

Amendment No. 394

Assembly Amendment to Assembly Bill No. 248

(BDR 43-616)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: Yes 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.

VMS/BAW



Date: 4/20/2013

A.B. No. 248—Revises provisions relating to certain criminal offenses involving vehicles. (BDR 43-616)



ASSEMBLY BILL NO. 248—ASSEMBLYMEN FIORE, HICKEY, HARDY, FRIERSON, BOBZIEN; AIZLEY, ELLIOT ANDERSON, PAUL ANDERSON, BENITEZ-THOMPSON, BUSTAMANTE ADAMS, CARLTON, CARRILLO, DALY, DIAZ, DONDERO LOOP, DUNCAN, EISEN, ELLISON, FLORES, GRADY, HAMBRICK, HANSEN, HEALEY, HOGAN, HORNE, KIRKPATRICK, KIRNER, LIVERMORE, MARTIN, MUNFORD, NEAL, OHRENSCHALL, OSCARSON, PIERCE, SPIEGEL, STEWART, SWANK, WHEELER AND WOODBURY

MARCH 13, 2013

JOINT SPONSORS: SENATORS ATKINSON, SEGERBLOM, HUTCHISON, CEGAVSKE, HAMMOND; DENIS, FORD, GOICOECHEA, GUSTAVSON, HARDY, KIECKHEFER, KIHUEN, MANENDO, PARKS, ROBERSON, SETTELMAYER, SPEARMAN AND WOODHOUSE

Referred to Committee on Judiciary

SUMMARY—~~[Revises provisions relating to certain criminal offenses involving vehicles.]~~ Creates a statutory subcommittee of the Advisory Commission on the Administration of Justice (BDR ~~[43-616]~~ 14-616)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 ~~[vehicles; providing that violations of certain traffic laws and ordinances must be treated as civil matters; providing that violations of certain laws relating to drivers' licenses, the registration of motor vehicles and insurance on motor vehicles must be treated as civil matters; establishing procedures for the imposition of civil penalties for violations of certain traffic laws and certain laws relating to vehicles;]~~ the criminal justice system; creating a statutory subcommittee of the Advisory Commission on the Administration of Justice; revising the duties of the Advisory Commission to include the evaluation of certain laws related to traffic laws and certain laws relating to motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 ~~[Existing law provides that a violation of any traffic law or ordinance is a misdemeanor,~~
2 ~~unless a different penalty is prescribed by a different statute. (NRS 484A.000) Existing law~~

3 further provides that a county or an incorporated city may enact ordinances imposing civil
4 penalties for violations of certain ordinances enacted by the county or incorporated city. (NRS
5 244.3575, 268.019) Sections 12-23 and 39 of this bill enact provisions based on Arizona law
6 to provide for the imposition of civil penalties rather than criminal penalties for violations of
7 certain traffic laws and ordinances. Under sections 19 and 20: (1) the maximum civil penalty
8 that may be imposed for a violation of a traffic law or ordinance punishable by a civil penalty
9 is \$250, unless a different amount is specified by statute; and (2) the judgment imposing the
10 civil penalty must include the administrative assessments currently imposed for violations of
11 traffic laws and ordinances.

12 ~~Existing law provides that any violation of state law regarding drivers' licenses or the~~
13 ~~registration of motor vehicles is a misdemeanor, unless a statute specifies a different penalty.~~
14 ~~(NRS 482.555, 482.620) Sections 1-4, 9 and 10 of this bill enact provisions based on Arizona~~
15 ~~law to provide that a person who: (1) operates, or knowingly permits the operation of, a motor~~
16 ~~vehicle in this State without current registration and license plates is subject to a civil penalty~~
17 ~~rather than the penalty for a misdemeanor; (2) fails to register his or her motor vehicle in this~~
18 ~~State within a certain period after becoming a resident of this State is subject to a civil penalty~~
19 ~~in the same amount as the criminal fine provided under existing law; or (3) does not obtain a~~
20 ~~driver's license in this State within a certain period after becoming a resident or drives a motor~~
21 ~~vehicle in this State without being the holder of a valid driver's license is subject to a civil~~
22 ~~penalty of not more than \$250 rather than the penalty for a misdemeanor, except that a person~~
23 ~~who drives a motor vehicle in this State when the person is disqualified from driving is guilty~~
24 ~~of a misdemeanor.~~

25 ~~Existing law provides that a person commits a misdemeanor if he or she: (1) operates a~~
26 ~~motor vehicle registered or required to be registered in this State without having insurance; (2)~~
27 ~~operates or knowingly permits the operation of the motor vehicle without evidence of~~
28 ~~insurance in the vehicle; or (3) fails or refuses to surrender, upon demand, to a peace officer or~~
29 ~~an authorized representative of the Department of Motor Vehicles the evidence of insurance.~~
30 ~~(NRS 485.187) Section 27 of this bill enacts provisions based on Arizona law to provide that a~~
31 ~~person who commits these violations is subject to a civil penalty in the same amount as the~~
32 ~~criminal fine imposed under current law.~~

33 ~~Existing law provides that it is unlawful for a person to violate a written promise to~~
34 ~~appear given to a peace officer upon the issuance of a traffic citation and that a warrant may~~
35 ~~issue upon a violation of a written promise to appear. (NRS 484A.670) Sections 18, 25 and 27~~
36 ~~of this bill provide that a person who violates a written promise to appear given upon the~~
37 ~~issuance of a citation for a violation that is punishable by a civil penalty must have a judgment~~
38 ~~for the civil penalty entered against him or her and that a warrant must be issued for the failure~~
39 ~~to appear. Sections 7 and 22 of this bill provide for the suspension of the driver's license of a~~
40 ~~person who fails to pay a civil penalty within the time prescribed by law.~~

41 ~~Sections 5, 6 and 8 of this bill provide that, for the purposes of maintaining a person's~~
42 ~~driving record, the imposition of a civil penalty for a traffic violation is treated the same as a~~
43 ~~conviction for a traffic offense under existing law.~~

44 ~~Sections 25, 26, 31 and 32-36 of this bill maintain the designation of certain traffic~~
45 ~~offenses as misdemeanors. Section 22 of this bill provides that a person who commits certain~~
46 ~~civil traffic violations in a road construction zone is subject to an additional civil penalty.~~

47 ~~Sections 40-42 of this bill enact provisions to govern the jurisdiction and disposition of~~
48 ~~civil violations committed by juveniles.~~

49 Section 1 of this bill creates the Subcommittee on Criminal and Civil Violations of
50 Traffic Laws of the Advisory Commission on the Administration of Justice. Section 1
51 also: (1) requires the Chair of the Advisory Commission to appoint the members of the
52 Subcommittee; (2) requires the Subcommittee to study issues related to certain
53 traffic laws and laws relating to drivers' licenses and to the registration of and insurance
54 for motor vehicles, and the treatment of violations of such laws as criminal offenses or
55 civil infractions; and (3) sets forth the salaries and per diem that members of the
56 Subcommittee may receive.

57 Existing law directs the Advisory Commission to study certain elements of this
58 State's criminal justice system. (NRS 176.1025) Section 3 of this bill requires the
59 Advisory Commission to evaluate certain laws concerning the criminal violation of
60 traffic laws and laws relating to drivers' licenses and to the registration of and

insurance for motor vehicles, and whether the State may treat such violations as civil matters.

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

Delete existing sections 1 through 46 of this bill and replace with the following new sections 1 through 5:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created the Subcommittee on Criminal and Civil Violations of Traffic Laws of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee and designate one of the members of the Subcommittee as Chair of the Subcommittee. The Chair of the Subcommittee must be a member of the Commission.

3. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

4. The Subcommittee shall consider issues related to:

(a) The existing laws of this State concerning the violation of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and the treatment of violations of such laws as criminal offenses;

(b) The related laws of other states concerning violations of such laws and their treatment of violations of such laws as criminal offenses or civil infractions;

(c) The appropriate and necessary elements of a system to treat violations of such laws as civil infractions in this State, including, without limitation, computer systems, court procedures, training and staffing; and

(d) The anticipated fiscal effects of a system to treat violations of such laws as civil infractions in this State, including, without limitation, the effects on this State and its political subdivisions.

↪ and shall evaluate, review and submit a report to the Commission with recommendations concerning such issues.

5. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the immediately preceding session for each day's attendance at a meeting of the Subcommittee.

6. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 2. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, and section 1 of this act, "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 3. NRS 176.0125 is hereby amended to read as follows:

176.0125 The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:

(a) Policies relating to parole;

(b) Regulatory procedures and policies of the State Board of Parole Commissioners;

(c) Policies for the operation of the Department of Corrections;

(d) Budgetary issues; and

(e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on

1 and follow the recommendations contained in such presentence investigations and
2 reports.

3 7. Evaluate, review and comment upon issues relating to juvenile justice in
4 this State, including, but not limited to:

5 (a) The need for the establishment and implementation of evidence-based
6 programs and a continuum of sanctions for children who are subject to the
7 jurisdiction of the juvenile court; and

8 (b) The impact on the criminal justice system of the policies and programs of
9 the juvenile justice system.

10 8. Compile and develop statistical information concerning sentencing in this
11 State.

12 9. Identify and study issues relating to the application of chapter 241 of NRS
13 to meetings held by the:

14 (a) State Board of Pardons Commissioners to consider an application for
15 clemency; and

16 (b) State Board of Parole Commissioners to consider an offender for parole.

17 10. Identify and study issues relating to the operation of the Department of
18 Corrections, including, without limitation, the system for allowing credits against
19 the sentences of offenders, the accounting of such credits and any other policies and
20 procedures of the Department which pertain to the operation of the Department.

21 11. Evaluate the policies and practices relating to the involuntary civil
22 commitment of sexually dangerous persons.

23 12. Evaluate the policies and practices relating to criminal violations of
24 traffic laws and laws relating to drivers' licenses and to the registration of and
25 insurance for motor vehicles, with consideration as to whether it is feasible and
26 advisable to treat such violations as civil matters and, if so, the issues involved in
27 implementing a system to treat such violations as civil matters.

28 13. For each regular session of the Legislature, prepare a comprehensive
29 report including the Commission's recommended changes pertaining to the
30 administration of justice in this State, the Commission's findings and any
31 recommendations of the Commission for proposed legislation. The report must be
32 submitted to the Director of the Legislative Counsel Bureau for distribution to the
33 Legislature not later than September 1 of each even-numbered year.

34 Sec. 4. The Subcommittee on Criminal and Civil Violations of Traffic
35 Laws of the Advisory Commission on the Administration of Justice appointed
36 pursuant to section 1 of this act shall submit a report of its findings and any
37 recommendations for legislation to the Advisory Commission not later than 30
38 days before the date of the meeting at which the Advisory Commission
39 considers findings and recommendations of the Advisory Commission for
40 proposed legislation to the 78th Session of the Nevada Legislature. At that
41 meeting, the Advisory Commission shall consider any recommendation for
42 proposed legislation submitted to the Advisory Commission by the
43 Subcommittee.

44 Sec. 5. The amendatory provisions of this act expire by limitation on
45 July 31, 2015.