in subsections 2
14 and 6, a person who is convicted of a violation of a speed limit, or of
15 NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive,
16 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320,
17 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603,
18 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or
19 484C.120, **or section 2 of this act**, that occurred:

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

21 (b) At a time when the workers who are performing
22 construction, maintenance or repair of the highway or other work
23 are present, or when the effects of the act may be aggravated
24 because of the condition of the highway caused by construction,
25 maintenance or repair, including, without limitation, reduction in
26 lane width, reduction in the number of lanes, shifting of lanes from
27 the designated alignment and uneven or temporary surfaces,
28 including, without limitation, modifications to road beds, cement-
29 treated bases, chip seals and other similar conditions,

30 ➤ shall be punished by imprisonment or by a fine, or both, for a
31 term or an amount equal to and in addition to the term of
32 imprisonment or amount of the fine, or both, that the court imposes
33 for the primary offense. Any term of imprisonment imposed
34 pursuant to this subsection runs consecutively with the sentence
35 prescribed by the court for the crime. This subsection does not
36 create a separate offense, but provides an additional penalty for the
37 primary offense, whose imposition is contingent upon the finding of
38 the prescribed fact.

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

42 3. Except as otherwise provided in subsection 5, a
43 governmental entity that designates an area or authorizes the
44 designation of an area as a temporary traffic control zone in which
45 reconstruction, maintenance or repair of a highway or other work is



1 conducted, or the person with whom the governmental entity
2 contracts to provide such service, shall cause to be erected:

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

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

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

9 4. A person who otherwise would be subject to an additional
10 penalty pursuant to this section is not relieved of any criminal
11 liability because signs are not erected as required by subsection 3 if
12 the violation results in injury to any person performing highway
13 construction or maintenance or other work in the temporary traffic
14 control zone or in damage to property in an amount equal to \$1,000
15 or more.

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

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

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

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

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

33 707.375 1. ~~Any~~ Except as otherwise provided in section 2 of
34 this act, an agency, board, commission or political subdivision of
35 this State, including, without limitation, any agency, board,
36 commission or governing body of a local government, shall not
37 regulate the use of a telephonic device by a person who is operating
38 a motor vehicle.

39 2. As used in subsection 1, "telephonic device" means a
40 cellular phone, satellite phone, portable phone or any other similar
41 electronic device that is handheld and designed or used to
42 communicate with a person.

43 **Sec. 5.** This act becomes effective upon passage and approval.

