

EXEMPT

(Reprinted with amendments adopted on June 2, 2019)
SECOND REPRINT **S.B. 408**

SENATE BILL NO. 408—SENATORS DONDERO LOOP,
WOODHOUSE, PARKS; AND CANCELA

MARCH 21, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to public safety.
(BDR 43-805)

FISCAL NOTE: Effect on Local Government: No.
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 public safety; revising provisions relating to motorcycles, trimobiles and mopeds; revising provisions relating to the duties of a pedestrian at certain intersections; providing provisions governing the operation of a mobile carrying device on sidewalks and in crosswalks; revising provisions relating to the imposition by a court of the requirement to install an ignition interlock device for certain convictions; requiring the driver and passenger on a trimobile or a moped to wear protective headgear; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 6 of this bill clarify that, for the purposes of vehicle registration and traffic laws, a vehicle designed to travel with three wheels in contact with the ground must be equipped with handlebars and a saddle seat to meet the definition of "trimobile." (NRS 482.129, 486.057)

Existing law provides pedestrians on or near a highway of this State with certain rights and imposes certain duties. (NRS 484B.280-484B.297) **Section 2.7** of this bill authorizes the movement of a mobile carrying device on sidewalks and in crosswalks and provides that such a device generally has the rights and duties of a pedestrian. Such a device must have an operator who is actively monitoring the navigation and movement of the device, and the operator must ensure that the device does not: (1) fail to comply with traffic control signals or devices; (2) unreasonably interfere with pedestrians or vehicle traffic; (3) transport hazardous material or a person; and (4) fail to yield to pedestrians on a sidewalk or in a crosswalk. A violation of the provisions governing the operation of a mobile carrying device is not a misdemeanor, is not a moving traffic violation for the purposes of NRS 483.473 and is punishable by a civil penalty of \$250. **Section 2.5**



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defines a mobile carrying device generally as an electrically powered wheeled device that is intended primarily to transport personal property. **Sections 1.5 and 2.9** of this bill make conforming changes. **Sections 11 and 12** of this bill authorize the governing body of a county or a city, respectively, to enact an ordinance regulating the time, place and manner of the operation of a mobile carrying device to protect the health and safety of the public, except that such an ordinance may not prohibit the use of such a device on sidewalks that are at least 36 inches wide.

Existing law requires a person driving a motorcycle, other than a trimobile or a moped, to wear protective headgear. (NRS 486.231) **Section 8** of this bill requires a driver or a passenger on a trimobile or a moped to wear protective headgear.

Existing law requires the Department of Motor Vehicles to establish the Program for the Education of Motorcycle Riders, which provides courses in motorcycle safety. (NRS 486.372, 486.374) Certain persons in this State who hold a motorcycle driver's license or a driver's license with a motorcycle endorsement are eligible to enroll in the Program. (NRS 486.373) **Section 9** of this bill authorizes the Program to include instruction applicable to a trimobile or a moped and **section 10** of this bill makes a person who holds a driver's license eligible to enroll in the Program.

Existing law provides requirements for pedestrians crossing a highway of this State when certain signals are in place exhibiting the words "Walk," "Wait" or "Don't Walk." (NRS 484B.283) **Section 3** of this bill clarifies that, when a countdown timer is included with such signals, a pedestrian may cross a roadway when such a signal is flashing, so long as the pedestrian completes the crossing before the countdown timer reaches zero. **Section 3** also revises references to include certain symbols displayed on such signals, including a walking person symbol and an upraised hand symbol.

Under existing law a court must order a person who is convicted of certain offenses involving driving a motor vehicle while under the influence of intoxicating liquor, a controlled substance or a combination of both, to install an ignition interlock device. (NRS 484C.460) The interlock ignition device must be installed for a period of not less than 185 days unless: (1) the violation was punishable as a felony or vehicular homicide; (2) the person proximately caused the death of or substantial bodily injury to another; or (3) the person was found to have had a concentration of alcohol of 0.18 or more in his or her breath. If any of those conditions are present the interlock ignition device must be installed for a period of not less than 12 months or more than 36 months. **Section 4** of this bill clarifies that such a person is only required to install the ignition interlock device for the longer time period if one of the conditions listed above is present. The result of the change is that regardless of whether or not a blood or breath test was administered, or whether the results or lack of results was used in the prosecution or defense of the person, so long as none of the conditions listed above are present, he or she is eligible for the shorter period of required use of an ignition interlock device, which **section 4** requires to be 185 days.

Existing law provides several exceptions to the requirement for installing an ignition interlock device upon a conviction if a court makes certain determinations. (NRS 484C.460) **Section 4** eliminates from the list of exceptions a determination by the court that: (1) requiring the person to install a device would cause the person to experience an economic hardship; (2) the person requires the use of the motor vehicle to travel to and from work in the scope of his or her employment; or (3) the person requires the use of the motor vehicle to obtain medicine, food or other necessities or to obtain health care services for the person or a family member of the person.

Finally, existing law requires the manufacturer of an ignition interlock device or an agent of the manufacturer to notify the Director of the Department if the device has been tampered with. (NRS 484C.460) Existing law also requires the



Director, or the Director of the Department of Public Safety, to notify a court that has ordered an ignition interlock device if certain irregularities occurred with the device. (NRS 484C.460, 484C.470) Sections 4 and 5 of this bill require the manufacturer of the device or its agent to also notify the court in such circumstances.

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

Section 1. NRS 482.129 is hereby amended to read as follows:
482.129 “Trimobile” means every motor vehicle *equipped with handlebars and a saddle seat and* designed to travel with three wheels in contact with the ground, at least one of which is power driven. The term does not include a motorcycle with a sidecar.

Sec. 1.5. NRS 482.135 is hereby amended to read as follows:
482.135 Except as otherwise provided in NRS 482.36348, “vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway. The term does not include:

1. Devices moved by human power or used exclusively upon stationary rails or tracks;

2. Mobile homes or commercial coaches as defined in chapter 489 of NRS; ~~or~~

3. Electric personal assistive mobility devices ~~H~~; or

4. A mobile carrying device as that term is defined in section 2.5 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 2.3. Chapter 484B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 and 2.7 of this act.

Sec. 2.5. *“Mobile carrying device” means an electrically powered wheeled device that:*

1. Is designed to operate semi-autonomously not more than 25 feet from its operator;

2. Is equipped with technology that allows for active monitoring of the operation of the device by the operator;

3. Is intended primarily to transport personal property on sidewalks and crosswalks;

4. Weighs less than 90 pounds when empty; and

5. Has a maximum speed of 12.5 miles per hour.

Sec. 2.7. *1. Except as otherwise provided in section 11 or 12 of this act, a mobile carrying device may be operated on a sidewalk or crosswalk provided that:*

(a) The operator of the mobile carrying device is actively monitoring the navigation and movement of the mobile carrying device;



(b) *The mobile carrying device is equipped with a braking device that enables the mobile carrying device to come to a controlled stop; and*

(c) *The mobile carrying device is operated in accordance with any requirements imposed by this section.*

2. *The operator of a mobile carrying device may not allow a mobile carrying device to:*

(a) *Operate on the highways of this State except when crossing within a crosswalk;*

(b) *Fail to comply with any traffic-control signal or devices that a pedestrian is obligated to comply with;*

(c) *Unreasonably interfere with pedestrians or vehicle traffic;*

(d) *Transport hazardous material as that term is defined in NRS 459.7024; or*

(e) *Transport a person.*

3. *A mobile carrying device has all the rights and duties of a pedestrian except those which by their nature can have no application, except that the operator of a mobile carrying device must ensure that the mobile carrying device yields the right of way to a pedestrian on a sidewalk or in a crosswalk.*

4. *A violation of this section:*

(a) *Is not a misdemeanor;*

(b) *Shall not be deemed a moving traffic violation; and*

(c) *Is punishable by the imposition of a civil penalty of \$250.*

Sec. 2.9. NRS 484B.003 is hereby amended to read as follows:

484B.003 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 484B.007 to 484B.077, inclusive, *and section 2.5 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 484B.283 is hereby amended to read as follows:

484B.283 1. Except as otherwise provided in NRS 484B.287, 484B.290 and 484B.350:

(a) When official traffic-control devices are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the highway within a crosswalk when the pedestrian is upon the half of the highway upon which the vehicle is traveling ~~or~~ *or onto which the vehicle is turning*, or when the pedestrian is approaching so closely from the opposite half of the highway as to be in danger.

(b) A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(c) Whenever a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the driver of any other



vehicle approaching from the rear shall not overtake and pass the stopped vehicle until the driver has determined that the vehicle being overtaken was not stopped for the purpose of permitting a pedestrian to cross the highway.

(d) Whenever signals exhibiting the words "Walk ," ~~["or"]~~ "Don't Walk ," ~~[""]~~ *"Wait" or similar symbols* are in place, such signals indicate as follows:

(1) While the "Walk" indication *or walking person symbol* is illuminated, pedestrians facing the signal may proceed across the highway in the direction of the signal and must be given the right-of-way by the drivers of all vehicles.

(2) While the "Don't Walk" *or "Wait"* indication *or an upraised hand symbol* is illuminated, ~~["either steady or"]~~ *is* flashing ~~[""]~~ *and is accompanied by a countdown timer*, a pedestrian ~~["shall not start to cross"]~~ *may proceed across* the highway in the direction of the signal, but ~~["any pedestrian who has partially completed"]~~ *must complete* the crossing ~~["during the "Walk" indication shall proceed to a sidewalk, or to a safety zone if one is provided."]~~

~~["(3) Whenever the word "Wait" still appears in a signal, the indication has the same meaning as assigned in this section to the "Don't Walk" indication."]~~

~~["(4) Whenever a signal system provides a signal phase for the stopping of all vehicular traffic and the exclusive movement of pedestrians, and "Walk" and "Don't Walk" indications control pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection when the "Walk" indication is exhibited, and when signals and other official traffic control devices direct pedestrian movement in the manner provided in this section and in NRS 484B.307.] before the countdown timer gets to zero."]~~

(3) While the "Don't Walk" or "Wait" indication *or an upraised hand symbol* is illuminated and flashing but is not accompanied by a countdown timer, a pedestrian may not proceed to cross the highway, but a pedestrian who entered the highway lawfully pursuant to subparagraph (1) may continue to cross the highway but must proceed to a curb, sidewalk, safety zone if one is provided or other place of safety before the "Don't Walk" or "Wait" indication or an upraised hand symbol is illuminated and steady.

(4) While the "Don't Walk" or "Wait" indication or an upraised hand symbol is illuminated and steady a pedestrian may not proceed to cross the highway, but a pedestrian who entered the highway lawfully pursuant to subparagraph (1) or (2) may continue to cross the highway but must proceed to a curb,



sidewalk, safety zone if one is provided or other place of safety as soon as possible.

2. If, while violating paragraph (a) or (c) of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.

3. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484B.135.

4. As used in this section, "half of the highway" means all traffic lanes of a highway which are designated for traffic traveling in one direction, and includes the entire highway in the case of a one-way highway.

Sec. 4. NRS 484C.460 is hereby amended to read as follows:

484C.460 1. Except as otherwise provided in subsections 2 and 5, a court shall order a person convicted of:

(a) ~~[A]~~ *Except as otherwise provided in paragraph (b), a violation of paragraph (a), (b) or (c) of subsection 1 or paragraph (b) of subsection 2 of* NRS 484C.110 that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400, ~~[if the person is found to have had a concentration of alcohol of less than 0.18 in his or her blood or breath,]~~ to install, at his or her own expense and for a period of 185 days, a device in any motor vehicle which the person operates as a condition to obtaining a restricted license pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of the person.

(b) A violation of:

(1) NRS 484C.110 that is punishable pursuant to paragraph (a) or (b) of subsection 1 of NRS 484C.400, if the person is found to have had a concentration of alcohol of 0.18 or more in his or her blood or breath;

(2) NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to NRS 484C.400 or 484C.410; or

(3) NRS 484C.130 or 484C.430,

➤ to install, at his or her own expense and for a period of not less than 12 months or more than 36 months, a device in any motor vehicle which the person operates as a condition to obtaining a restricted license pursuant to NRS 483.490 or as a condition of reinstatement of the driving privilege of the person.

2. A court may, in the interests of justice, provide for an exception to the provisions of subsection 1 for a person who is convicted of a violation of NRS 484C.110 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400, ~~[to avoid undue hardship to the person]~~ if the court determines that:



(a) ~~[Requiring the person to install a device in a motor vehicle which the person owns or operates would cause the person to experience an economic hardship;~~

~~— (b) The person requires the use of the motor vehicle to:~~

~~— (1) Travel to and from work or in the course and scope of his or her employment; or~~

~~— (2) Obtain medicine, food or other necessities or to obtain health care services for the person or another member of the person's immediate family;~~

~~— (c) The person is unable to provide a deep lung breath sample for a device, as certified in writing by a physician of the person; or~~

~~— (d) (b) The person resides more than 100 miles from a manufacturer of a device or its agent.~~

3. If the court orders a person to install a device pursuant to subsection 1:

(a) The court shall immediately prepare and transmit a copy of its order to the Director. The order must include a statement that a device is required and the specific period for which it is required. The Director shall cause this information to be incorporated into the records of the Department and noted as a restriction on the person's driver's license.

(b) The person who is required to install the device shall provide proof of compliance to the Department before the person may receive a restricted license or before the driving privilege of the person may be reinstated, as applicable. Each model of a device installed pursuant to this section must have been certified by the Committee on Testing for Intoxication.

4. A person whose driving privilege is restricted pursuant to this section or NRS 483.490 shall have the device inspected, calibrated, monitored and maintained by the manufacturer of the device or its agent at least one time each 90 days during the period in which the person is required to use the device to determine whether the device is operating properly. Any inspection, calibration, monitoring or maintenance required pursuant to this subsection must be conducted in accordance with regulations adopted pursuant to NRS 484C.480. The manufacturer or its agent shall submit a report to the Director indicating whether the device is operating properly, whether any of the incidents listed in subsection 1 of NRS 484C.470 have occurred and whether the device has been tampered with. If the device has been tampered with, the Director *and the manufacturer or its agent* shall notify the court that ordered the installation of the device. Upon receipt of such notification and before the court imposes a penalty pursuant to subsection 3 of NRS 484C.470, the court shall afford any interested party an opportunity for a hearing after reasonable notice.



5. If a person is required to operate a motor vehicle in the course and scope of his or her employment and the motor vehicle is owned by the person's employer, the person may operate that vehicle without the installation of a device, if:

(a) The employee notifies his or her employer that the employee's driving privilege has been so restricted; and

(b) The employee has proof of that notification in his or her possession or the notice, or a facsimile copy thereof, is with the motor vehicle.

➤ This exemption does not apply to a motor vehicle owned by a business which is all or partly owned or controlled by the person otherwise subject to this section.

6. The running of the period during which a person is required to have a device installed pursuant to this section commences when the Department issues a restricted license to the person or reinstates the driving privilege of the person and is tolled whenever and for as long as the person is, with regard to a violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430, imprisoned, serving a term of residential confinement, placed under the supervision of a treatment provider, on parole or on probation.

Sec. 5. NRS 484C.470 is hereby amended to read as follows:

484C.470 1. The court may extend the order of a person who is required to install a device pursuant to NRS 484C.210 or 484C.460, not to exceed one-half of the period during which the person is required to have a device installed, if the court receives from the Director of the Department of Public Safety *or the manufacturer of the device or its agent* a report that 4 consecutive months prior to the date of release any of the following incidents occurred:

(a) Any attempt by the person to start the vehicle with a concentration of alcohol of 0.04 or more in his or her breath unless a subsequent test performed within 10 minutes registers a concentration of alcohol lower than 0.04 and the digital image confirms the same person provided both samples;

(b) Failure of the person to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the person at the time of the missed test;

(c) Failure of the person to pass any random retest with a concentration of alcohol of 0.025 or lower in his or her breath unless a subsequent test performed within 10 minutes registers a concentration of alcohol lower than 0.025, and the digital image confirms the same person provided both samples;

(d) Failure of the person to have the device inspected, calibrated, monitored and maintained by the manufacturer or its agent pursuant to subsection 4 of NRS 484C.460; or



(e) Any attempt by the person to operate a motor vehicle without a device or tamper with the device.

2. A person required to install a device pursuant to NRS 484C.210 or 484C.460 shall not operate a motor vehicle without a device or tamper with the device.

3. A person who violates any provision of subsection 2:

(a) Must have his or her driving privilege revoked in the manner set forth in subsection 4 of NRS 483.460; and

(b) Shall be:

(1) Punished by imprisonment in jail for not less than 30 days nor more than 6 months; or

(2) Sentenced to a term of not less than 60 days in residential confinement nor more than 6 months, and by a fine of not less than \$500 nor more than \$1,000.

➤ No person who is punished pursuant to this section may be granted probation, and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless, in the judgment of the attorney, the charge is not supported by probable cause or cannot be proved at trial.

Sec. 6. NRS 486.057 is hereby amended to read as follows:

486.057 "Trimobile" means every motor vehicle *equipped with handlebars and a saddle seat and* designed to travel with three wheels in contact with the ground, at least one of which is power driven. The term does not include a motorcycle with a sidecar.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 486.231 is hereby amended to read as follows:

486.231 1. The Department shall adopt standards for protective headgear and protective glasses, goggles or face shields to be worn by the drivers and passengers of motorcycles and transparent windscreens for motorcycles.

2. Except as *otherwise* provided in this section, when any motorcycle ~~[except a trimobile]~~ or moped ~~[]~~ is being driven on a highway, the driver and passenger shall wear protective headgear securely fastened on the head and protective glasses, goggles or face shields meeting those standards. ~~[Drivers and passengers of trimobiles shall wear protective glasses, goggles or face shields which meet those standards.]~~

3. When a motorcycle or a ~~[trimobile]~~ *moped* is equipped with a transparent windscreen meeting those standards, the driver and passenger are not required to wear glasses, goggles or face shields.

4. When a motorcycle *or moped* is being driven in a parade authorized by a local authority, the driver and passenger are not required to wear the protective devices provided for in this section.



5. When a three-wheel ~~motorcycle~~ *vehicle, except a trimobile*, on which the driver and passengers ride within an enclosed cab is being driven on a highway, the driver and passengers are not required to wear the protective devices required by this section.

Sec. 9. NRS 486.370 is hereby amended to read as follows:
486.370 "Motorcycle" ~~[does not include a trimobile.]~~ *includes a moped.*

Sec. 10. NRS 486.373 is hereby amended to read as follows:
486.373 1. A resident of this State who holds a *driver's license, a motorcycle driver's license or a motorcycle endorsement* to a driver's license or who is eligible to apply for such a license or endorsement, or a nonresident who is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard and who is stationed at a military installation located in Nevada, may enroll in the Program.

2. The Director shall establish a fee of not more than \$150 for the Program.

Sec. 11. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the board of commissioners of each county in this State may, to protect the health and safety of the public, enact an ordinance which regulates the time, place and manner of the operation of a mobile carrying device in the unincorporated areas of the county, including, without limitation, by prohibiting the use of a mobile carrying device in a specified area of the county.

2. A board of county commissioners, in enacting an ordinance pursuant to subsection 1, may not prohibit the use of a mobile carrying device on a sidewalk in the county that is more than 36 inches wide.

3. As used in this section, "mobile carrying device" has the meaning ascribed to it in section 2.5 of this act.

Sec. 12. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the city council or other governing body of each incorporated city in this State, whether or not organized under general law or special charter, may, to protect the health and safety of the public, enact an ordinance which regulates the time, place and manner of the operation of a mobile carrying device in the city, including, without limitation, by prohibiting the use of a mobile carrying device in a specified area of the city.

2. A city council or governing body, in enacting an ordinance pursuant to subsection 1, may not prohibit the use of a mobile



- 1 *carrying device on a sidewalk in the city that is more than 36*
2 *inches wide.*
3 3. *As used in this section, “mobile carrying device” has the*
4 *meaning ascribed to it in section 2.5 of this act.*

