MINUTES OF THE
SENATE COMMITTEE ON GROWTH AND INFRASTRUCTURE

Eighty-third Session
April 9, 2025

The Senate Committee on Growth and Infrastructure was called to order by Chair Rochelle T. Nguyen at 3:42 p.m. on Wednesday, April 9, 2025, in Room 2144 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 5 of the Nevada Legislature Hearing Rooms, 7120 Amigo Street, Las Vegas, Nevada. Exhibit A is the agenda. Exhibit B is the attendance roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Rochelle T. Nguyen, Chair
Senator Julie Pazina, Vice Chair
Senator Fabian Doñate
Senator Ira Hansen
Senator Carrie Ann Buck

GUEST LEGISLATORS PRESENT:

Senator John C. Steinbeck, Senatorial District No. 18
Senator Jeff Stone, Senatorial District No. 20

STAFF MEMBERS PRESENT:

Julianne King, Committee Policy Analyst
Michael Viets, Committee Counsel
Paula Peters, Committee Secretary

OTHERS PRESENT:

John Jones, Nevada District Attorneys Association
Eric Bauman, Chief Deputy District Attorney, Clark County District Attorney's Office
Christopher Ries, Police Detective, Las Vegas Metropolitan Police Department
David Cherry, City of Henderson
Sandy Heverly, Executive Director and Victim Advocate, Stop DUI Nevada
Denise Parish, Stop DUI

Bailee Berger
Kipalee Prince, Stop DUI
Darlene Post, Stop DUI
Alyssa Belle Yabut, Stop DUI; Mothers Against Drunk Driving
Michele Abbate, Stop DUI
Corlie Ohl
Brennan Grazioso, Mothers Against Drunk Driving
Jason Woodard, Nevada Sheriffs' and Chiefs' Association; Washoe County Sheriff's Office
John Piro, Clark County Public Defender's Office
Paloma Guerrero, Washoe County Public Defender's Office
Carly Helbert, Assistant City Attorney, Las Vegas
Marc Schifalacqua, Senior Assistant City Attorney, Henderson
Zack Bucher, City of North Las Vegas; Urban Consortium
Andrew Bennett, Chair, Nevada Advisory Committee on Highway Safety

CHAIR NGUYEN:
I will open the hearing on Senate Bill (S.B.) 304.

SENATE BILL 304: Revises provisions relating to the crime of vehicular homicide. (BDR 43-370)

SENATOR JEFF STONE (Senatorial District No. 20):
It is my pleasure to present S.B. 304 relating to vehicular homicide and providing other matters properly related thereto. Senate Bill 304 aims to revise the elements required for a person to commit the crime of vehicular homicide in Nevada. The bill removes the requirement that a person must have been previously convicted of at least three offenses to be charged with vehicular homicide.

This change simplifies the criteria for charging someone with vehicular homicide. Under existing law, a person commits vehicular homicide if they drive or are in actual physical control of a vehicle while under the influence of alcohol or certain substances and proximately causes the death of another person while driving and has previously been convicted of at least three offenses.

The revised law under S.B. 304 will no longer require the previous conviction of three offenses, focusing instead on the act of driving under the influence and causing a fatality. The bill notes that there is no fiscal impact on local

government but there is an effect on the State. The bill allows for an affirmative defense if the defendant can prove by the preponderance of the evidence that they consumed alcohol after driving and before their blood or breath was tested.

JOHN JONES (Nevada District Attorneys Association):
Senator Stone did a great job of explaining what S.B. 304 in its current version does. The Nevada District Attorneys Association (NDAA) sponsored an amendment (Exhibit C) that deals with *Nevada Revised Statutes* (NRS) 484C.430. Right now, there are two DUI death statutes. The first is NRS 484C.430 which is our current DUI death and combined substantial bodily harm statute. The second is NRS 484C.440, the vehicular homicide statute that the Senator is proposing to amend today.

Because S.B. 304 removes the element of having been previously convicted of at least three offenses, this causes [NRS] 484C.440 to also become a DUI death statute. Now we have two statutes prohibiting the same conduct with different penalties. My amendment strikes out the words "the death of" from NRS 484C.430 making that statute a DUI causing substantial bodily harm statute only. Thus, NRS 484C.440 would become the new DUI death statute in Nevada and NRS 484C.430 would become the DUI substantial bodily harm statute.

For the committee's reference, the penalties under NRS 484C.430 are currently 2 to 20 years in the Nevada Department of Corrections. That would not change when it becomes the DUI substantial bodily harm statute. The real change would come with the penalties associated with a vehicular homicide and that is why we are bringing the statute today.

The effect of this bill is to increase the penalty for DUI [causing] death from 2 to 20 years to a set term of either 10 [years] to life or 10 to 25 years. And it would be up to a judge to determine which of those penalties to impose. This bill recognizes that the conduct and result between a DUI death and a DUI causing second-degree murder are virtually the same. And that is the policy reason for us bringing this bill.

In Nevada, a second-degree murder is a murder committed with what we call an abandoned or malignant heart. In layman's terms, that means a reckless indifference to human life. And it has been the position of DAs throughout the State that getting behind the wheel of a vehicle while intoxicated and

proximately causing the death of another meets this threshold. Thus, our position is that a DUI death should be punished similarly to second-degree murder.

CHAIR NGUYEN:
Clarification for committee members that you are presenting based on the amendment: I am looking at the amendment as proposed, and I do not see that language regarding the new additional penalties. Am I missing it somewhere in this document or is there a separate document that has that information?

MR. JONES:
In NRS 484C.430 sub f [subsection 1, paragraph (f)], we're striking out "the death of" and the penalty described as 2 to 20 years. In the original bill section 1, the penalties for this statute are not in the bill, but it is 10 to 25 years or 10 years to life. So that is in a separate NRS [484C.440, subsection 1, paragraph (b)] that is not affected by any change that we are making today.

CHAIR NGUYEN:
Thank you, I just wanted to clarify.

ERIC BAUMAN (Chief Deputy District Attorney, Clark County District Attorney's Office):
I am the chief of the Vehicular Crimes Unit. We all agree that the number of DUI fatalities in our State is far too high and has been so for far too long. We're past the point where education is our goal here; people know what the dangers of driving under the influence are. At this point we have to recognize that this is a choice that is being made—a willful choice tantamount to firing a gun into a crowd when you get into a vehicle and choose to drive while impaired. This bill recognizes that we must treat this crime with the requisite seriousness to penalize people the same for what this conduct is, which is tantamount to second-degree murder.

Our State has an opportunity to take a leadership role here, and to have among the toughest penalties in the country for those who take the life of a person while driving impaired. The flip side, I think, and an important consideration is that too often in prosecutions for DUIs, which cause very grievous bodily injuries like paralysis or amputations that people will live with for their entire lives—we find that during sentencing that years are taken off the top of the sentence because the statute as it currently stands is combined with a DUI

causing death. The maximum sentence is almost never applied to these injuries, and we feel that people who are victims of a DUI causing substantial bodily harm will have a more fair hearing.

CHAIR NGUYEN:
When we look at the original language of a DUI causing death or substantial bodily harm, I see that in your proposed amendment, you are striking out the "death of or" part so it would just be a DUI substantial bodily harm. I see that the penalty has not changed. Was there any consideration about that?

Obviously when that penalty is imposed, it has a very large range and I think that was probably ... I have not looked at the legislative history but I am assuming because on the low end you have 2 years because it also encompasses perhaps like a substantial bodily harm claim. And then on the high end, it was probably taking into consideration a death. Was there any indication or any conversations about lowering that 20 [year maximum] in light of the fact that you are taking out the death?

MR. JONES:
We have had conversations with the public defenders about that and obviously we're open to any conversations with respect to this bill. We have two main goals with respect to S.B. 304. One is to separate substantial bodily harm and DUI and not have them in the same statute. I think Mr. Bauman indicated why having them in the same statute with the same penalty is causing problems. The second is to increase the penalty for a DUI causing death and make it more akin to second-degree murder.

Within that, Chair, we are willing to have any conversation. But what I can say is that substantial bodily harm encompasses a wide range of potential injuries. It could be a broken leg where somebody suffers extreme pain for a prolonged period of time. But as Mr. Bauman indicated, it could also be somebody who is a paraplegic for the rest of their life. The fact that we have a wider range gives the court more discretion to appropriately punish the behavior based on what the outcome of the actions were.

CHAIR NGUYEN:
Obviously in the way S.B. 304 was initially drafted, it was kind of this creative language to get to the penalty that you were looking at. Was there ever any kind of indication to just separate this within the existing DUI statute to have

DUI death, DUI substantial bodily harm, and lay out those particular penalties as such? Like in the Governor's recommended criminal policy bill, which is kind of what he has done. Was there any consideration of that? Or was that just … this was an existing statute that had the penalty range that you were looking for?

MR. JONES:
We are actually open to either of those. I do appreciate your mentioning the Governor's crime bill that does take a different approach than what is contemplated currently by S.B. 304 and we are happy to have a conversation. I think either of those approaches moves us in the right direction.

CHAIR NGUYEN:
Is that my understanding that you would be open to a DUI death and a DUI substantial bodily harm, separate statutes? I believe the other recommendation was just to be consistent across some of the legislation that is currently pending before the Legislature, I think the recommendation was, was it 2 to 25 [years]?

MR. JONES:
In the Governor's crime bill, which I believe is S.B. 547 [S.B. 457] but that could be wrong, it splits out within the same statute, but it does separate the punishment.

SENATE BILL 457: Revises provisions relating to public safety. (BDR 15-1038)

The substantial bodily harm DUI would remain 2 to 20 years. The punishment for DUI death would become 5 to 25 years. There's a larger range in there. But I must also say that the Governor's proposed crime bill goes a little further and then it allows a prosecutor to file second-degree murder when extreme malice is present. There is also the ability for more enhanced punishment when we have more extreme conduct.

CHAIR NGUYEN:
I understand the reasoning and the intent behind what you are seeking to do in S.B. 304. You can't live in Nevada, in Southern Nevada in particular, and I am sure it is similar both in our rural communities as well as up north, [without] seeing some of these particularly egregious DUI cases that have resulted in multiple deaths under horrific circumstances. We understand, and I think probably everyone agrees with the intent behind this. Can you discuss some

previous litigation that you have run into, trying to charge these DUI deaths with second-degree murder?

MR. JONES:
There has been substantial litigation around this issue. What the Supreme Court has said is that when the Legislature prescribes a specific penalty for specific conduct, then we are limited to only charging that particular crime. Because we have a specific crime in Nevada for DUI death, we cannot charge a DUI death as open murder.

The most recent case decided was *Leavell v. Eighth Judicial District*. The citation being 135 Nev. 676 [Unpublished Disposition]. So, Chair, there was a time when we were charging the most egregious cases as second-degree murder but because the Legislature has prescribed this specific DUI statute, we can no longer do that. I do not know, Mr. Bauman, is there anything you wanted to add?

MR. BAUMAN:
Sure, if I may. Since I was personally involved with the *Leavell* [*v. Eighth Judicial District*] case, I think it might be instructive to give the basic facts of that case. This was an individual who was significantly impaired by marijuana. He was driving at over 150 miles per hour in a 25-mph zone and struck and killed someone. So that was the egregiousness of the level of behavior that we attempted to proceed on under the second-degree murder theory. And that was when the Nevada Supreme Court said if you have a DUI death statute, you have to use it.

CHRISTOPHER RIES: (Detective, Las Vegas Metropolitan Police Department):
The Las Vegas Metropolitan Police Department supports S.B. 304.

DAVID CHERRY (City of Henderson):
We all share a desire to keep our streets safe for drivers, bicyclists and pedestrians. This legislation sends a strong message to those who choose to drive while intoxicated—you will face serious consequences—should you commit a vehicular homicide.

We know there's a strong correlation between fatal accidents and driving under the influence of drugs and alcohol or both. We hope that the adoption of A.B. [S.B.] 304 will serve as a deterrent to keep people from getting behind the

wheel when they are impaired. And should they take a life, that it will mean they are held fully accountable for their actions. For these reasons, we urge your support for S.B. 304 which will give our courts and prosecutors a law that can deliver justice to victims and their survivors.

SANDY HEVERLY (Executive Director and Victim Advocate, Stop DUI Nevada):
I have been a resident of Clark County since 1964 and active in the anti-drunk driving mission since 1982. I am also a multiple DUI victim. I am here today on behalf of the thousands of innocent DUI victims that we represent. Thank you, Senator Stone, for sponsoring this very important measure for DUI, a measure we believe will help save lives.

While working with thousands of DUI victims in Nevada, across the country and abroad, it quickly became clear that DUI is a crime that crosses all boundaries: race, religion, gender, age, economic background, Democrat, Republican and Independent. It does not discriminate, and no one is immune.

The law tells us it is technically a crime against the State. However, it is the innocent victims who pay the ultimate price. The tentacles on this crime are far reaching. It tests the emotional, physical and financial strength of its victims and at times diminishes human dignity. The experience often leaves bitter, indelible and debilitating scars on the heart and soul that last a lifetime.

This violent crime robs us of our loved ones, destroys family and shatters hopes, dreams and careers. The devastating aftermath often leads to loss of income, emotional and physical trauma, PTSD, chronic depression, divorce when a child is killed or when catastrophic injury is involved and sometimes suicide. These DUIs rape our State of more than a billion dollars per year.

The cost to innocent victims is immeasurable. By midnight tonight, 749 men, women and children will have been killed and injured in alcohol-related crashes somewhere in this country. It saddens me to tell you that Nevada has added significantly to that carnage. That does not even include the deaths and injuries caused by driving under the influence of illicit drugs, prescription or marijuana or a combination of all of the above. Rarely does a week go by without a DUI fatality or injury in Clark County or somewhere else in our State.

Who are these victims, and who will be next? After four decades of education awareness and providing numerous alternatives, there is no valid excuse. We've

reached a point where the penalty for this crime should, and must, outweigh the risk these drunken fools are willing to take, because they are not listening as evidenced by the amount of DUI cases seen daily just in the Las Vegas Justice Court alone. As an example, February 3, 2025 through February 6, 2025, we had a total of 497 DUI cases. That's one court; that's one week.

Here's the problem. They're not listening. It has become open season on anyone who gets in their deadly path of destruction. Why are we giving them three chances to kill us? How many more must die? How many more families must be destroyed before Nevada says no to drunk driving and means it? Senate Bill 304 will help us get that message across, and I respectfully request you give favorable consideration to this life-saving bill. I also have several other victims here. People who have actually lived the reality of what I have just expressed to you. We will let them speak now.

DENISE PARISH (Stop DUI):
My husband was killed April 28 of last year, and his killer is still walking free. We need this bill passed so that others are not sentenced to life like I am. The killer, Juan De Leon, has a short pause to his life. My granddaughter and I have a life sentence and this was because it was his first DUI ... not nearly long enough, what he is going to serve.

He also asked that his time served be taken into consideration. He served two days. It will be 13 months that he has walked free before he is sentenced. We need the strengths of S.B. 304, and it will give us, the grieving families, some justice. We beg you to take this action as soon as possible. My granddaughter and I miss my husband, Al Weiss, every day, every minute. Thank you for letting us speak here today and for those that are not able to speak for themselves anymore.

BAILEE BERGER:
I am the granddaughter of Al Weiss, and DUIs are not talked about enough. We need to put a stop to this for once. My grandfather was killed by a drunk driver. My grandfather was doing what he loves most, going out with friends. One night he went out with a friend to get a burger and listen to some music. He later dropped her off and a little while after, he was hit by Juan DeLeon.

De Leon was going over 100 mph and with twice the BAC [blood alcohol concentration] limit. So far, he has only spent two days in jail. De Leon has only

had one DUI, but that shouldn't matter. He should still be charged with the 25 years to life, I believe it is. On the twenty-eighth of this month it will be a year since my grandfather was killed.

My grandfather was one of the main pieces in my life. He and my grandmother have raised me. Now she has to do it on her own without her husband here to help. We seriously need stronger DUI laws. I am here to support S.B. 304 along with my grandmother and others that have lost their loved ones to drunk drivers.

KIPALEE PRINCE (Stop DUI):
My husband David Prince, along with his coworker, was killed on April 13, 2023, at the Mercury Test Site [Nevada National Security Site] by a drunk driver who was going between 85 and 105 mph in a government vehicle. The crash was so horrific that it took DNA testing and 15 days to legally identify our husbands.

It took 23 months to get him [the driver] convicted and behind bars. We begged for one year more than the minimum. He got 3 to 8 times two. I am begging you to change the laws. People do not take our drunk driving laws seriously, or they wouldn't be doing it. The crime does not fit the punishment.

Yet the families are the ones that are paying for this. Our lives are the ones ruined. You never think you are going to be the one until you are, until it is your loved one. I never thought I would be the one. My kids never thought they would be the one. I have two grandchildren that will never meet their grandpa. Please, I am begging, change the laws. Make people think twice. Make the punishment fit the crime.

DARLENE POST (Stop DUI):
I am representing my husband, David Allen Post, who was killed by a drunk driver. My husband was so badly burned, it took 25 days to identify his body. The person who killed my husband only got 3 to 8 years in jail. It also took 23 months for him to be put in jail behind bars. I am supporting S.B. 304 in hopes that future DUI offenders get more of a punishment that fits this crime.

I miss my husband dearly. He was my honeybee, and I was his honey bunny. We will not get to plan futures of retiring together. Please, this needs to end, and this bill needs to be passed.

ALYSSA BELLE YABUT (Stop DUI; Mothers Against Drunk Driving):
I am the daughter of fallen [Nevada] Trooper Alberto Felix. Driving under the influence is something that not many people know exists until it happens to you. I didn't. It happens way more often than you think. It does not just claim lives. It shatters families. I know this because I am living proof. My family is living proof. On November 30, 2023, my life changed forever.

My dad, Trooper Alberto Felix, was doing what he always did, protecting and serving the community. That night, he and Sergeant Michael Abbate stopped to assist a driver who was also under the influence. While they we are trying to help another intoxicated driver, Jamarcus Williams came speeding down the road and struck them with so much force that both men were thrown from the scene.

Williams did not stop to help. When he was finally found hours later, his BAC was still 2.5 times the legal limit. This was seven to eight hours after the crash. But here is what is even more heartbreaking. This was not even his first DUI. He has been convicted before and yet, he is still behind the wheel, still making the same reckless choices. If stronger DUI penalties had been in place with real consequences that could have taken him off the road, my father and Sergeant Abbate might still be alive today.

This is not just about one man's poor decision. It is about a system that too often gives second, third and fourth chances until it is too late. We need stronger DUI laws. We need mandatory sentences that actually deter repeat offenders. We need laws that reflect the value of human life because right now that system is failing us. My dad was a protector. He dedicated his life to keeping people safe. And it is only right that we honor his memory and Sergeant Abbate's memory by fighting to make our roads safer by demanding tougher DUI penalties. We're not seeking justice. We're trying to save lives.

MICHELE ABBATE (Stop DUI):
My big brother and only sibling was Michael Abbate. Sergeant Michael Abbate. And ironically, his Nevada Highway Patrol badge number was 304, just like this bill.

Victims like me are automatically given a life sentence with no recourse. The current Nevada DUI vehicular homicide penalty makes me physically sick to read, "DUI death with three prior like offenses." It feels like it must have been

written by a drunk. It's like we're giving these people three chances to get behind the wheel and kill someone, and my brother's death is proof of that. Our hometown is Las Vegas, and we need stronger DUI laws.

Jamarcus Williams is the man who killed my brother and Trooper Alberto Felix. He was a repeat offender of driving under the influence right here in Nevada. This man killed two civil serving people in a single night, leaving them both to die on the road.

It should be common sense that if you kill someone while driving a vehicle under the influence, it is vehicle homicide regardless of your history. There should be no reward by saying you did not give it a shot three times before ... . It is absurd.

I stand here today to urge you to please consider supporting S.B. 304, and when you see that bill number 304, remember my brother Michael Abbate. A son, my brother, a husband and a father who was so unfairly taken from this world because of a man who disregarded the law and because the current penalties that he had previously served were far too lenient.

My brother and Trooper Felix might still be here today if our laws were harsher; let that sink in. Please think about your families and your loved ones and how this could drastically affect your and their lives. The reason I stand before you today is to be the voice for change before they have to say to you "I am sorry, your family member is dead because of a DUI driver."

My brother and Sergeant Felix were assisting an unresponsive drunk driver as another drunk driver ran them both over and killed them. Please support S.B. 304 and thank you to all those who have worked to get us to this hearing today. I am forever grateful.

CORLIE OHL:
I am alive as opposed to the those that just gave testimony that their loved ones died, but I barely made it. A drunk driver T-boned my husband and me in our F150 truck. He was going about 75 mph and he ran two stoplights prior to finding our car. He was heavily intoxicated [with a BAC] 0.29 percent, and that was an hour after that.

I was rushed to the hospital, and I almost died. He hit directly behind my head. The seat belt across my chest didn't work but it did work across my lap. I unbuckled my seatbelt and I went to the floorboard. There is evidence that my head hit the windshield very hard and cracked it. I spent nine days in the hospital. I had surgery to remove seven inches from my small intestine. I had never had surgery before, and I don't have children. Now I live with a huge scar down my belly.

I lived. I do believe that he was charged, but he has five DUIs and he was not charged with a DUI because he was already serving a prison sentence for breaking and entering. They reduced his charge to not include the drunk driver charge. I firmly believe that we have to be tougher on our drunk drivers because we have options. We can call Uber; we can call Lyft. We do not have to get behind the wheel of a car and end somebody's life or change their life forever.

BRENNAN GRAZIOSO (Mothers Against Drunk Driving):
I am a program manager with Mothers Against Drunk Driving here in Nevada. I think it has been well said by all of the victim testimony here and all the organizations and support. But we would just urge the committee to support S.B. 304 as well.

JASON WOODARD (Nevada Sheriffs' and Chiefs' Association; Washoe County Sheriff's Office):
I would like to express our support for this bill. We'd like to thank the bill sponsor for bringing this bill forward and [say] "me too" to the previous comments of the NDAA as well as the victims that have been impacted by these crimes.

JOHN PIRO (Clark County Public Defender's Office):
I want to say that every family should be whole that spoke today. I am profoundly sorry for their losses. Nothing like that should ever happen.

I do want to bring to the committee's attention our research on DUI laws across the nation. We ran a 50-state survey. We already have some of the harshest penalties in the nation for DUI. We're not even in the top 10 for worst states for DUI, which was a surprise because sometimes the rhetoric around the Legislature seems to be otherwise. Oklahoma has the number 1 harshest penalty, and yet they are still in the top 10 for worst states for DUI. This is

evidence of things that we have talked about frequently in this building, that just merely increasing the penalties does nothing to deter the conduct.

Mr. Bauman said in his testimony that we are past the point of public education but respectfully, we are not. In fact, the National Academy of Sciences has done a deep dive on this. Their very thorough report went through a number of several factors that would decrease DUIs, which is what we all want to do here in our State.

We are one of eight states that does not have dram shop [alcohol vendor] liability. Maybe it is time to have that conversation; maybe it is time to have that conversation for real. We also don't have host liability, and maybe it is time to have that conversation as that deters conduct. Maybe it's time to start stronger server training so that people can recognize the signs of impairment and cut somebody off before they get into a car. Maybe it's time to talk about lowering the BAC that triggers a DUI because that actually reduces DUIs.

Education and awareness could make a serious dent in what we're doing. What also could happen, and this is going to cost money, is high-visibility sobriety checkpoints, frequent and often; DUI court that does deep dives into people and their treatment. Close to 50 percent don't recidivate after their first DUI. If we did more thorough treatment during that time period, perhaps these things would be even less.

There are conversations that need to happen this session around DUI death and DUI substantial bodily harm. I feel like those conversations are being truncated and that has put us in the opposition during this time. I hope we can move to a point where we can discuss a viable solution moving forward this legislative session, even if that includes increasing penalties for certain things here. I deeply respect Senator Stone and the members of this body, and I think we can find a solution, but I think it needs to be a comprehensive solution, not just the continued increased penalty solutions that come through this body.

PALOMA GUERRERO (Washoe County Public Defender's Office):
The 2 to 20 years contemplated in the penalty here included the consideration of death. If we are removing death from the charge, then the penalty also needs some adjusting. We did start that conversation with Senator Stone on what this should look like, but to find an appropriate penalty to account for the spectrum of consequences—that needs to be robustly done. Because as Mr. Jones said,

there's a wide range of consequences that can happen, and we are not saying changes do not need to happen but that we also need to address aspects of our traffic laws and dram shop laws that need to change.

SENATOR STONE:
I want to thank the victims' families for testifying, especially for the two troopers. I attended both of those funerals, one of the saddest days of my life. I greatly respect my two public defender friends that are up here today. I think they came up with some very good ideas. I want you to know that I am readily available to work with them and come up with some amendments as necessary to try to move this bill forward. I appreciate the committee's consideration.

CHAIR NGUYEN:
We will close the hearing on S.B. 304 and open the hearing on S.B. 309.

SENATE BILL 309: Revises provisions relating to crimes. (BDR 43-906)

SENATOR JOHN C. STEINBECK (Senatorial District No. 18):
I really appreciate the testimony that we just heard. It was very heartfelt and emotional on the last subject. I appreciate the opportunity to present on the amended version of S.B. 309 today which is also very closely related. This also works on prohibitions of driving under the influence and under intoxicating substances.

Existing Nevada law prohibits individuals from driving or operating vehicles or vessels under the influence of alcohol or specific drugs. However, with the increasing prevalence of substances such as fentanyl and other narcotics, updates to these laws have been necessary. Current penalties for offenses involving alcohol and prohibited substances do not adequately deter repeat offenders or address the severity of these actions.

Senate Bill 309 with the proposed amendment (Exhibit D) proposes to update these definitions and increase fines and penalties for violations. I'm joined here with three copresenters who have a [visual] presentation (Exhibit E).

As you can tell from the last presentation, everybody has been affected by DUIs. I will just tell you that for me, these are some of the most tragic calls as a firefighter imaginable. They're the ones that are burnt into my head forever, and

I will never forget them. The worst part is that they're 100 percent avoidable, so that is what we are aiming to work on here today.

CARLY HELBERT (Assistant City Attorney, Las Vegas):
We'd like to thank Senator Steinbeck for sponsoring the bill and the committee for hearing it. We have a slide presentation, Exhibit E, and since this started off as quite a large bill, we've narrowed it down and we'd like to take it slide by slide to make it clear. The background for this bill is, again, DUIs affect everybody. The appendix to the *Annual Report of the Nevada Judiciary* reported more than 10,000 DUI criminal filings in 2024. Simply put, DUIs continue to be a significant public safety [issue] in Nevada.

We worked with stakeholders to prioritize five policy concepts in the proposed amendment, Exhibit D, that we will take you through. Specifically, number one, we're going to request that we reduce the alcohol evaluation threshold. Number two, add fentanyl to the list of prohibited *per se* substances. Number three, increase penalties for subsequent DUIs while a person is in a treatment program per NRS 484C.320 to 484C.340. Number four, increase penalties on DUI second offenses, and number five, remove the phlebotomist testimony requirement for blood admissibility.

MARC SCHIFALACQUA (Senior Assistant City Attorney, Henderson):
I am the head of the criminal division for the City of Henderson, and my office is responsible for prosecuting all misdemeanor DUI cases that happen within the city. Last year, we had over 700 new DUI cases that we handled.

My thanks to Senator Steinbeck for bringing this important piece of legislation. As a community, we need as many tools as possible to help reduce and stop DUI offenses, and this bill will assist in that effort.

The first proposal is fairly straightforward. Under current law, when a defendant has a BAC of over 0.18 [percent], that is over twice the legal limit. The judge must order that defendant to undergo an alcohol or chemical dependency evaluation to determine if they have dependency issues. They are then referred over to a counselor or a licensed person to evaluate that individual, write a report for the judge and make some appropriate treatment recommendations.

This proposal would simply lower that threshold from 0.18 to 0.16 [percent]. That's exactly twice the legal limit. This will allow more individuals who are

drinking at this high level, likely somewhere between 9 and 11 drinks in a sitting, to be ordered to see if they have a diagnosable issue that can be helped through the criminal justice system, through the sentencing and through that judge. Overall, this would allow more individuals to be ordered to have these evaluations and to get help to try to disrupt this behavior. The first proposal is really trying to allow more evaluations [and] more treatment.

The second proposal, and I just talked about DUIs involving alcohol. We have a 0.08 percent BAC limit in Nevada. That's usually at least four to five drinks and then driving. We have similar statutes involving drugs with minimum levels that if you go over, you are *per se* guilty of a DUI offense, regardless of if you are also shown to be under the influence under the law.

Just being over a limit means you should not be on our roadways. That's what we said with alcohol and various drugs, including heroin, methamphetamine, PCP, LSD and amphetamine. For obvious reasons, as a State, we do not want people driving with those substances in their systems. But there's one drug that is not on there [the list of prohibited substances] that we would recommend should be, and that is fentanyl.

Fentanyl is 50 times more potent than heroin. It is 100 times more potent than morphine. Heroin and morphine are on this prohibited list already. In 2010, studies showed there was only about 0.6 percent of DUI drug cases that had fentanyl in the blood in the system. In 2020, that went up to 12 percent. We're seeing it all the time, and 87 percent of the blood samples had another drug mixed in with the fentanyl. When you mix fentanyl with something else, drugs or alcohol, it gets even worse.

The effects of fentanyl happen quickly. I know you have held a lot of hearings on this and done a lot of good work. You should be applauded for this. But this is one area we think the law might be lagging a little, and we could update. You should not be driving on fentanyl. The effects are quick. It starts with euphoria and relaxation but it quickly goes on to drowsiness, dizziness, confusion, muscle rigidity and delirium—and that is if you survive—this is an extremely deadly substance.

All of those symptoms though, are the worst symptoms to drive on. There is no acceptable level of fentanyl in one's system to drive. We are asking that this be added to the list of the most dangerous offenses, the most dangerous drugs to

drive on. We are asking that the level be put at 1 nanogram per milliliter. There's a reason for that. That is the generally accepted screening amount that labs test for in your system. That is through the American Academy of Forensic Science and boards for impaired driving investigations. This is the standard, 1 milligram [nanogram].

Now, I will say that seems low, but it is not. A small amount of fentanyl can have huge effects if you go above 3 nanograms, so we are asking to put it at 1 nanogram. If you go above 3 nanograms, that's the fatal category, but not everyone will be fatal at that level. Someone could be a heavy opioid abuser. But we've all heard stories of someone taking a drug for the first time and of it killing them. That's because of the potency of this drug.

The level for heroin, as you see in NRS [484C.110, subsection 3, paragraph (d)] is 50 nanograms per millimeter. And you heard me just say that fentanyl is 50 times more potent. So that is why this number would be appropriate.

There are only a very few medicinal purposes for fentanyl outside of a hospital. This is a heavy painkiller and sedative. It is rarely prescribed nowadays, but it can be for breakthrough cancer treatments or end-of-life issues. Most of these folks would not be able to drive given their extreme pain. For that reason, I would say that all of the DUI cases we have involving fentanyl do not involve people who had it prescribed through a doctor. This is all illicit fentanyl.

That being said, we do have a protection in there just in case somebody was prescribed fentanyl for severe pain. That does not mean they should drive, but you would not be *per se* guilty just for having it in your system. The prosecutor would have to show that you were under the influence under the law. We've made a similar change to [people operating] vessels for having *per se* for fentanyl. We have removed any *per se* prohibition of MDMA [ecstasy] that was originally in the bill; that has been removed.

We are asking and recommending that fentanyl be put in there. It is likely the most dangerous drug. We're seeing it all the time and no one should be driving with fentanyl in their system.

MR. JONES:
I am here to talk about sections 12 and 13 of the bill. We've stylized it two different ways. One is enhanced penalties for those who commit

subsequent DUIs. But really what we are doing here is closing a subsequent DUI loophole, and it will take a bit of explanation, so I do hope that you'll bear with me.

When a person pleads guilty or is convicted of their third DUI crime within seven years, there are only two legal outcomes. They either are sentenced to prison by the judge or alternatively, they can complete a specialty court program that we call the Serious Offenders Program (SOP). The SOP is a treatment program, and it takes at least three years to complete. I will admit it is a rather intensive program that requires counseling, monitoring, interlocked devices—it is tough.

There is a benefit, though, for people convicted of DUI to go through the SOP. The DUI case is stayed while they are in that program. In other words, if they fail to complete the program, the offender is convicted of the felony DUI and sent to prison. But if they are in the program and while they are in the program, they are not a felon while they are completing the program. If they successfully complete the program, they are given another misdemeanor.

It is a misdemeanor for every purpose in the world except for any future DUIs. If they commit a fourth DUI, they are subject to what we call the "once-a-felon" statute or the "fourth-time DUI statute". And this gets us to the loophole. If you commit a fourth DUI while you are going through the SOP, we cannot enhance that. We can't enhance it because we do not have a judgment of conviction to enhance. So, what we are asking to do in that instance, is that we charge the person with another DUI—third when in fact, they are eligible for the enhanced fourth DUI [offense], closing the loophole.

The changes in section 12 and 13 [of the bill] allow us to charge a person, who is currently attending the DUI treatment court and continues to choose to drive impaired, with the enhanced [charge] what we call the once-a-felon or fourth time DUI statute; it almost doubles the penalty if you get your fourth DUI once you have been charged with a felony. This closes that loophole. We do see this regularly and it is a problem that we are hoping the Legislature will help us solve.

MS. HELBERT:
As we heard, continuing DUIs are a problem, and so the next proposal deals with second offenses. Currently, the statute provides that if you are convicted

of a second offense within 7 years, you have to spend at least the first 10 days in custody. We are seeking to increase this to 20 days.

The reason for this is multifold. First of all, it would make it more consistent with the battery domestic violence second-offense penalties. In misdemeanor law, DUIs and battery domestic violence are all viewed similarly. Battery domestic violence provides for the 20 days in custody on a second offense. Additionally, it aligns us with other states. Arizona has between 30 and 90 days for a second-offense DUI. Washington has between 30 and 45 days depending on the blood alcohol level for a second offense. Delaware has a mandatory minimum 60 days on a second offense.

We're not trying to trick people into jail sentences. I think it is worth noting that when a defendant is convicted of a first-time DUI, they are thoroughly canvassed by the judge; they have to go through a waiver and admonishment with their attorney; and they are aware of what subsequent actions will take.

We are seeking this increased penalty as a deterrent and an appropriate punishment for somebody who has been told, you are not to drink and drive, and still does so within seven years. Additionally, if a defendant chooses to avail themselves of a DUI Specialty Court, the jail sentence is oftentimes converted to house arrest with additional therapeutic requirements and, per NRS 484C.400, this jail time can also be served intermittently on weekends at the discretion of the judge if they deem it appropriate.

The final section is section 33 [*sic*] which looks to repeal phlebotomist testimony. It is still going to maintain some civil immunity. But for the most part, we're looking to repeal NRS 484C.250 [and NRS 488.500] which require that a blood test administered under DUI statutes is not admissible unless the blood was withdrawn by a person other than the arresting officer, who is a physician, physician assistant, registered nurse, licensed practical nurse, advanced EMT paramedic or phlebotomist, technician, technologist, or assistant employed in a medical laboratory; or who has special knowledge, skill, experience, training and education in withdrawing blood in a medically accepted manner.

Now, that is a lot of words. What does it mean? What happens is, when a person is arrested for DUI, they are oftentimes taken to the jail or sometimes out in the field, they like to do a blood test, and the blood is withdrawn. There's

a phlebotomist, nurse or EMT there. And I am going to use that kind of synonymously [with those] who simply withdraw the blood. They do not see the driving conduct, the FSTs [field sobriety tests] and the blood test being tested. All they do is take the sample from the defendant.

From the time of the withdrawal of blood to the time of trial can be more than a year. And within that time, that phlebotomist can do hundreds of blood draws. So by the time they get called in for trial, they do not have any recollection of this blood draw. They don't remember the defendant. They don't remember the particular case. What they do is they get on the stand, and basically testify I am a phlebotomist. Sometimes they might notify signatures and look at documents, but for the most part they are there to simply say, I am a phlebotomist.

What this means is that there are now fewer convictions. This is the single biggest hurdle to securing a DUI conviction, and the Legislature has demonstrated that DUI convictions are important to public safety. It is one of the few misdemeanors that is enhanceable for seven years. A record cannot be sealed for seven years. And most notably, NRS 484C.420 expressly prohibits a prosecutor from negotiating the case to anything other than a DUI conviction unless there are witness or evidentiary issues. And that is exactly what NRS 484C.250 causes—witness issues. These cases happen because the phlebotomist is unable to attend court on one of their hundreds of cases, and the case has to be reduced to a lesser charge.

It is not a lack of evidence. It is not a bad stop. It is a witness issue where the phlebotomist can't make the trial to simply state, "I am a phlebotomist." It is a burden without a benefit. It puts an obstacle in the way without obtaining anything of evidentiary value. The phlebotomist didn't see them driving, didn't see the FSTs, did not test the blood and usually doesn't remember who the defendant is. They [phlebotomist] just withdrew the blood, usually in the presence of an officer, and then handed it to the officer for impound. And yet, with NRS 484C.250, they need to come to court every time they are called.

It is a drain on healthcare workers. Again, these are the most frequently subpoenaed witnesses in DUI cases. It does not matter if it is an officer or a trooper or if drugs or alcohol are suspected. The phlebotomist is there to take the blood.

The City of Las Vegas ran a report for the EMT who is responsible for blood draws on weekend night shifts, and he was associated with more than 400 DUIs in a year. He was subpoenaed for trial nearly every day there was a court session. He forewent advanced EMT training because it could not fit in his schedule. He eventually left to pursue another career because it was so unsustainable. There is simply no need for this burden.

So that comes to what is probably the most controversial question, is this permitted? Yes, this is a statutory obligation, not a constitutional one. To be clear, there is not a constitutional requirement that a phlebotomist withdraw a defendant's blood in a DUI case. There is a statutory requirement, specifically NRS 484C.250, and the statute we are seeking to repeal that makes it necessary. And because of this statutory obligation, certain constitutional rights attach but again, it is not a constitutional requirement that a phlebotomist withdraw the blood.

Currently, in a DUI case, the statute mandates the prosecution must provide a statement that it was a phlebotomist or other qualified person who withdrew this blood. This statement can be given through a written affidavit or provided at trial, but this statement has to be entered into evidence in order for the blood to be admissible. Because the statement is entered into evidence, the defendant has a constitutional confrontation right to cross-examine the declarant. That's what *Reno v. Howard* held, that the phlebotomist's affidavit or statement entered into evidence at trial is subject to cross-examination. It did not hold that it was constitutionally necessary for the prosecution to make this statement.

So the question arises, is the statement that they are a phlebotomist necessary? No, and this issue was addressed in Pennsylvania by *Commonwealth v. Shaffer,* which held that the officer and the lab analyst could provide sufficient testimony to satisfy any confrontation clause issues. The only reason this statement is required now is because the statute mandates it. Now with the repeal, will the blood results be automatically entered into evidence? No, the prosecution still has the highest burden of proof in criminal proceedings beyond a reasonable doubt.

Repeal of this statute does not change that. Prosecutors still must prove key elements, such as chain of custody, and must still prove that the defendant had a valid test result. The burden is high and it will remain high. Officers will have to make key observations including the time of the blood draw, that they saw

the blood draw, and that a nonalcoholic swab was used. They will have to testify to the chain of custody.

But if an officer can testify to this, and the prosecution can meet its burden of proof, then why do we need the phlebotomist to testify? We don't. That's why we are seeking to repeal this statute because it creates an unnecessary hurdle without providing any evidentiary or constitutional benefit. It is legally permissible and in the interest of public safety to do so.

And finally, I think there's still some question about whether phlebotomists will still be called at trial. Yes, nothing prohibits the phlebotomist from being subpoenaed to trial. And quite candidly, the prosecution is still probably going to have to call them several times, especially if this is enacted. The officer may not have made all the pertinent observations. If they left the room, they cannot establish what we need to establish to get the blood results admitted. Simply put, they will still be called.

The defense can also issue subpoenas for their presence at trial. They may have evidence for their client that the officer did in fact leave the room and want to use the phlebotomist to potentially impeach an officer if he testifies otherwise. At the end of the day, phlebotomists can still be called to trial. It is just no longer mandatory that they be subpoenaed for every trial.

MR. JONES:
Every section of the bill that does not deal with one of the five policy proposals we presented to you, our amendment moves to strike. In other words, we are just moving forward on the five proposals that we have just presented to you.

CHAIR NGUYEN:
I appreciate the sponsor and the supporters of this piece of legislation meeting with me to address some of the concerns that I had with the original language of the bill. I am happy about that.

I understand wanting to reduce the concentration of alcohol. In opposition testimony [to S.B. 304] from the [Clark County] Public Defender's Office, they even mentioned that potentially reducing BAC limits has proven results to lower DUIs and DUI deaths, so I appreciate that. When we talk about the fentanyl, obviously something that we address all the time, is it currently something that no one is testing right now?

MR. SCHIFALACQUA:
They are testing for it. So yes, we do have results for fentanyl on our current cases.

CHAIR NGUYEN:
And then are you having to proceed under the impairment theory? And are you having difficulty proving those cases under the impairment theory?

MR. SCHIFALACQUA:
Yes, we do because it is not prohibited and it's not on the list right now. You are limited to the impairment theory. The difficulty with some of these prosecutions with fentanyl is the symptoms that I mentioned. We find many times people are passed out in their vehicles because of the effects of fentanyl. Typically to prove a case under the influence, you use field sobriety tests, you use different questions, and you do observations and some of those cases can be proven and some not but we do see some challenges because of the heavy effects of fentanyl.

CHAIR NGUYEN:
In previous legislative sessions, especially in 2023, we talked a lot about fentanyl. There were lots of discussions about other drugs. It sounds like almost every drug is being cut with fentanyl. Do you have any concerns with the level that you are suggesting, which sounds like it is what laboratories are testing at, that you may get other medications, drugs or anything else that is cut with fentanyl, that may not be the primary drug, not that it would not cause impairment.

Do you have any concerns about some of the things that we heard from previous legislative hearings around fentanyl?

MR. SCHIFALACQUA:
Yes. I think the statistic I mentioned, we have many of these cases where fentanyl is not the only substance. There could be a cutting agent but very likely many times there's another drug with it. There's oxycodone or there's cocaine. Sometimes drugs can be laced with fentanyl which just makes the whole experience worse for the defendant's ability to drive. But we do feel if it is over that limit, you are feeling the effects. And again, if we go too high, as you know how potent this can be, the law would not be as effective.

CHAIR NGUYEN:
And then this is probably for you, Mr. Jones. When we talked about the enhanced penalties, I do tend to agree that there's a loophole that if you are in the serious offender program and you pick up other DUIs. Would this also apply to people that are on a second DUI that are perhaps in the Moderate Offender Program (MOP)?

MR. JONES:
Yes, this bill also makes the same change to the MOP, but I'll point out with the MOP, technically, it requires a conviction prior to being placed into the program. So we made the change in both places just in case. But by the statute, a conviction is required in order to enter the MOP.

CHAIR NGUYEN:
I don't think this addresses it, but this is probably for the two city attorneys because I know ... well, I think everyone deals with so many DUIs. I know from my experience you would see, and Senator Buck had referred to it before and we have heard it in numerous testimonies unfortunately from victims. Is there anything about this that prohibits people that maybe get three [first time] DUIs in a row?

MR. JONES:
The statute now, currently if I have three convictions, I can enhance; it does not matter what order the convictions occurred in. It does not matter if the first DUI is the third conviction; it does not matter. The statute does allow me to enhance.

The problem is getting the conviction before the point in the case where you're actually at trial. That is our issue. I think this is going to help give us a little more flexibility, especially in terms of the enhancement for those in specialty courts that will allow us to instantly seek enhanced penalties. I do not know if my city attorneys want to add anything to that.

CHAIR NGUYEN:
Just to clarify. I am talking about a situation where someone gets arrested on a DUI, they are in jail, they get released, they go out, they get another DUI. So it's well before charges have been formally filed, and they get a rapid secession of DUIs. Sometimes someone's in crisis. Is there anything that you all have looked at as far as addressing some of those issues? Just because they know it

has come up over and over and over at times about people having so many DUIs and them not being resolved.

MR. JONES:
I understand your question, and it is a great question. In terms of enhancements, we're kind of stuck because at that point they are all firsts. But what we have done is when they are up for a detention hearing, their 48-hour Valdez-Jimenez hearing—if we see that they are pending a DUI, we try to expedite the new DUI so we can get them in front of a judge faster because clearly, they are a threat to the public because they have not stopped driving impaired.

So internally, even though the statute does not say anything about it, it is silent. Our internal process is to seek expedited blood testing so we can get that case filed sooner. Ask for a bail, ask for supervision and get release conditions from the judge that will hopefully curtail that behavior.

CHAIR NGUYEN:
I do not know if that covered it.

MR. SCHIFALACQUA:
That did cover that. We do something similar. If somebody is out [of custody] on a DUI, and we are waiting for the blood results and then another one occurs, we try to expedite that testing so we can file charges and try to prevent this.

MS. HELBERT:
We do the same.

CHAIR NGUYEN:
Sorry for all the questions, but I do obviously have some professional experience in this area. This brings me back to the thing that probably gives me the most concern, and it is repealing NRS 484C.250. In my conversations with you, and you can confirm this, it is my understanding that currently you subpoena witnesses in anticipation for trial. Currently, you're subpoenaing the phlebotomist, the police officer, any other eyewitnesses and the person that did the lab work, is that correct?

MR. JONES:
Yes, that is correct.

CHAIR NGUYEN:
Is there a waiver process? Defense attorneys can stipulate or waive the appearance of certain witnesses if they choose to?

MR. JONES:
In terms of stipulating to the affidavits submitted by the phlebotomists, in theory, they could stipulate to that. It is my understanding they never do.

CHAIR NGUYEN:
I have been told that you issue these subpoenas, and there are some concerns. I have heard concerns from the City of Las Vegas. But like we have heard in this committee multiple times, when it comes to traffic tickets, sometimes these court orders, or these subpoenas to appear in court, are just disregarded. Is that correct?

MR. JONES:
Disregard is a strong word. One of toughest jobs as a prosecutor is getting people to come to court. There are a million different reasons why people do not come to court, and it could be sometimes through no fault of their own. But that is always a challenge for a prosecutor—to get the witnesses we need—to prove the case beyond a reasonable doubt in court.

CHAIR NGUYEN:
But at the end of the day, if the phlebotomist, nurse or that person that works in the jail that is taking the blood doesn't appear, you have options as a prosecutor to either issue an order to show cause or try to get that person there, potentially.

MR. JONES:
Yes. We could request the judge continue the case, and if we have proof of service, there are some remedies under law that we could utilize to get that witness there. I do not know if my city attorneys wanted to expand on that.

MR. SCHIFALACQUA:
Yes, there are certainly remedies that prosecutors have for disobedience of subpoenas. Those are always subject to a court's agreement with what we are asking to do. That is half the battle—getting the witnesses there—the second part is what are they saying when they get there? And I think that was some of the point is—very little when they get to court.

CHAIR NGUYEN:
I have a serious concern with repealing a statutory provision that our State has had in place for 50 years to further enhance due process for people accused of a crime. It sounds like we are doing it because we're rewarding people that don't come to court. If I am ordered to come to court, I should come to court. And the solution seems very strange to me that we would just eliminate some of these due process protections in statute to reward someone who disobeys a court order.

MR. JONES:
There are two points that I want to make. It is my understanding that cities, municipalities and counties have difficulty finding phlebotomists. It's not a job people are clamoring to do, and we have had some difficulties finding them. Holding phlebotomists in contempt is not going to be a great recruiting tool for counties when we need more of them. That is the first point I want to make.

The second point is that the goal of this State, the goal of this committee and the goal of this Legislature is for us to hold people who are driving intoxicated accountable. And then when we do, they [phlebotomists] do not even remember drawing the blood.

We've got an officer who was present. We may even have the blood draw on body cam. But if we do not have the phlebotomist, we do not have a case. What we are asking for is to remove that requirement from statute, in hopes that we've got body cam, and we've got officer testimony that will help us get literally the same testimony into the record, and still help us get more convictions or at least try to get more convictions.

Ultimately, we still have to prove beyond a reasonable doubt that the defendant was driving impaired. And we're still going to have to call the individual who actually tested the blood and found out what the specific BAC was. Those people will still be required. Literally, what we are talking about is the person who drew the blood. I do not know if my city attorneys have any other thing to add.

MS. HELBERT:
I just want to point out that the genesis for this bill is not to reward people who disregard the subpoena. It really comes down to the content of what they're

saying. We're not aware of any other statute that requires somebody who does not remember the case to appear to say what their job is.

CHAIR NGUYEN:
I have concerns. This is potentially a slippery slope. All of a sudden, you'll be saying, "Well, we don't need the laboratory person because they are just looking and processing vials of blood." Some of us that have lived in Southern Nevada saw the news where hundreds of thousands of vials were corrupted and contaminated, throwing out all the related DUIs. And if we have a similar statute like this, you wouldn't have the ability to obtain that kind of information about fraud.

If the person drawing the blood had difficulty, for example someone had rolling veins, I do not know if necessarily the officer or the witness that was just viewing the blood draw would be able to fully answer some of those questions.

More of a comment than anything but even in your slide 16, Exhibit E, it says, "Will phlebotomists still be called at trial? Yes. Nothing prohibits the phlebotomist from being subpoenaed to trial." But as a defendant doing that, what is going to stop them from having those same problems? It seems like it is shifting the burden onto the defendant to be able to prove that they are innocent. And obviously a tenet of the United States of America Constitution and [the] Nevada [Constitution] is that the burden is on you.

This is not a part of your bill, but it was brought up by some people that came to my office. I know that there were some changes to the list of *per se* limits, someone had indicated. I was wondering how many cases you have with amphetamine. I do not know if anyone has that information or can talk to that particular prohibited substance.

MR. JONES:
The current statute amphetamine?

CHAIR NGUYEN:
Yes.

MR. JONES:
That question was posed to me earlier. I thought the reference was for the addition of MDMA, which we are striking from the bill. I don't have that

information with me today. What I can do is go back and see if I can pull those stats.

CHAIR NGUYEN:
That would be appreciated. I had heard that this is actually like we think of amphetamine, but I have heard it's like a lot of ADHD medication and some other medication might test that way. I do not know if these limits are something that is addressing, but if someone's lawfully taking medication, I do not think there's any indication when someone with ADHD is taking this type of medication that they shouldn't be able to drive. I was wondering if that is something you can maybe get some more information on as this bill is working its way through the process.

MR. JONES:
I do want to point out, per NRS 484C.080, amphetamine that is lawfully prescribed is not a prohibited substance. We would have to proceed under an impairment theory in that situation. And that is again, an NRS 484C.080 prohibited substance, which means any of the following substances if the person who uses has not been issued a valid prescription, and amphetamine is included.

CHAIR NGUYEN:
So, if someone has that in their blood and they have a valid prescription for that medication, that is a defense that they can already present?

MR. JONES:
We would have to proceed under an actual impairment theory.

CHAIR NGUYEN:
Kind of answers my question, so thank you.

ZACK BUCHER (City of North Las Vegas; Urban Consortium):
I am here for the City of North Las Vegas and also the Urban Consortium which consists of the five largest cities in our great State: Las Vegas, North Las Vegas, Henderson, Reno and Sparks. We appreciate Senator Steinbeck's bill and his efforts to help us keep our streets safer. We are here today urging your support.

MR. RIES:
The Las Vegas Metropolitan Police Department supports this legislation and echoes the concerns and solutions that were presented. We believe this bill will decrease the DUI-related crashes which are often the most gruesome and avoidable crash scenes. We support S.B. 309.

ANDREW BENNETT (Chair, Nevada Advisory Committee on Highway Safety):
I am here today exclusively in my capacity as chair of the Nevada Advisory Committee on Traffic Safety (NVACTS) to support S.B. 309, specifically section 11 of the bill, which reflects one of NVACTS ten critical policy priorities which is increased screening and assessment for individuals involved in impaired driving offenses.

Section 11 of S.B. 309 lowers the threshold. As discussed from a traffic safety perspective, early identification of substance use disorder is critical by ensuring that more individuals receive professional evaluations. We create opportunities for intervention before a tragic crash occurs.

This provision supports a public health approach to impaired driving, one that emphasizes treatment of recovery and does not rely on incarceration alone. If we are serious about talking about DUIs, I appreciate the conversation that we have had over the last several weeks and several sessions. I think that this is a great start. We support this bill.

MR. WOODARD:
The Nevada Sheriffs' and Chiefs' Association and the Washoe County Sheriff's Office would like to encourage your support of this bill and like to thank the bill sponsor for bringing this bill forward. We believe these changes to the current DUI laws are necessary and would be effective in helping us reduce these crimes.

MS. GRAZIOSO:
I said in previous testimony that what we heard today could strengthen some DUI laws here in Nevada. And so Mothers Against Drunk Driving would urge the support of S.B. 309.

MS. GUERRERO:
The Washoe County Public Defender's Office has two concerns with the bill. Its first concern is with section 12 which extends the mandatory jail time from

10 to 20 days for second DUIs. Instead of jail time, we are failing to consider resources or treatment options that would be better for that person, and also curb any sort of behavior that might stop them from driving drunk.

I think we all have the same goal here, which is what we can do to stop this behavior. Our concern is that the person getting that second DUI, and we understand that that person made choices and that they need to have consequences, but changing it to 20 days without any sort of evidence or research to show that this is going to help or decrease DUIs or stop someone from drunk driving is not fixing the problem.

We are putting a band-aid on it but we do not know if it will actually heal the wound or potentially exacerbate that wound and lead to more bad choices. Twenty mandatory days in jail is significant. It is enough to lose a job, to get behind on your bills and to get behind on your rent. And we would be stripping people the support that they need in order to curb an addiction that they probably have. My colleague will now discuss our second concern.

MR. PIRO:
The one section that I want to talk about, and the Clark County Public Defender's Office has brought this to the Senator's attention, is the section of the bill that is seeking to remove calling the phlebotomist in to testify. That law has been on the books for close to 50 years. It was passed in the 1980s. This body saw fit to add these protections in, and I want to talk about the right of confrontation. The United States Supreme Court has said that the right to confront an accuser throughout the trial process is fundamental to our American legal system. It is called the greatest legal engine ever invented for the discovery of truth. This is the law that they seek to repeal in this bill.

When you remove the ability to challenge evidence and challenge the person collecting the evidence, what you remove is the ability for evidence to be fairly and accurately taken in by the court or the jury. You remove the ability to challenge the inaccuracy and completeness of the evidence. Maybe it was misleading evidence that could be admitted—was the sample taken wrong? Were proper procedures not taken by the phlebotomist? Once the blood was taken, was it shaken and not inverted as it is supposed to be properly done? Was the process flawed?

We can't lower the State's burden to make things more convenient because the State isn't having their witnesses show up to court. It is fundamental to our American system of justice that we have people show up when we are going to have a trial. There was a time where the city attorneys told this body that if we had jury trials for domestic violence cases, the whole system would collapse. It did not collapse. And frankly, we do not have a lot of trials. There's not a lot of DUI trials; there's not a lot of domestic violence trials wholesale across the State. The system has not collapsed because we are calling people into court. There's no reason to remove a law that is been on the books for 50 years and allows people who are accused of a crime to confront their accusers.

What they really want is hearsay evidence, an officer to tell you what the phlebotomist did. And any parent who has children knows that when their kids say, "They said," and you ask, "Who is they that said that?" That stops the children right there from saying it again. What the State is asking you is to allow that now. And what we are saying is do not repeal that [requirement for phlebotomists to testify]. Otherwise there are no provisions in this bill that give us heartburn.

SENATOR HANSEN:
The section of the bill you're talking about—if we took it out, what section is that specifically you guys are talking about?

MR. PIRO:
The section that talks about NRS 488.500.

SENATOR HANSEN:
Okay, the same one that the Chair had the issue with. I am thinking, it's the last day, and if the sponsor of the bill wants to maybe get the bill moved, he would be willing to take that out. And it sounds like if that is taken out—and that's one of the main concerns both you and the Chair have. I guess I am offering a last minute Hail Mary pass.

MR. PIRO:
I would withdraw the opposition.

CHAIR NGUYEN:
We will close the hearing on S.B. 309, and we will open the agenda item on work session. Because Senator Steinbeck is still here, I am going to start with the work session on S.B. 309.

JULIANNE KING (Committee Policy Analyst):
Senate Bill 309 is sponsored by Senator Steinbeck and revises provisions regarding driving under the influence of alcohol and prohibited substances. As discussed during the bill hearing, an amendment was proposed by the Nevada District Attorneys Association which was further amended by Chair Nguyen to reduce the concentration of alcohol threshold from 0.18 to 0.16, add fentanyl to the list of *per se* substances. It would also change "on or off the highways of the State" to a "highway or on premises to which the public has access" to use consistent verbiage throughout the DUI statutes; increase the incarceration time on a second DUI offense from 10 days in jail to 20 days in jail; and allow for enhanced penalties when a subsequent DUI is obtained while a person is undergoing a program of treatment for an alcohol or other substance use disorder pursuant to NRS 484C.320, 484C.330 or 484C.340. All other proposed changes contained in S.B. 309 would be removed from the bill per this amendment.

CHAIR NGUYEN:
I'm sorry, that was an amendment from the [Nevada] District Attorneys Association. I think the only amendment that I am suggesting is the repeal of the repeal of section ... I see Mr. Jones here, if you could clarify it for us.

MR. JONES:
That would be of the five policy proposals, Chair. That would be the fifth one that you're striking from our amendment, as well as in the amendment that we sent to the Nevada Electronic Legislative Information System [NELIS]. There's actually six policy proposals. One of them is changing "on or off the highways of the State" to "a [highway or on] premises to which the public has access." We've actually struck that from the bill as well. It will just be the four policy proposals—reducing the threshold fentanyl *per se*, the specialty court cleanup and the 20 days for a second [DUI]. I apologize for not cleaning that up during our testimony.

CHAIR NGUYEN:
We are going to start all over again. We are back on the work session on S.B. 309. Again, I am going to turn it over to Ms. King to go over the provisions, the amendment and then the additional amendment today striking the fifth policy recommendation in the [Nevada] District Attorneys Association amendment.

MS. KING:
The amendment submitted by the [Nevada] District Attorneys Association will: reduce the concentration of alcohol threshold from 0.18 to 0.16, add fentanyl to the list of *per se* substances, increase the incarceration time on a DUI on a second offense DUI from 10 days in jail to 20 days in jail, allow for enhanced penalties when a subsequent DUI is obtained while a person is undergoing a program of treatment for an alcohol or other substance use disorder pursuant to NRS 484C.320, 484C.330 or 484C.340, and all of the other proposed changes contained in S.B. 309 to be removed from the bill.

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 309.

> SENATOR PAZINA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 309.
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> SENATOR BUCK SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
Next, we can go to another Senator Steinbeck bill.

MS. KING:
The next bill in the work session is S.B. 113. I will read from the work session document (Exhibit F). The bill has one amendment.

SENATE BILL 113: Revises provisions relating to parking privileges for persons with disabilities. (BDR 43-660)

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 113.

SENATOR PAZINA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 113.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
I will just go down the order of the work session document as posted on the agenda on the first revised agenda.

MS. KING:
The next bill in the work session is S.B. 180. I will read from the work session document (Exhibit G). The bill has one amendment.

SENATE BILL 180: Revises provisions relating to motor carriers. (BDR 58-963)

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 180.

SENATOR DOÑATE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 180.

SENATOR PAZINA SECONDED THE MOTION.

SENATOR HANSEN:
I will be a no on this. I think the amounts are still excessive. The federal government only requires $750,000. There's only one state out of the 50 states that actually goes to anything close to this. I think our current policies are fine. I think that we are trying to solve a problem that isn't there. The amount of evidence that they produced that there's a huge problem just was not there and does not warrant this kind of a dramatic increase in costs to all the people that need this type of insurance. I'll be a no.

SENATOR BUCK:
I will be a no today because it seems to punish Nevada-owned businesses, and I do not see why it would prevent you from not just going and opening a company in a neighboring state which does not have this provision and cross into Nevada.

THE MOTION PASSED. (SENATORS BUCK AND HANSEN VOTED NO.)

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CHAIR NGUYEN:
We can move on to the next bill.

MS. KING:
The next bill in the work session is S.B. 194. I will read from the work session document (Exhibit H). The bill has one amendment.

SENATE BILL 194: Revises provisions governing the charging and collecting of a governmental services fee for the short-term lease of a passenger car. (BDR 43-715)

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 194.

SENATOR PAZINA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 194.

SENATOR DOÑATE SECONDED THE MOTION.

SENATOR BUCK:
I really like this bill because anytime we can help with the whole uninsured motorists and ensuring that people have insurance because that does cost Nevadans a lot. Thank you so much for this bill.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
Ms. King will discuss the next bill.

MS. KING:
The next bill in the work session is S.B. 326. I will read from the work session document (Exhibit I). The bill has one amendment.

SENATE BILL 326: Requires certain public utilities to submit an annual report to the Public Utilities Commission of Nevada relating to the infrastructure of the public utility. (BDR 58-1084)

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 326.

SENATOR PAZINA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 326.

SENATOR HANSEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
Ms. King will carry on to the next work session.

MS. KING:
The next bill in the work session is S.B. 359. I will read from the work session document (Exhibit J). There are no amendments.

SENATE BILL 359: Makes various changes relating to traffic offenses. (BDR 43-900)

CHAIR NGUYEN:
I would accept a motion at this time to do pass S.B. 359.

SENATOR HANSEN MOVED TO DO PASS S.B. 359.

SENATOR PAZINA SECONDED THE MOTION.

SENATOR BUCK:
I am going to be a yes today. However, I reserve my right for when we see this all vetted out.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
Ms. King will address the next bill in work session.

MS. KING:
The next bill in the work session is S.B. 382. I will read from the work session document (Exhibit K). There is one amendment.

SENATE BILL 382: Revises provisions relating to the registration of trailers. (BDR 43-316)

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 382.

SENATOR PAZINA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 382.

SENATOR HANSEN SECONDED THE MOTION.

SENATOR HANSEN:
The original fiscal note was $99 million, so maybe it will end up in [the Senate Committee on] Finance. I do not know. Anyway, the amendment is going to try to help dramatically reduce that [fiscal note], and we are working with DMV and Sean [Sever]. Hopefully, by the time we get to Finance, if it gets there, we will have this thing worked out to where it is a little more reasonable. Thank you for bringing the bill.

CHAIR NGUYEN:
I want to leave it at that $99 million and see what Senator Dondero Loop has to say about that.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
Ms. King will explain the next bill.

MS. KING:
The next bill in the work session is S.B. 395. I will read from the work session document (Exhibit L). There are no amendments.

SENATE BILL 395: Revises provisions relating to autonomous vehicles. (BDR 43-61)

CHAIR NGUYEN:
I would accept a motion at this time to do pass S.B. 395.

SENATOR PAZINA MOVED TO DO PASS S.B. 395.

SENATOR DOÑATE SECONDED THE MOTION.

SENATOR HANSEN:
Obviously, we want to help the folks out that are going to go through some adjustments as this sort of technology goes forward. However, the way this is structured, it is not going to do anything that will help in that regard. It may in fact harm this growing industry. I am definitely a no on this one.

SENATOR BUCK:
When I think of autonomous, it definitely means no driver. Over the holidays I was in Arizona and was driven around by a car that had no driver. And I think that as technology improves, we need to adjust, especially when it comes to the workforce. I will be a no today.

THE MOTION PASSED. (SENATORS BUCK AND HANSEN VOTED NO.)

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CHAIR NGUYEN:
We are moving on.

MS. KING:
The next bill in the work session is S.B. 416. I will read from the work session document (Exhibit M). There is one amendment.

SENATE BILL 416: Revises provisions relating to the statewide sobriety and drug monitoring program. (BDR 43-423)

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 416.

SENATOR PAZINA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 416.

SENATOR BUCK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
We are moving on to the next bill.

MS. KING:
The next bill in the work session is S.B. 417. I will read from the work session document (Exhibit N). There is one amendment.

SENATE BILL 417: Revises provisions relating to natural gas utilities. (BDR 58-1106)

CHAIR NGUYEN:
I just want to confirm that this amendment also includes what the presenters had indicated. They had intended to include the process for bringing in public comment and public hearings. I am seeing some of the sponsors of the bill nodding their heads. Ms. King, is that also included in there? If it is not included, I want to make sure that it is included because I do not think it was in the original amended document.

MS. KING:
Yes.

CHAIR NGUYEN:
Sorry, I missed that part where you talked about the consumer session. I appreciate that and clarity. I would accept a motion at this time to amend and do pass S.B. 417.

SENATOR HANSEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 417.

SENATOR DOÑATE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
We are moving on to the next bill.

MS. KING:
The next bill in the work session is S.B. 442. I will read from the work session document (Exhibit O). There is one amendment.

SENATE BILL 442: Requires the Public Utilities Commission of Nevada to establish certain reporting requirements. (BDR 58-429)

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 442.

SENATOR PAZINA MOVED TO AMEND AND DO PASS AS AMENDED S.B. 442.

SENATOR DOÑATE SECONDED THE MOTION.

SENATOR BUCK:
I am going to be a yes today. However, I reserve my right to kind of vet this out. With it not drilling down to the actual people, I do not see how they can really help aside from casting a wide net, which is what they are probably doing now anyway. I will be a yes but reserve my right.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
Next, we are moving on to S.B. 304. That was heard today. Does anyone have any questions? Seeing no questions, I will turn this over to Ms. King.

MS. KING:
As we heard today, S.B. 304 is related to the crime of vehicular homicide. It is sponsored by Senators Stone, Hansen, Buck and Krasner and was heard today, April 9, 2025, and an amendment, Exhibit C, was proposed and presented during the hearing.

CHAIR NGUYEN:
I would accept a motion at this time to amend and do pass S.B. 304.

SENATOR HANSEN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 304.

SENATOR BUCK SECONDED THE MOTION.

SENATOR BUCK:
I had texted my sister that this bill was being heard. She was hit by a DUI driver who had four prior convictions. Thank you so much for your bravery, Corlie, and thank you so much to this committee for passing out this bill.

THE MOTION PASSED UNANIMOUSLY.

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CHAIR NGUYEN:
I will open up the last agenda item which is public comment. Hearing none, we will close public comment, and this meeting is adjourned at 5:46 p.m.

RESPECTFULLY SUBMITTED:

_____
Paula Peters,
Committee Secretary

APPROVED BY:

_____
Senator Rochelle T. Nguyen, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Introduced on Minute Report Page No.**	**Witness / Entity**	**Description**
	A	1		Agenda
	B	1		Attendance Roster
S.B. 304	C	3	John Jones / Nevada District Attorneys Association	Proposed Amendment
S.B. 309	D	15	Senator John C. Steinbeck	Proposed Amendment
S.B. 309	E	15	Senator John C. Steinbeck	Presentation
S.B. 113	F	35	Julianne King	Work session document
S.B. 180	G	36	Julianne King	Work session document
S.B. 194	H	37	Julianne King	Work session document
S.B. 326	I	38	Julianne King	Work session document
S.B. 359	J	38	Julianne King	Work session document
S.B. 382	K	39	Julianne King	Work session document
S.B. 395	L	40	Julianne King	Work session document
S.B. 416	M	41	Julianne King	Work session document
S.B. 417	N	41	Julianne King	Work session document
S.B. 442	O	42	Julianne King	Work session document