

SENATE BILL NO. 140—SENATORS BREEDEN, SCHNEIDER,
MANENDO, PARKS, DENIS; COPENING, HORSFORD AND
WIENER

FEBRUARY 10, 2011

JOINT SPONSOR: ASSEMBLYMAN SEGERBLOM

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 43-45)

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 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 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 1** 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 1** 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 1** 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 violation of the provisions added by **section 1** is a misdemeanor and



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17 punishable by a fine of \$250 for a first offense within the immediately preceding 7
18 years, \$500 for a second offense within the immediately preceding 7 years and
19 \$1,000 for a third or subsequent offense within the immediately preceding 7 years.
20 **Section 1** further provides that a first offense will not be treated as a moving traffic
21 violation. Additionally, if a person is convicted of a third or subsequent offense, in
22 addition to the fine, the driver's license of the person will be suspended for 6
23 months. **Section 2** of this bill makes the enhanced penalty for certain traffic
24 violations that occur in a temporary traffic control zone applicable to violations of
25 these new crimes.

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

1 **Section 1.** Chapter 484B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

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

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

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

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

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

22 ***(b) A person who is reporting a medical emergency, a safety***
23 ***hazard or criminal activity or who is requesting assistance***
24 ***relating to a medical emergency, a safety hazard or criminal***
25 ***activity.***

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

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



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

3 (a) For the first offense within the immediately preceding 7
4 years, shall pay a fine of \$250.

5 (b) For the second offense within the immediately preceding 7
6 years, shall pay a fine of \$500.

7 (c) For the third or subsequent offense within the immediately
8 preceding 7 years, shall pay a fine of \$1,000.

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

11 6. If a person is found guilty of a third or subsequent offense
12 of subsection 1, the court shall, in addition to any other penalty
13 imposed, issue an order suspending the driver's license of the
14 person for 6 months. The court shall require the person to
15 surrender all driver's licenses then held by the person. If the
16 person does not possess a driver's license, the court shall issue an
17 order prohibiting the person from applying for a driver's license
18 for 6 months. The court shall, within 5 days after issuing the
19 order, forward to the Department of Motor Vehicles any licenses,
20 together with a copy of the order.

21 7. The Department of Motor Vehicles:

22 (a) Shall not treat a first violation of this section in the manner
23 statutorily required for a moving traffic violation.

24 (b) Shall report the suspension of a driver's license pursuant
25 to this section to an insurance company or its agent inquiring
26 about the person's driving record.

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

32 Sec. 2. NRS 484B.130 is hereby amended to read as follows:

33 484B.130 1. Except as otherwise provided in subsections 2
34 and 6, a person who is convicted of a violation of a speed limit, or of
35 NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive,
36 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320,
37 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603,
38 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or
39 484C.120, **or section 1 of this act**, that occurred:

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

41 (b) At a time when the workers who are performing
42 construction, maintenance or repair of the highway or other work
43 are present, or when the effects of the act may be aggravated
44 because of the condition of the highway caused by construction,
45 maintenance or repair, including, without limitation, reduction in



1 lane width, reduction in the number of lanes, shifting of lanes from
2 the designated alignment and uneven or temporary surfaces,
3 including, without limitation, modifications to road beds, cement-
4 treated bases, chip seals and other similar conditions,

5 ➤ shall be punished by imprisonment or by a fine, or both, for a
6 term or an amount equal to and in addition to the term of
7 imprisonment or amount of the fine, or both, that the court imposes
8 for the primary offense. Any term of imprisonment imposed
9 pursuant to this subsection runs consecutively with the sentence
10 prescribed by the court for the crime. This subsection does not
11 create a separate offense, but provides an additional penalty for the
12 primary offense, whose imposition is contingent upon the finding of
13 the prescribed fact.

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

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

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

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

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

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

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

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

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

44 6. A person who would otherwise be subject to an additional
45 penalty pursuant to this section is not subject to an additional



1 penalty if the violation occurred in a temporary traffic control zone
2 for which signs are not erected pursuant to subsection 5, unless the
3 violation results in injury to any person performing highway
4 construction or maintenance or other work in the temporary traffic
5 control zone or in damage to property in an amount equal to \$1,000
6 or more.

7 **Sec. 3.** NRS 707.375 is hereby amended to read as follows:

8 707.375 1. ~~{Aa}~~ *Except as otherwise provided in section 1 of*
9 *this act, an* agency, board, commission or political subdivision of
10 this State, including, without limitation, any agency, board,
11 commission or governing body of a local government, shall not
12 regulate the use of a telephonic device by a person who is operating
13 a motor vehicle.

14 2. As used in subsection 1, "telephonic device" means a
15 cellular phone, satellite phone, portable phone or any other similar
16 electronic device that is handheld and designed or used to
17 communicate with ~~{a}~~ *another* person.

