

Amendment No. 122

Assembly Amendment to Assembly Bill No. 151 (BDR 43-12)

Proposed by: Assembly Committee on Transportation

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DLJ/RBL



Date: 4/8/2011

A.B. No. 151—Makes various changes concerning the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle. (BDR 43-12)



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

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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 manually typing or entering text into a cellular telephone or other handheld wireless communications device, ~~and~~ 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:

Under the existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 2** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other handheld wireless communications device, ~~for~~ to send or read data using any such device or to engage in voice communication using any such device unless the device is used with an accessory which allows voice communication without using his or her hands while operating a motor vehicle. **Section 2** provides an exception when the cellular telephone or other device is used by ~~law enforcement officers and other~~ certain emergency personnel and persons designated by a sheriff or chief of police or the Director of the Department of Public Safety who are acting within the course and scope of their employment. Additional exceptions apply if the person is using the cellular telephone or other device to report or request assistance relating to a medical emergency, a safety hazard or criminal activity, or if the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous. Also provided is an exemption for a person in a self-driving vehicle, and an exemption for employees or contractors of certain public utilities using handheld wireless communications devices provided by the public utility while responding to certain emergencies. A ~~(first or second)~~ violation of the provisions of **section 2** ~~(within the immediately preceding 7 years)~~ is a misdemeanor. ~~(, and a third or subsequent violation within the immediately preceding 7 years is a gross misdemeanor.)~~ If a violation is the

proximate cause of the death of, or substantial bodily harm to, another person, the violation is punishable as a category B felony. ~~and, pursuant to section 1 of this bill, will result in the revocation of the driver's license of the person for 3 years.~~ Section 3 of this bill makes the enhanced penalty for certain traffic violations that occur in a temporary traffic control zone applicable to violations of these new crimes. Section 5 of this bill provides that, until January 1, 2012, a law enforcement officer will not issue a citation to a person for a violation of section 2, 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:

Section 1. ~~[NRS 482.460 is hereby amended to read as follows:~~
~~482.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his or her conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:~~
~~(a) For a period of 3 years if the offense is:~~
~~(1) A violation of subsection 5 of NRS 484B.653.~~
~~(2) A violation of section 2 of this act resulting in a felony conviction.~~
~~(3) A third or subsequent violation within 7 years of NRS 484C.110 or 484C.120.~~
~~[(3)] (4) A violation of NRS 484C.110 or 484C.120 resulting in a felony conviction pursuant to NRS 484C.400 or 484C.410.~~
~~[(4)] (5) A violation of NRS 484C.430 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430.~~
~~The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.~~
~~(b) For a period of 1 year if the offense is:~~
~~(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484B.657, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor 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, inclusive, 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 484C.450.~~ **(Deleted by amendment.)**

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

1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State : ~~engage in a nonvoice communication with another person by:~~

(a) ~~Manually typing or entering~~ type or enter text into a cellular telephone or other handheld wireless communications device ~~for~~ or

(b) ~~Sending or reading~~ or send or read data using ~~a cellular telephone or other handheld wireless communications device,~~ any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.

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

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

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

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

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

~~(e)~~ (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. ~~Unless a greater penalty is provided pursuant to subsection 5, a~~ A person who violates any provision of subsection 1 is guilty of ~~an~~ a misdemeanor and shall:

(a) For a first ~~for second~~ offense within the immediately preceding 7 years, ~~a misdemeanor,~~ 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, ~~a gross misdemeanor,~~ 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.

(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

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

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

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

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

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

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

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

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

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

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