
SENATE BILL NO. 140—SENATORS BREDEN, SCHNEIDER,
MANENDO, PARKS, DENIS; COPENING, HORSFORD AND
WIENER

FEBRUARY 10, 2011

JOINT SPONSORS: ASSEMBLYMEN SEGERBLOM,
ATKINSON, MUNFORD AND SMITH

Referred to Committee on Transportation

SUMMARY—Prohibits the use of a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances. (BDR 43-45)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to traffic laws; prohibiting a person from using a cellular telephone or other handheld wireless communications device while operating a motor vehicle in certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing traffic laws of this State, it is a crime to engage in various activities while operating a motor vehicle or to operate a motor vehicle in a reckless or unsafe manner. (Chapters 484A-484E of NRS) **Section 1** of this bill makes it a crime for a person to manually type or enter text into a cellular telephone or other similar device, or to send or read data using any such device, while operating a motor vehicle. **Section 1** further prohibits a person from using such a device for voice communications unless the device is used with an accessory which allows the person to communicate without using his or her hands, with certain limited exceptions. **Section 1** provides an exception to the prohibitions when the cellular telephone or other device is used by certain emergency and law enforcement personnel and persons designated by a sheriff or chief of police or the Director of the Department of Public Safety who are acting within the course and scope of their employment. Additional exceptions apply if: (1) the person is using the cellular telephone or other device to report or request assistance relating to a medical



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15 emergency, a safety hazard or criminal activity; (2) the person is responding to a
16 situation requiring immediate action and stopping the vehicle would be inadvisable,
17 impractical or dangerous; (3) the person is a licensed amateur radio operator
18 providing communications services in connection with a disaster or emergency,
19 participating in a drill, test, or other exercise in preparation for a disaster or
20 emergency or otherwise communicating public information; or (4) the person is an
21 employee or contractor of a public utility and is responding to an emergency
22 dispatch. A violation of the provisions added by **section 1** is a misdemeanor and
23 punishable by a fine of \$50 for a first offense within the immediately preceding 7
24 years, \$100 for a second offense within the immediately preceding 7 years and
25 \$250 for a third or subsequent offense within the immediately preceding 7 years.
26 However, **section 4** of this bill provides that until January 1, 2012, a law
27 enforcement officer must not issue a citation to a person for violating **section 1** but
28 must give the person a verbal or written warning. **Section 1** further provides that a
29 first offense will not be treated as a moving traffic violation. Additionally, if a
30 person is convicted of a third or subsequent offense, in addition to the fine, the
31 driver's license of the person will be suspended for 6 months. **Section 2** of this bill
32 makes the enhanced penalty for certain traffic violations that occur in a temporary
33 traffic control zone applicable to violations of these new crimes.

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

1 **Section 1.** Chapter 484B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. Except as otherwise provided in this section, a person shall
4 not, while operating a motor vehicle on a highway in this State:*

5 *(a) Manually type or enter text into a cellular telephone or
6 other handheld wireless communications device, or send or read
7 data using any such device to access or search the Internet or to
8 engage in nonvoice communications with another person,
9 including, without limitation, texting, electronic messaging and
10 instant messaging.*

11 *(b) Use a cellular telephone or other handheld wireless
12 communications device to engage in voice communications with
13 another person, unless the device is used with an accessory which
14 allows the person to communicate without using his or her hands,
15 other than to activate, deactivate or initiate a feature or function
16 on the device.*

17 *2. The provisions of this section do not apply to:*

18 *(a) A paid or volunteer firefighter, emergency medical
19 technician, ambulance attendant or other person trained to
20 provide emergency medical services who is acting within the
21 course and scope of his or her employment.*

22 *(b) A law enforcement officer or any person designated by a
23 sheriff or chief of police or the Director of the Department of
24 Public Safety who is acting within the course and scope of his or
25 her employment.*



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1 (c) A person who is reporting a medical emergency, a safety
2 hazard or criminal activity or who is requesting assistance relating
3 to a medical emergency, a safety hazard or criminal activity.

4 (d) A person who is responding to a situation requiring
5 immediate action to protect the health, welfare or safety of the
6 driver or another person and stopping the vehicle would be
7 *inadvisable, impractical or dangerous.*

8 (e) A person who is licensed by the Federal Communications
9 Commission as an amateur radio operator and who is providing a
10 communication service in connection with an actual or impending
11 disaster or emergency, participating in a drill, test, or other
12 exercise in preparation for a disaster or emergency or otherwise
13 communicating public information.

14 (f) An employee or contractor of a public utility who uses a
15 handheld wireless communications device:

16 (1) That has been provided by the public utility; and

17 (2) While responding to a dispatch by the public utility to
18 respond to an emergency, including, without limitation, a response
19 to a power outage or an interruption in utility service.

20 3. The provisions of this section do not prohibit the use of a
21 voice-operated global positioning or navigation system that is
22 affixed to the vehicle.

23 4. A person who violates any provision of subsection 1 is
24 guilty of a misdemeanor and:

25 (a) For the first offense within the immediately preceding 7
26 years, shall pay a fine of \$50.

27 (b) For the second offense within the immediately preceding 7
28 years, shall pay a fine of \$100.

29 (c) For the third or subsequent offense within the immediately
30 preceding 7 years, shall pay a fine of \$250.

31 5. A person who violates any provision of subsection 1 may be
32 subject to the additional penalty set forth in NRS 484B.130.

33 6. The Department of Motor Vehicles shall not treat a first
34 violation of this section in the manner statutorily required for a
35 moving traffic violation.

36 7. For the purposes of this section, a person shall be deemed
37 not to be operating a motor vehicle if the motor vehicle is driven
38 autonomously through the use of artificial-intelligence software
39 and the autonomous operation of the motor vehicle is authorized
40 by law.

41 8. As used in this section:

42 (a) "Handheld wireless communications device" means a
43 handheld device for the transfer of information without the use of
44 electrical conductors or wires and includes, without limitation, a
45 cellular telephone, a personal digital assistant, a pager and a text



messaging device. The term does not include a device used for two-way radio communications if:

(1) The person using the device has a license to operate the device, if required; and

(2) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held.

(b) "Public utility" means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada.

Sec. 2. NRS 484B.130 is hereby amended to read as follows:

484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.610, 484B.613, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, **or section 1 of this act**, that occurred:

(a) In an area designated as a temporary traffic control zone; and

(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

→ shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. The additional penalty imposed pursuant to subsection 1 must not exceed a total of \$1,000, 6 months of imprisonment or 120 hours of community service.

3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the



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1 designation of an area as a temporary traffic control zone in which
2 construction, maintenance or repair of a highway or other work is
3 conducted, or the person with whom the governmental entity
4 contracts to provide such service, shall cause to be erected:

5 (a) A sign located before the beginning of such an area stating
6 "DOUBLE PENALTIES IN WORK ZONES" to indicate a double
7 penalty may be imposed pursuant to this section;

8 (b) A sign to mark the beginning of the temporary traffic control
9 zone; and

10 (c) A sign to mark the end of the temporary traffic control zone.

4. A person who otherwise would be subject to an additional
penalty pursuant to this section is not relieved of any criminal
liability because signs are not erected as required by subsection 3 if
the violation results in injury to any person performing highway
construction or maintenance or other work in the temporary traffic
control zone or in damage to property in an amount equal to \$1,000
or more.

18 5. The requirements of subsection 3 do not apply to an area
19 designated as a temporary traffic control zone:

20 (a) Pursuant to an emergency which results from a natural or
21 other disaster and which threatens the health, safety or welfare of
22 the public; or

(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.

26 6. A person who would otherwise be subject to an additional
27 penalty pursuant to this section is not subject to an additional
28 penalty if the violation occurred in a temporary traffic control zone
29 for which signs are not erected pursuant to subsection 5, unless the
30 violation results in injury to any person performing highway
31 construction or maintenance or other work in the temporary traffic
32 control zone or in damage to property in an amount equal to \$1,000
33 or more.

34 **Sec. 3.** NRS 707.375 is hereby amended to read as follows:

35 707.375 1. **[An] Except as otherwise provided in section 1 of**
36 **this act, an** agency, board, commission or political subdivision of
37 this State, including, without limitation, any agency, board,
38 commission or governing body of a local government, shall not
39 regulate the use of a telephonic device by a person who is operating
40 a motor vehicle.

41 2. As used in subsection 1, "telephonic device" means a
42 cellular phone, satellite phone, portable phone or any other similar
43 electronic device that is handheld and designed or used to
44 communicate with ~~or~~ **another** person.



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Sec. 4. Notwithstanding the provisions of section 1 of this act, on or before December 31, 2011, a law enforcement officer shall not issue a citation for a violation of the provisions of section 1 of this act but shall issue a verbal or written warning to a person who violates those provisions informing the person that he or she has violated the provisions of section 1 of this act and of the penalties that will apply to such a violation after December 31, 2011.

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