

Amendment No. 223

Assembly Amendment to Assembly Bill No. 110 Proposed by: Assembly Committee on Judiciary Amendment Box: Replaces Amendment No. 71. Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	(BDR 43-427)
--	--------------

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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

BAW



Date: 4/9/2019

A.B. No. 110—Revises provisions relating to minor traffic and related violations.
(BDR 43-427)



ASSEMBLY BILL NO. 110—COMMITTEE
ON GROWTH AND INFRASTRUCTURE(ON BEHALF OF THE COMMITTEE TO STUDY THE
ADVISABILITY AND FEASIBILITY OF TREATING
CERTAIN TRAFFIC AND RELATED
VIOLATIONS AS CIVIL INFRACTIONS)

PREFILED JANUARY 30, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to minor traffic and related violations.
(BDR 43-427)FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public safety; ~~authorizing~~ **requiring** the Director of the Department of Motor Vehicles to release the contact information of a person who has been issued a traffic citation to a court or its traffic violations bureau under certain circumstances; revising provisions governing citations for minor traffic and related violations; revising provisions relating to hearings on alleged traffic and related violations; prohibiting the issuance of a bench warrant for a person's failure to appear in court for a parking violation in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions relating to the release and use of files and records of the Department of Motor Vehicles. (NRS 481.063) **Section 1** of this bill ~~authorizes~~ **requires** the Director of the Department to release to a court or its traffic violations bureau, upon request, the mailing address and contact information of a person who has been issued a traffic citation that is filed with the court or traffic violations bureau from a file or record relating to the person's driver's license or the title or registration of the person's vehicle for the purpose of enabling the court to provide notifications concerning the traffic citation to the person.

Existing law requires every traffic enforcement agency in this State to provide traffic citations which must be issued in books or available through an electronic device that is used to prepare citations. (NRS 484A.610) **Section 3** of this bill authorizes such traffic citations to be designed in a certain manner.

Existing law authorizes a peace officer to prepare and deliver a traffic citation to a person who has committed a traffic violation that is punishable as a misdemeanor if the person is not taken before a magistrate. Such a traffic citation must include certain information concerning the person charged with the violation and a notice to appear in court at a time that is at least 5 days after the alleged violation, unless the person charged with the violation demands an

earlier hearing. (NRS 484A.630) **Section 4** of this bill: (1) authorizes a peace officer to request, and a person to provide, the electronic mail address and mobile telephone number of the person for the purpose of enabling the court in which the person is required to appear to communicate with the person; and (2) removes the ability of the person to demand a hearing at a time earlier than 5 days after the alleged violation.

Existing law provides that if a traffic citation for a parking violation is issued to a person who has not signed the citation, a bench warrant may be issued for the person's failure to appear before the court if: (1) a notice is mailed to the person within 60 days after the citation is issued; and (2) the person does not appear within 20 days after the date of the notice or the notice to appear is returned as undeliverable. (NRS 484A.700) Section 6 of this bill prohibits the issuance of a bench warrant if such a notice to appear is returned as undeliverable.

Section 2 of this bill authorizes a court having jurisdiction over an offense for which a traffic citation may be issued or its traffic violations bureau to establish a system by which a person who has been issued a traffic citation that is filed with the court or traffic violations bureau may, **in certain circumstances and** in lieu of making a plea and statement of his or her defense or any mitigating circumstances in court, make a plea and statement of his or her defense or any mitigating circumstances by mail, by electronic mail, over the Internet or by other electronic means. **Section 2** also: (1) requires that if such a system is established and a person uses the system to make a plea and statement of his or her defense or any mitigating circumstances, such a plea and statement must be received by the court before the day on which the person is required to appear in court pursuant to the traffic citation; and (2) provides that if a person uses the system to make a plea and statement of his or her defense or any mitigating circumstances, the person waives his or her right to a trial and the right to confront any witnesses. **Section 2** additionally sets forth the requirements that any such system must meet and authorizes the Nevada Supreme Court to adopt rules relating to the establishment of such a system. **Section 5** of this bill makes a conforming change to provide that using the system to make a plea and state a defense or any mitigating circumstances does not constitute a failure to appear in court.

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

Section 1. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 6, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsections 2 and 4, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

1 (a) A list which includes license plate numbers combined with any other
2 information in the records or files of the Department;

3 (b) The social security number of any person, if it is requested to facilitate the
4 solicitation of that person to purchase a product or service; or

5 (c) The name, address, telephone number or any other personally identifiable
6 information if the information is requested by the presentation of a license plate
7 number.

8 ➤ When such personally identifiable information is requested of a law enforcement
9 agency by the presentation of a license plate number, the law enforcement agency
10 shall conduct an investigation regarding the person about whom information is
11 being requested or, as soon as practicable, provide the requester with the requested
12 information if the requester officially reports that the motor vehicle bearing that
13 license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

14 4. If a person is authorized to obtain such information pursuant to a contract
15 entered into with the Department and if such information is requested for the
16 purpose of an advisory notice relating to a motor vehicle or the recall of a motor
17 vehicle or for the purpose of providing information concerning the history of a
18 vehicle, the Director may release:

19 (a) A list which includes license plate numbers combined with any other
20 information in the records or files of the Department; or

21 (b) The name, address, telephone number or any other personally identifiable
22 information if the information is requested by the presentation of a license plate
23 number.

24 5. Except as otherwise provided in subsections 2, 4, ~~and~~ 6 and 7 and NRS
25 483.294, 483.855 and 483.937, the Director shall not release any personal
26 information from a file or record relating to a driver's license, identification card, or
27 title or registration of a vehicle.

28 6. Except as otherwise provided in paragraph (a) and subsection ~~7~~ 8, if a
29 person or governmental entity provides a description of the information requested
30 and its proposed use and signs an affidavit to that effect, the Director may release
31 any personal information, except a photograph, from a file or record relating to a
32 driver's license, identification card, or title or registration of a vehicle for use:

33 (a) By any governmental entity, including, but not limited to, any court or law
34 enforcement agency, in carrying out its functions, or any person acting on behalf of
35 a federal, state or local governmental agency in carrying out its functions. The
36 personal information may include a photograph from a file or record relating to a
37 driver's license, identification card, or title or registration of a vehicle.

38 (b) In connection with any civil, criminal, administrative or arbitration
39 proceeding before any federal or state court, regulatory body, board, commission or
40 agency, including, but not limited to, use for service of process, investigation in
41 anticipation of litigation, and execution or enforcement of judgments and orders, or
42 pursuant to an order of a federal or state court.

43 (c) In connection with matters relating to:

44 (1) The safety of drivers of motor vehicles;

45 (2) Safety and thefts of motor vehicles;

46 (3) Emissions from motor vehicles;

47 (4) Alterations of products related to motor vehicles;

48 (5) An advisory notice relating to a motor vehicle or the recall of a motor
49 vehicle;

50 (6) Monitoring the performance of motor vehicles;

51 (7) Parts or accessories of motor vehicles;

52 (8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

7. *Upon the request of a court or its traffic violations bureau, the Director ~~may~~ shall release the mailing address and contact information of a person who has been issued a traffic citation that is filed with the court or traffic violations bureau from a file or record relating to the driver's license of the person or the title or registration of the person's vehicle for the purpose of enabling the court or traffic violations bureau to provide notifications concerning the traffic citation to the person.*

8. Except as otherwise provided in paragraph (j) of subsection 6, the Director shall not provide personal information to individuals or companies for the purpose of marketing extended vehicle warranties, and a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 6. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➤ The record must be made available for examination by the Department at all reasonable times upon request.

~~8.~~ 9. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if the Director reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

~~9.~~ 10. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the system created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that system.

~~10.~~ 11. The Director shall not release any information relating to legal presence or any other information relating to or describing immigration status, nationality or citizenship from a file or record relating to a request for or the issuance of a license, identification card or title or registration of a vehicle to any

1 person or to any federal, state or local governmental entity for any purpose relating
2 to the enforcement of immigration laws.

3 ~~11.1~~ 12. The Director shall adopt such regulations as the Director deems
4 necessary to carry out the purposes of this section. In addition, the Director shall,
5 by regulation, establish a procedure whereby a person who is requesting personal
6 information may establish an account with the Department to facilitate the person's
7 ability to request information electronically or by written request if the person has
8 submitted to the Department proof of employment or licensure, as applicable, and a
9 signed and notarized affidavit acknowledging that the person:

10 (a) Has read and fully understands the current laws and regulations regarding
11 the manner in which information from the Department's files and records may be
12 obtained and the limited uses which are permitted;

13 (b) Understands that any sale or disclosure of information so obtained must be
14 in accordance with the provisions of this section;

15 (c) Understands that a record will be maintained by the Department of any
16 information he or she requests; and

17 (d) Understands that a violation of the provisions of this section is a criminal
18 offense.

19 ~~11.2~~ 13. It is unlawful for any person to:

20 (a) Make a false representation to obtain any information from the files or
21 records of the Department.

22 (b) Knowingly obtain or disclose any information from the files or records of
23 the Department for any use not permitted by the provisions of this chapter.

24 ~~11.3~~ 14. As used in this section:

25 (a) "Information relating to legal presence" means information that may reveal
26 whether a person is legally present in the United States, including, without
27 limitation, whether the driver's license that a person possesses is a driver
28 authorization card, whether the person applied for a driver's license pursuant to
29 NRS 483.290 or 483.291 and the documentation used to prove name, age and
30 residence that was provided by the person with his or her application for a driver's
31 license.

32 (b) "Personal information" means information that reveals the identity of a
33 person, including, without limitation, his or her photograph, social security number,
34 individual taxpayer identification number, driver's license number, identification
35 card number, name, address, telephone number or information regarding a medical
36 condition or disability. The term does not include the zip code of a person when
37 separate from his or her full address, information regarding vehicular crashes or
38 driving violations in which he or she has been involved or other information
39 otherwise affecting his or her status as a driver.

40 (c) "Vehicle" includes, without limitation, an off-highway vehicle as defined in
41 NRS 490.060.

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

44 1. *A court having jurisdiction over an offense for which a traffic citation*
45 *may be issued pursuant to NRS 484A.630 or its traffic violations bureau may*
46 *establish a system by which, except as otherwise provided in subsection 5, a*
47 *person who has been issued a traffic citation that is filed with the court or traffic*
48 *violations bureau may make a plea and state his or her defense or any mitigating*
49 *circumstances by mail, by electronic mail, over the Internet or by other electronic*
50 *means.*

51 2. ~~11.4~~ *Except as otherwise provided in subsection 5, if a court or traffic*
52 *violations bureau has established a system pursuant to subsection 1, a person*
53 *who has been issued a traffic citation that is filed with the court or traffic*

violations bureau may, in lieu of making a plea and statement of his or her defense or any mitigating circumstances in court, make a plea and state his or her defense or any mitigating circumstances by using the system. Any such plea and statement must be received by the court before the date on which the person is required to appear in court pursuant to the traffic citation.

3. If a person to whom a traffic citation is issued is eligible pursuant to the provisions of this section to use a system established pursuant to subsection 1 to make a plea and state his or her defense or any mitigating circumstances and the person chooses to make a plea and state his or her defense or any mitigating circumstances by using such a system, ~~established pursuant to subsection 1,~~ the person waives his or her right to a trial and the right to confront any witnesses.

4. Any system established pursuant to subsection 1 must:

(a) For the purpose of authenticating that the person making the plea and statement of his or her defense or any mitigating circumstances is the person to whom the traffic citation was issued, require the person to submit:

- (1) The traffic citation number;
- (2) The name and address of the person;
- (3) The state registration number of the person's vehicle, if any;
- (4) The number of the driver's license of the person, if any;
- (5) The offense charged; and
- (6) Any other information required by any rules adopted by the Nevada

Supreme Court pursuant to subsection ~~5,~~ 6.

(b) Provide notice to each person who uses the system to make a plea and statement of his or her defense or any mitigating circumstances that the person waives his or her right to a trial and the right to confront any witnesses.

(c) If a plea and statement of the defense or mitigating circumstances is submitted by electronic mail, over the Internet or by other electronic means, ~~provide~~ confirm receipt of the plea and statement or make available to the person making the plea a copy of the plea and statement.

5. A person who has been issued a traffic citation for any of the following offenses may not make a plea and state his or her defense or any mitigating circumstances by using a system established pursuant to subsection 1:

- (a) Aggressive driving in violation of NRS 484B.650;
- (b) Reckless driving in violation of NRS 484B.653;
- (c) Vehicular manslaughter in violation of NRS 484B.657; or
- (d) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance in violation of NRS 484C.110, 484C.120 or 488.410, as applicable.

6. The Nevada Supreme Court may adopt rules not inconsistent with the laws of this State to carry out the provisions of this section.

Sec. 3. NRS 484A.610 is hereby amended to read as follows:

484A.610 1. Every traffic enforcement agency in this State shall provide in appropriate form traffic citations containing notices to appear which must meet the requirements of chapters 484A to 484E, inclusive, of NRS and be:

- (a) Issued in books; or
- (b) Available through an electronic device used to prepare citations.

2. The chief administrative officer of each traffic enforcement agency is responsible for the issuance of such books and electronic devices and shall maintain a record of each book, each electronic device and each citation contained therein issued to individual members of the traffic enforcement agency and volunteers of the traffic enforcement agency appointed pursuant to NRS 484B.470. The chief

administrative officer shall require and retain a receipt for every book and electronic device that is issued.

3. Any traffic citation provided by a traffic enforcement agency pursuant to this section may be designed such that the traffic citation:

(a) Clearly states at the top of the citation the purpose of the citation and the actions that must be taken by the person to whom the citation is issued;

(b) Provides in a conspicuous location near the top of the citation fields for the date and time when and the location where the person to whom the citation is issued is required to appear in court; and

(c) Clearly states, in bold type, the consequences of failing to appear in court.

Sec. 4. NRS 484A.630 is hereby amended to read as follows:

484A.630 1. Whenever a person is halted by a peace officer for any violation of chapters 484A to 484E, inclusive, of NRS punishable as a misdemeanor and is not taken before a magistrate as required or permitted by NRS 484A.720 and 484A.730, the peace officer may prepare a traffic citation manually or electronically in the form of a complaint issuing in the name of "The State of Nevada," containing a notice to appear in court, the name and address of the person, the state registration number of the person's vehicle, if any, the number of the person's driver's license, if any, the offense charged, including a brief description of the offense and the NRS citation, the time and place when and where the person is required to appear in court, and such other pertinent information as may be necessary. **The peace officer may also request, and the person may provide, the electronic mail address and mobile telephone number of the person for the purpose of enabling the court in which the person is required to appear to communicate with the person. If the peace officer requests such information, the peace officer shall expressly inform the person that providing such information is voluntary.** The peace officer shall sign the citation and deliver a copy of the citation to the person charged with the violation. If the citation is prepared electronically, the peace officer shall sign the copy of the citation that is delivered to the person charged with the violation.

2. The time specified in the notice to appear must be at least 5 days after the alleged violation. ~~Unless the person charged with the violation demands an earlier hearing.~~

3. The place specified in the notice to appear must be before a magistrate, as designated in NRS 484A.750.

4. The person charged with the violation may give his or her written promise to appear in court by signing at least one copy of the traffic citation prepared by the peace officer and thereupon the peace officer shall not take the person into physical custody for the violation. If the citation is prepared electronically, the peace officer shall indicate on the electronic record of the citation whether the person charged gave his or her written promise to appear. A copy of the citation that is signed by the person charged or the electronic record of the citation which indicates that the person charged gave his or her written promise to appear suffices as proof of service.

5. If the person charged with the violation refuses to sign a copy of the traffic citation but accepts a copy of the citation delivered by the peace officer:

(a) The acceptance shall be deemed personal service of the notice to appear in court;

(b) A copy of the citation signed by the peace officer suffices as proof of service; and

(c) The peace officer shall not take the person into physical custody for the violation.

1 **Sec. 5.** NRS 484A.670 is hereby amended to read as follows:

2 484A.670 1. ~~Regardless~~ *Unless a person makes a plea by using a system*
3 *established by a court or traffic violations bureau in accordance with section 2 of*
4 *this act, regardless* of the disposition of the charge for which a traffic citation was
5 originally issued, it is unlawful for a person to:

6 (a) Violate a written promise to appear in court given to a peace officer upon
7 the issuance of a traffic citation prepared by the peace officer; or

8 (b) Fail to appear at the time and place set forth in a notice to appear in court
9 that is contained in a traffic citation prepared by a peace officer.

10 2. Except as otherwise provided in this subsection, a person may comply with
11 a written promise to appear in court or a notice to appear in court by an appearance
12 by counsel. A person who has been convicted of two or more moving traffic
13 violations in unrelated incidents within a 12-month period and is subsequently
14 arrested or issued a citation within that 12-month period shall appear personally in
15 court with or without counsel.

16 3. ~~At~~ *Unless a person makes a plea by using a system established by a*
17 *court or traffic violations bureau in accordance with section 2 of this act, a*
18 warrant may issue upon a violation of a written promise to appear in court or a
19 failure to appear at the time and place set forth in a notice to appear in court.

20 **Sec. 6.** NRS 484A.700 is hereby amended to read as follows:

21 484A.700 1. A traffic citation for a parking violation may be prepared
22 manually or electronically.

23 2. ~~When~~ *Except as otherwise provided in subsection 3, when* a traffic
24 citation for a parking violation has been issued identifying by license number a
25 vehicle registered to a person who has not signed the citation, a bench warrant may
26 ~~not~~ be issued for that person for failure to appear before the court ~~unless~~ *if:*

27 (a) A notice to appear concerning the violation is first sent to the person by
28 first-class mail within 60 days after the citation is issued; and

29 (b) The person does not appear within 20 days after the date of the notice. ~~for~~

30 3. *A bench warrant may not be issued pursuant to subsection 2 if* the notice
31 to appear is returned with a report that it cannot be delivered.

32 **Sec. 7.** The amendatory provisions of section 6 of this act apply to a notice to
33 appear that is mailed on or after October 1, 2019.