

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

FEBRUARY 10, 2011

JOINT SPONSORS: ASSEMBLYMEN SEGERBLOM,
ATKINSON, MUNFORD AND SMITH

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 certain emergency and law enforcement
11 personnel and persons designated by a sheriff or chief of police or the Director of
12 the Department of Public Safety who are acting within the course and scope of their
13 employment. Additional exceptions apply if: (1) the person is using the cellular
14 telephone or other device to report or request assistance relating to a medical



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emergency, a safety hazard or criminal activity; (2) the person is responding to a situation requiring immediate action and stopping the vehicle would be inadvisable, impractical or dangerous; or (3) the person is a licensed amateur radio operator providing communications services in connection with a disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information. A violation of the provisions added by **section 1** is a misdemeanor and punishable by a fine of \$50 for a first offense within the immediately preceding 7 years, \$100 for a second offense within the immediately preceding 7 years and \$250 for a third or subsequent offense within the immediately preceding 7 years. However, **section 4** of this bill provides that until January 1, 2012, a law enforcement officer must not issue a citation to a person for violating **section 1** but must give the person a verbal or written warning. **Section 1** further provides that a first offense will not be treated as a moving traffic violation. Additionally, if a person is convicted of a third or subsequent offense, in addition to the fine, the driver's license of the person will be suspended for 6 months. **Section 2** 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.

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

Section 1. 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:

(a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using 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 communications 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, 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 law enforcement officer or any 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.



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

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

8 (e) A person who is licensed by the Federal Communications
9 Commission as an amateur radio operator and who is providing a
10 communication service in connection with an actual or impending
11 disaster or emergency, participating in a drill, test, or other
12 exercise in preparation for a disaster or emergency or otherwise
13 communicating public information.

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

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

19 (a) For the first offense within the immediately preceding 7
20 years, shall pay a fine of \$50.

21 (b) For the second offense within the immediately preceding 7
22 years, shall pay a fine of \$100.

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

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

27 6. The Department of Motor Vehicles shall not treat a first
28 violation of this section in the manner statutorily required for a
29 moving traffic violation.

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

35 8. As used in this section, "handheld wireless
36 communications device" means a handheld device for the transfer
37 of information without the use of electrical conductors or wires
38 and includes, without limitation, a cellular telephone, a personal
39 digital assistant, a pager and a text messaging device. The term
40 does not include a device used for two-way radio communications
41 if:

42 (a) The person using the device has a license to operate the
43 device, if required; and

44 (b) All the controls for operating the device, other than the
45 microphone and a control to speak into the microphone, are



1 *located on a unit which is used to transmit and receive*
2 *communications and which is separate from the microphone and*
3 *is not intended to be held.*

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

5 484B.130 1. Except as otherwise provided in subsections 2
6 and 6, a person who is convicted of a violation of a speed limit, or of
7 NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive,
8 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320,
9 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603,
10 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or
11 484C.120, *or section 1 of this act*, that occurred:

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

13 (b) At a time when the workers who are performing
14 construction, maintenance or repair of the highway or other work
15 are present, or when the effects of the act may be aggravated
16 because of the condition of the highway caused by construction,
17 maintenance or repair, including, without limitation, reduction in
18 lane width, reduction in the number of lanes, shifting of lanes from
19 the designated alignment and uneven or temporary surfaces,
20 including, without limitation, modifications to road beds, cement-
21 treated bases, chip seals and other similar conditions,

22 ➤ shall be punished by imprisonment or by a fine, or both, for a
23 term or an amount equal to and in addition to the term of
24 imprisonment or amount of the fine, or both, that the court imposes
25 for the primary offense. Any term of imprisonment imposed
26 pursuant to this subsection runs consecutively with the sentence
27 prescribed by the court for the crime. This subsection does not
28 create a separate offense, but provides an additional penalty for the
29 primary offense, whose imposition is contingent upon the finding of
30 the prescribed fact.

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

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

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

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

45 (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. 3. NRS 707.375 is hereby amended to read as follows:

707.375 1. ~~Any~~ *Except as otherwise provided in section 1 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 ~~the~~ *another* person.

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

