

**MINUTES OF THE  
SENATE COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Eighty-first Session  
April 26, 2021**

The Senate Committee on Growth and Infrastructure was called to order by Chair Dallas Harris at 3:32 p.m. on Monday, April 26, 2021, Online and in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dallas Harris, Chair  
Senator Chris Brooks, Vice Chair  
Senator Pat Spearman  
Senator Scott Hammond  
Senator Keith F. Pickard

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Shannon Bilbray-Axelrod, Assembly District No. 34  
Assemblywoman Tracy Brown-May, Assembly District No. 42  
Assemblyman Glen Leavitt, Assembly District No. 23

**STAFF MEMBERS PRESENT:**

Susan Scholley, Policy Analyst  
Eileen O'Grady, Counsel  
Paula Peters, Committee Secretary

**OTHERS PRESENT:**

Kendra Bertschy, Deputy Public Defender, Washoe County Public Defender's Office  
Nick Shepack, American Civil Liberties Union of Nevada  
Jim Hoffman, Nevada Attorneys for Criminal Justice  
Chuck Callaway, Las Vegas Metropolitan Police Department  
Deborah Kuhls, M.D., Chief of Surgery, UMC Trauma Center; Professor of Surgery, University of Nevada, Las Vegas School of Medicine

Senate Committee on Growth and Infrastructure  
April 26, 2021  
Page 2

Leann McAllister, Executive Director, American Academy of Pediatrics Nevada  
Heather Watson

CHAIR HARRIS:

We will hear Assembly Bill (A.B.) 403.

**ASSEMBLY BILL 403 (1st Reprint)**: Revises provisions governing certain crimes.  
(BDR 43-1030)

ASSEMBLYWOMAN TRACY BROWN-MAY (Assembly District No. 42):

My co-presenter is Kendra Bertschy with the Washoe County Public Defender's Office. She will present the specifics of the bill.

I spend a significant amount of time on our city streets. As a pedestrian, I have become aware of laws that affect criminal prosecution opportunities for people who choose to cross the streets safely, but not in a marked crosswalk. There is a significant difference in crossing a marked street safely and legally. This bill is presented to decriminalize certain violations by pedestrians, most commonly referred to as jaywalking.

Crossing a street outside of a marked crosswalk can be a safety hazard if there are vehicles present and should be a deterred behavior when safety is at risk. A criminal charge for violating this statute is unnecessary and can be excessive.

Nevada's current law criminalizes jaywalking as a misdemeanor which is punishable by imprisonment in the county jail for not more than six months or by a fine of not more than \$1,000, or by both a fine and imprisonment.

This bill would decriminalize jaywalking. It is important to know that this bill does not eliminate penalties or citations for jaywalking. It does direct the courts to consider the citation as a civil infraction, not a criminal infraction.

KENDRA BERTSCHY (Deputy Public Defender, Washoe County Public Defender's Office):

This is a short bill but one that is a fiscally sound policy. *Nevada Revised Statutes* (NRS) 484B.287 currently provides for a criminal penalty for someone walking in an area that is not a crosswalk. Section 2, subsection 2 creates the civil infraction with a penalty of not more than \$100, so it is not a misdemeanor. The judge can still sentence and punish the jaywalker accordingly

within that range. There could be other punishments that are allowable or programs that the court has which are at the judge's discretion and disposal. What is important to note is misdemeanors have significant consequences. Individuals applying for medical or nursing school have to admit if they have a misdemeanor on their record. It is important to provide for some equity to have this be a civil infraction rather than a misdemeanor.

There are currently five people in the City of Las Vegas Jail with just jaywalking charges. I do not have information from the Washoe County Jail and understand there is no one in the other detention facilities. Each one of those individuals cost taxpayers \$190 per day in the Clark County Detention Facility. Today, we are spending nearly \$1,000 to house the five individuals for one day and that is only if they are healthy. In the Washoe County Sheriff's Department, it costs from \$126 per day up to \$500 per day for each individual. It is important to note that two of those people in custody at Clark County Detention Facility have been there since April 22 on just a jaywalking charge.

Section 2.5 allows for those currently having a pending warrant to have that warrant squashed. They would no longer have that warrant, just to provide for some equity under the law. If it becomes a civil infraction there would not be a warrant for his or her arrest.

When this was heard in the Assembly, in the Las Vegas Municipal Court there were 4,515 individuals with outstanding warrants for just jaywalking. If those individuals were arrested today, it would cost the taxpayers \$898,485 for just one day.

CHAIR HARRIS:

What would happen to those 5,000 who currently have warrants if this law were to pass? Would those warrants still be outstanding and could they be picked up at any moment? If so, how would they be sentenced?

MS. BERTSCHY:

Section 2.5, subsection 2, discusses that outstanding bench warrants would be cancelled or vacated. It would automatically be done for all bench warrants that occurred prior to July 1, which is the effective date if this becomes law. The courts would be required to vacate those warrants, so they would no longer exist. The people still have those tickets where the appropriate penalty would

happen. They would not have a warrant and would not be arrested if he or she does not have a court hearing before July 1.

SENATOR HAMMOND:

You want to decriminalize this and only have a penalty? Is up to \$200 enough discouragement? Do you feel he or she is going to stay on top of that?

MS. BERTSCHY:

This is something we are debating for a lot of the traffic infractions. There are several bills that are passing through this Legislative Body to decriminalize charges. Studies have shown there is no deterrent affect by having these traffic offenses as misdemeanors. Having to come to court and pay a fine is more of a deterrent. During the Covid-19 pandemic some court systems have stopped issuing warrants for some misdemeanor traffic charges and have seen an increase in revenue because people are paying more of their fines. This would allow individuals to continue to use other resources, such as doing community service. For the studies to say that someone would be looking at jail time is more of a deterrent. They are more likely to come to court because they are not looking at potentially being arrested for up to six months where they could lose their jobs, housing or children. This provides them with the ability to accept responsibility and know the punishment is going to be more reflective of the crime that occurred.

NICK SHEPACK (American Civil Liberties Union of Nevada):

We do not believe the average citizen is aware that jaywalking is currently a misdemeanor. Deterrents do not work when people are unaware they exist. We believe decriminalizing jaywalking is a logical move. As a State, we are starting to move away from the criminalization of minor infractions such as minor traffic violations. Minor tickets such as jaywalking have misappropriate impacts on people of lower economic status and those in rural areas where pedestrian infrastructure may not be as robust. While it is likely that we all have J-walked in our life, if you receive a criminal ticket, people are less likely to pay a ticket or have reliable transportation to the courthouse to get the ticket reduced. The inability or failure to pay a jaywalking ticket results in a bench warrant which can turn into an arrest. Depending on the jurisdiction, the arrest could translate into multiple days in jail and cost the taxpayers more than the original ticket. A civil penalty provides the same level of deterrent as a criminal penalty while alleviating issues that arrive from the current penalty structure. The vacating of bench warrants will reduce unnecessary conduct between police and citizens.

JIM HOFFMAN (Nevada Attorneys for Criminal Justice):

We do not believe jaywalking is the kind of problem that should expose people to criminal liability. We believe civil penalties are sufficient to deal with this problem in a manner that saves funding while ensuring public safety.

CHUCK CALLAWAY (Las Vegas Metropolitan Police Department):

We are neutral on whether the fine should be a civil or criminal fine or the penalty being civil or criminal. We had 38 fatalities on our roadways in our jurisdiction. Thirteen of those involved pedestrians, many of which were in the roadway or not abiding by the crosswalks at the time of the accident. Roughly, 47 percent of our fatalities involved pedestrians. Law enforcement needs to have the ability to enforce these laws. We have people who routinely walk into the middle of traffic on busy streets.

Officers are not driving through neighborhoods arresting neighbors who jaywalk to talk with another neighbor. Typically, if someone is arrested, it is because the behavior is continuous. There are usually underlying reasons why someone would be arrested. We do not make those arrests unless it is approved by a supervisor and is needed.

The jail has a budget with a set number of beds. The only cost savings would be for food and clothing for the day which would be \$20 to 25, not \$190 per day. That money is still being paid in the budget to keep a bed open.

The deterrent is police officers. Studies have shown a person who commits an offense does not usually know the penalty. He or she does know if police officers are enforcing the law, it does sometimes curb behavior and prevent someone from getting hit in the roadway.

ASSEMBLYWOMAN BROWN-MAY:

As you heard, we have had robust conversations with regard to policing on this issue. The police often have alternative means or reasons to arrest. For that reason, we believe decriminalizing jaywalking as the reason to arrest somebody would be an inappropriate measure. We need fines to come into alignment with the penalty. We feel this is not a criminal act and should not be prosecuted as such.

We have a letter from the Office of the Attorney General ([Exhibit B](#)) in support of this bill.

CHAIR HARRIS:

We will close the hearing on A.B. 403 and open the hearing on A.B. 118.

**ASSEMBLY BILL 118 (2nd Reprint)**: Revises provisions relating to the transportation of children in motor vehicles. (BDR 43-209)

ASSEMBLYWOMAN SHANNON BILBRAY-AXELROD (Assembly District No. 34):

In the 2017 Session, then-Senator Joyce Woodhouse brought this bill as S.B. No. 156 of the 79th Session which passed out of the Senate and the Assembly Committees but never got to the Floor. That was the bill I brought initially but is not the bill I am presenting today. There was not an appetite for some of the changes made to the original bill. I salvaged some things from the original bill that would make a difference for the safety of children in Nevada. The bill I bring today, in its second reprint, does two things. It adds into statute that babies shall remain rear-facing in a child's safety seat until two years of age. This is the recommended age from the National Highway Traffic Safety Administration (NHTSA). This changes the weight requirement of 60 pounds to safely transition out of a booster at a height requirement of 57 inches, which is also recommended by the NHTSA.

My original bill included not allowing children under the age of 13 to sit in the front seat. This bill no longer has that requirement, but that is the recommended age.

DEBORAH KUHLS, M.D. (Chief of Surgery, UMC Trauma Center; Professor of Surgery, University of Nevada, Las Vegas School of Medicine):

Best practice recommendations are corroborated by the American Academy of Pediatrics (AAP) and the Advocates for Highway and Auto Safety. Infants and toddlers should remain in a rear-facing child-restraint system in the rear seat from birth through age two or longer. The current recommendation is that booster seats should be used until the child can be properly restrained using the vehicle's seat belt. Age 8 and 57 inches are the standard of care. There is also a recommendation that children less than 13 years should ride in the back seat.

Between the ages of six to eight, the trauma center observed a drop in Nevada children admitted who were riding in booster seats. Children who were properly restrained for their age were 47.8 percent less likely to be seriously or critically injured in a crash when compared to improperly restrained children. Booster seats save lives and reduce injuries. Children between the ages of one to two

are currently not required to ride in a rear-facing child seat. For those aged six to eight years, there is no requirement under Nevada law that they be restrained in a booster seat or ride in the back seat until reaching 13 years of age.

SENATOR PICKARD:

The laws we are referring to are the rear-facing until two law and the booster seat law. Is that correct?

ASSEMBLYWOMAN BILBRAY-AXELROD:

That is correct.

SENATOR PICKARD:

It is my understanding that we do have a restraint law that all children under a certain size have to be in an appropriate restraint of some kind. Right?

ASSEMBLYWOMAN BILBRAY-AXELROD:

Yes, currently it is six years of age and 60 pounds.

SENATOR PICKARD:

Is this whether the child is not restrained at all, restrained or restrained appropriately? In Nevada, if parents are not following the law as it exists today, are they going to be punished for not having the child in the proper seat based on their age alone?

ASSEMBLYWOMAN BILBRAY-AXELROD:

The recommendation would be above two years old still rear-facing. The age is more due to the temperament of children and trying to contain them in the reverse facing position. That age seems to be the appropriate time when a parent is no longer able to physically put a child in a rear-facing seat. It is not because of their age but because of their temperament.

DR. KUHLS:

The recommendation is you can occasionally have some children who are small or have a milder temperament and are two years of age or as long as possible. The inches for booster seats anatomically place a child at the appropriate level so the lower part of the seat belt goes across his or her hips and not across his or her abdomen. Across their abdomen causes injuries such as bowel perforations and pelvis fractures.

SENATOR PICKARD:

The appropriate position and situation for the child is going to be based on their size, not their temperament. Kids at any age do not like to look backwards when their parents and all the exciting stuff might be up front. They are going to put up a fight at any age. This bill does not approach the temperament piece. If we are looking at size and physical characteristics in the second instance, why are we not looking at those same parameters in the first instance? We are using an age restriction in the beginning, and the child may not fit in that whether they are too small at age three. This does not look at the physical characteristics of a child that would make it appropriate. This is looking strictly at age and then we talk about the booster seat. Why is that?

ASSEMBLYWOMAN BILBRAY-AXELROD:

We went off the NHTSA, but if I did have a tiny child, I would still keep them turned back-facing. The language is saying up to age two, but obviously if your child is tiny, you need to keep them turned around.

DR. KUHLS:

In my review of all of the best practices for children one to two years of age, all the recommendations are up to two years of age. The AAP recommends two years of age or longer if possible.

CHAIR HARRIS:

My child loves to sit in the middle seat. Is there any guidance on whether children are safer on the edges or perfectly safe sitting in the middle?

ASSEMBLYWOMAN BILBRAY-AXELROD:

I always had my daughter in the middle; especially when she was rear-facing. I was told that if there was a side impact, the safest place is in the middle.

DR. KUHLS:

There is data on the two sides versus the middle. Clearly, if someone is unrestrained, they have a clear shot to the windshield. It is best to have the restraints. There is increased death with the improper use or lack of restraints.

LEANN MCALLISTER (Executive Director, American Academy of Pediatrics Nevada):

I will read my written testimony ([Exhibit C](#)).



HEATHER WATSON:

I train local technicians on how to work with parents on installing car seats. Rear-facing to age two is vitally important because of the neck bone strength. Until about age three or four neck bones are not completely hardened. Children will figure out their legs. Size is really not a factor. It is important that Nevada be brought up to date on minimums.

ASSEMBLYWOMAN BILBRAY-AXELROD:

I neglected to point out the Department of Public Safety has the ability to receive grants or donations of car seats or boosters.

CHAIR HARRIS:

Is there some way to encourage educational outreach as part of this so certain communities are not disproportionately affected by the associated fines?

We will close the hearing on A.B. 118 and open the hearing on A.B. 320.

**ASSEMBLY BILL 320 (1st Reprint)**: Revises provisions governing the operation of large all-terrain vehicles on certain streets and highways. (BDR 43-196)

ASSEMBLYMAN GLEN LEAVITT (Assembly District No. 23):

I am presenting A.B. 320, and will include the answers to questions brought up during the Assembly hearing on this bill ([Exhibit D](#)). Nevada is known for its vast desert, mountains, lakes, rivers and forest trails. Over 80 percent of Nevada's land is federally owned and is home to over 20 state parks, 2 recreational areas, 13 designated wildlife areas and 7 national forests. Nevada is a tourist destination for those who enjoy exploring the outdoors using off-highway vehicles (OHV) and many residents have taken advantage of OHVs to safely spend quality time with friends or family during this Covid-19 pandemic while enjoying all that nature has to offer.

One specific type of OHV is a large all-terrain vehicle (ATV). Assembly Bill 320 is only addressing the large ATVs and not the other types of OHVs. As amended, A.B. 320 provides a definition of large ATVs as any ATV that has a non-straddle seat and includes seating capacity for at least two people. We are working to amend that language. All-terrain vehicles, that fit this definition, can also seat one person, but the non-straddle rule will still apply.

These are not small vehicles. Some are equal in size to small passenger cars in dimensions. Moving ATVs from one trail location to another may require a much larger vehicle with either a sufficient truck bed or towing capacity if the ATV cannot be driven across specific roadways.

This bill seeks to allow large ATVs that meet certain requirements to be operated on city streets and highways to remove barriers to an owner's ability to access Nevada's many trails and recreational areas. This bill came from a constituent request since they could not drive their OHV from their garage to the trail located less than a mile from their house.

The bill makes changes to the existing NRS 490.105 by allowing, in certain circumstances, the operation of large ATVs on a main county road or city street where the population is less than 25,000, or a portion of highway that has been designated as a main county road. Large ATVs must conform to the specifics set forth in NRS 490.120 and be registered with the Department of Motor Vehicles (DMV) as a vehicle intended to be operated upon the highways of this State. The governing body of a city or county has jurisdiction over the street or highway and may enact an ordinance or resolution prohibiting the operation of large ATVs on any portion of such streets. By limiting A.B. 320 to cities with populations under 25,000, and ensuring the governing body of the city or county has the final authority to determine which roadways it will permit large ATVs to operate, this measure balances the need for outdoor recreation enthusiasts with the need for public safety.

CHAIR HARRIS:

Do you know what the current requirements are regarding helmets for these vehicles? Are they enclosed, so you do not need a helmet?

ASSEMBLYMAN LEAVITT:

In certain circumstances, it is not required because they have seat belts and are fully enclosed. If they were to roll, they are safer due to the three-point harness that serves as a safety belt and are fully enclosed in a cage. To drive on a public street, the ATV must have everything a vehicle would be required to have.

SENATOR HAMMOND:

Since you are going to be allowing people to drive on streets, would this bill require somebody to have a valid license?

ASSEMBLYMAN LEAVITT:

Yes. The driver would have to be licensed and the vehicles must be insured.

SENATOR PICKARD:

If the driver has a DUI or some other reason for a suspended license, would they also be prevented to drive off the road?

ASSEMBLYMAN LEAVITT:

I am not sure about the qualifications for driving the vehicle off road. We only researched the ability to drive on the public streets.

SENATOR PICKARD:

We are not changing or permitting anything beyond the existing impediments to driving on or off the road. We are just making sure this applies everywhere, right?

ASSEMBLYMAN LEAVITT:

Yes, the bill does not contain language changing anything for off-road use.

CHAIR HARRIS:

You mentioned these vehicles are insured. It seems to me that the insurance policy expects these vehicles to be used off road and may only cover accidents that happen in use off road. Do you know if insurance policies would hold drivers liable for accidents on the road if they are at fault?

ASSEMBLYMAN LEAVITT:

I do not know, but will look into it and get back to the Committee. My first assumption is that the insurance level is pretty high even when operating off road because of the possibility of something negative happening while operating the vehicle. They do have to register those vehicles with the DMV, so I am sure the DMV will know what the requirements are for the insurance, and it has to be equal or better than that of the operation of a golf cart.

Senate Committee on Growth and Infrastructure  
April 26, 2021  
Page 12

CHAIR HARRIS:

I will close the hearing on A.B. 320. Hearing no further business, we are adjourned at 4:40 p.m.

RESPECTFULLY SUBMITTED:

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Diane Rea,  
Committee Secretary

APPROVED BY:

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Senator Dallas Harris, Chair

DATE: \_\_\_\_\_

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
A.B. 403	B	1	Assemblywoman Tracy Brown-May	Statement in Support from Office of the Attorney General
A.B. 118	C	1	Leann McAllister / American Academy of Pediatrics Nevada	Statement in Support
A.B. 320	D	1	Assemblyman Glen Leavitt	Answers to questions