

Assembly

MINUTES OF TRANSPORTATION COMMITTEE HEARING - 56TH NEVADA  
ASSEMBLY SESSION - FEBRUARY 3, 1971

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Present: Lowman, F. Young, Kean, Howard, Ashworth, and  
Valentine

Excused: Prince

Chairman Lowman convened the hearing of the Transportation Committee with representatives of various companies and organizations present to testify for Bills A.B. 24, 25, 68, and 106 at 10:07 a.m. in Room 240.

The Chairman advised those present of hearing procedures to be followed and then asked for proponents of A.B. 24.

On A.B. 24 -- lowers percentage of alcohol necessary in blood to raise presumption of intoxication while driving vehicle.

Wayne Tetrault, Department of Motor Vehicles: We made a study of all the fatal accidents involving alcohol. In 41% of the accidents, the presence of alcohol was confirmed. In 64%, it was confirmed or suspected; and in 24%, the BA content fell between the range of 0.10 and 0.09 -- the average being 0.121. Study of blood alcohol tests in arrests for driving under the influence for the last six months in 1970 showed 11% had a BA between 0.10 and 0.09 -- with an average of 0.18.

Kean: You do not test anyone unless they are arrested?

Tetrault: I believe that is right.

Kean: Therefore, you do not know that he was driving under the influence until he is stopped and questioned for another reason then first?

Tetrault: First the person was probably stopped for erratic driving or was stopped at a road block. He has to be arrested for something else first.

Valentine: How were the fatality tests confirmed?

Tetrault: The 41% came from the policemen's reports that a BA was taken or that there was a bottle present in the car.

James Lambert, Superintendent, Law Enforcement Division: During the past year, we have been trying to prove two points. First, we have conducted two demonstrations with the public and the legislators. We have defeated the idea that it was a two-drink law. In a two-hour period, for example, a woman drank nine drinks and became very intoxicated. She volunteered that she did not feel that she would be able to stop a car properly if she had to in that condition. This should assure that this is not a two-drink law. Twenty-five states have the 0.10 presumption level. We have an 0.15 level. One

state has an 0.08 level. When a person reaches 0.10, he is under the influence of alcohol and in no condition to drive a vehicle. If a person is below the level, you cannot book him. These people are a threat to yourselves and your families. (See information attached.)

Virgil Anderson, American Automobile Association: We have made our own surveys and they do confirm the findings of people drinking and involved in accidents. One additional point, some people can hold more than others before reaching 0.10. If a person can hold more alcohol, it shifts the burden from him.

Ed Buethen, Nevada Safety Council: Mr. Hill initiated the lowering of the presumption level. We feel that this trend is nationwide. Twenty-five states are at 0.10 and there is one still lower -- that is Utah at 0.08 which they have had for about two years.

Grant Davis, Counsel: When you have an automatic suspension of drivers' licenses, there is a real drop.

Shirley Weedo, Nevada PTA: We are strongly in favor of this particular bill and lowering the presumption from 0.15 to 0.10. We would support a program stopping the drunk driving.

Mrs. A. A. Johnson, Jr., Reno Women's Civic Club was accompanied by -- Mrs. Marge Woodward, Mrs. Leon A. Mack, Mrs. Otho L. Henson, Mrs. Rachel Koskins, Mrs. Maude Taylor, Mrs. Helen Williams, Mrs. Clarence Bath, and Mrs. Elma Lawlor: We would like to comment that we are in favor of this bill.

Mrs. Martha Henson, Nevada Federation of Women's Clubs: We are in accord with this bill. We are for it.

Mrs. Leon A. Mack, for Mrs. Jean M. H. Mack, Nevada Federation of Women's Clubs, attended the meeting in behalf of Mrs. Baird Smith of Las Vegas who asked that they go on record as supporting this bill.

Robert Guinn, Nevada Motor Transportation Association: I was a member of the special committee to advise the legislature to meet the terms of the Federal Highway Safety program. This provision is one from that program which calls for at least an 0.10. It is a step in the proper direction with the possibility with an 0.10 level of getting this drunk off the highway. It is a small step in my opinion. You do not apply this test unless he is arrested. The national statistics show that over 50% of the fatalities involve driving under the influence. These people are the ones that are habitual drinkers. I think it is a mistake to hope that it will be a big change. It may slow some people down a second time. When we accept our driver's license, we approve of being

stopped and tested. However, we can refuse to take the test and then turn around and get a work permit. I think if we are interested in getting to the problem drinker, something should be done about that.

Young: You don't believe a work permit should be granted if a driver won't take the test?

Guinn: We have had a case in which a person was over 0.15 and he was fined and then got a work permit.

Young: Can the Department refuse to issue a work permit?

Davis: The Department has the descretion regarding the suspension and the work permit.

Lowman: Anyone here against A.B. 24?

No response.

On A.B. 25 -- imposes additional sanctions for violation of certain traffic laws.

Bill Fitzpatrick, Safety Traffic Division: We are not in favor of this bill. It lessens the effectiveness of our Nevada point system. It would be difficult to administer because it would require a mandatory 30 to 60 days suspension on the first conviction. He could be suspended for six months to a year.

Young: What about the second part of the bill (paragraph 2) regarding mandatory survival school?

Fitzpatrick: This falls within our point system.

Lowman: Is there legislation to be presented to this effect?

Fitzpatrick: That is right.

Lowman: Bob Guinn, is there a way this can be amended to do what you were proposing earlier?

Guinn: I don't think so. If you would review my comments regarding A.B. 24, you could probably write a provision of the work permit clause into it.

Young: I would like to ask Howard Hill if the denial of work permits could be implemented administratively.

Hill: Yes.

Kean: Who would decide this?

Lowman: Who is your hearing officer?

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Hill: We have two hearing officers -- one here and one in Las Vegas.

Ashworth: People are granted the privilege of a work permit even though they have not taken the test. Could the patrolman say that unless he takes the test, he could not be granted a work permit?

Hill: Yes.

Ashworth: I would like to suggest that we amend A.B. 24.

Lowman: I prefer not to take any motions at this point.

Valentine: Question regarding A.B. 25. How do we convict a man of using drugs?

Lambert: Testing for drugs in the blood is completed in the blood testing laboratories. Different drugs have different effects on humans. We do need to include drugs into the intoxicating liquor laws.

Valentine: Shouldn't the department have a right to determine this?

Lambert: I think it would be a very hard task. A lot of drugs are entering the market -- there are many different kinds -- therefore, it would be hard to set down a rule.

Lowman: Would you be able to check on the basis of tests now available?

Lambert: We can tell when a person has had enough as the result of tests.

Richard Bertolin, Department of Motor Vehicles: Many times an individual arrested driving under the influence has not been tried. He comes in and questions the license under the order of suspension solely for the use in the trial. It would seem to me that you would have to give a restricted license during that period or come up with some other suggestion.

Anderson: Regarding revisions of this bill. A type of punishment for a person with a record of drunk driving could be that he attend survival school or be referred to Alcoholics Anonymous or something.

Mrs. Henson: The Nevada Federation of Women's Clubs feels that it should be mandatory to attend survival school in all cases.

Kean & Hill: By attending the traffic school, the person loses three demerits.

Lowman: Where is the legislation for this?

Hill: Back at our office.

Ashworth: That is an incentive for attending driving school rather than a penalty.

Mrs. Johnson: There is a mandatory requirement in Arizona for attending survival school. They have noted a decrease.

Hill: If A.B. 25 is approved, we would like to change the word in section 2 from "application" to "applicant" of a licensee.

Lowman: This concludes the hearing on Bills A.B. 24 and 25.

Senator James C. Bailey, Past Director of the Department of Motor Vehicles, A.B. 106 regarding photos on an operator's license: We started with the names and statistics, then we added the Social Security number and the classified procedure. Now, we should add the photograph. This has been requested by many law enforcement people and people in industry. Mr. Fitzpatrick will have \$50,000 over his operating costs. If you see fit to go ahead with this procedure, you should contact Mr. Hill regarding a budget. You should have your bill permissive and possibly change on page 2, item 2, section 3, the word "shall" to "may". This way, you will be able to get a negative when you see fit.

Lowman: This doesn't make a difference for the Motor Vehicle Department's purposes? Are you in favor of the bill in any case?

Bailey: I am in favor of it.

Kean: Referring to page 2, line 8, instead of the "shall" provision, wouldn't it be alright to take out "but no later than January 1, 1972"?

Fitzpatrick: That would be fine.

Ashworth: This bill raises the license fees. They should not have to be raised. The negatives were not originally intended. This would be more for a crime lab to have these negatives. Instead of a negative, there is a study being made in regard to microfilming this information. Also, there is a bill regarding instant licenses.

Young: Why do you want the photograph?

Bailey: For identification purposes to decrease phoney licenses. Also, for better identification for law enforcement and industry.

Howard: The department says "shall" issue.

Ashworth: I think it should be "may" issue a photograph.

Bailey: It doesn't make any difference at all.

Lowman: Would you like to testify Mr. Hill?

Hill: We would like to go on record as being against the bill.

Lowman: Read telegrams in favor of bills A.B. 24 and 25 received from: Catherine Henry, Southern District Director of Business and Professional Women's Clubs; Adelene Bartlett, Conservation Chairman, Nevada State Federation of Garden 1825 Bracken; and Dorothy D. Brimacombe, Legislative Chairman, Nevada Federation BPW Clubs. (See telegrams attached.)

A. B. 68 -- applies motor vehicle driver's license law to operator of power cycles. (A discussion took place among the members of the committee and counsel regarding other bills pertaining to this particular bill.)

Hill: We have met with all the agencies concerned with this law, The law is unenforceable. Therefore, it is not a good law. We met with all the divisions and we are for Mr. Posey's legislation that will do away with 14 or 15 year olds receiving learner's permits.

Mrs. Marge Woodworth, Nevada Federation of Women's Clubs: We should stick to the ages in the law regarding automobiles for the power cycles.

Mrs. Henson: I am in favor of making the age requirement 16 years of age.

Woodworth: Restricting horsepower is not more important than restricting horsepower in an automobile.

Elma Lawlor, Reno Women's Civic Club: I feel a learner's permit should be available at 15 years of age and then a license for an automobile or power cycle available at 16 years of age.

Lowman: Could one learner's permit be used for learning to drive an automobile and a power cycle?

Hill: I don't think so because of the restrictions of learning to drive an automobile.

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Ashworth: The learner's permit for cycles requires that while learning to operate the cycle, it must be in an area off the highway with a licensed driver nearby.

Lawlor: I concur.

Lowman: The hearing was adjourned at 11:40 a.m.

The committee then had a discussion of bills A.B. 25 and 68. Ashworth moved and Howard seconded and it was unanimously passed that these two bills be indefinitely postponed.

The meeting was adjourned at 11:45 a.m.

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TO: Nevada State Legislators  
FROM: Howard Hill, Executive Director  
Nevada Safety Council

SUBJECT: Presumptive Limit Law (NRS 484.381)  
Controlled Cocktail Experiment

DATE: May 14, 1970

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\*\*\*\*\* INTRODUCTION \*\*\*\*\*

On the evening of May 7th, 1970, the Nevada Safety Council sponsored a controlled cocktail experiment in connection with the council's 13th Annual Meeting at the Sands Hotel in Las Vegas. The experiment, held in the Grand Ballroom, was for state Legislators, the press, and other invited guests. The cocktail party began at 7:00 p.m., while preparations for the pre-drinking experiment started at 3:30 p.m.

Both national and local statistics show that alcohol is becoming more and more a big factor in traffic accidents and highway fatalities. While it may not be the major cause of accidents, alcohol is definitely involved in 50-60% of traffic fatalities here in our own state of Nevada. Numerous studies nationwide have been made concerning the drinking and driving problem. Perhaps the best way to summarize these tests is to say that WHEN A DRIVER'S BLOOD-ALCOHOL LEVEL REACHES 0.15 THE POSSIBILITY OF THE DRIVER CAUSING A TRAFFIC ACCIDENT IS 25 TIMES GREATER THAN IF HIS BODY WERE ESSENTIALLY ALCOHOL FREE.

\*\*\*\*\* PURPOSE \*\*\*\*\*

This experiment was held in an effort to evaluate the pros and cons regarding Nevada's Presumptive Limit Law. Our present law (NRS 484.381) now reads "if there was at that time 0.15 percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor."

More than half of the states have lowered their presumptive limits to 0.10 and one state, Utah, has a 0.08 level. A number of the western states, including California, have the 0.10 law.

At the last session of the legislature, a bill (AB 266) was introduced to lower our state's presumptive level from 0.15 to 0.10. Needless to say, the bill did not pass. Some of the opponents of AB 266 labeled the bill "a two-drink law." In other words, it was the opinion of a few that the average person's blood-alcohol content would jump to 0.10 after just two drinks.

This was the sole purpose of our cocktail experiment---to prove that it takes more than just a few drinks to raise an individual's blood-alcohol content to 0.10. We attempted to parallel our experiment with the social drinker who has cocktails around 5-6 p.m., but before dinner.

\*\*\*\*\* EXPERIMENT VOLUNTEERS \*\*\*\*\*

Seven volunteers participated in the experiment. The volunteers represented: the Las Vegas Review Journal; Las Vegas Sun; Clark County Juvenile Traffic Court; KORK Radio, Las Vegas; KLAS-TV, Las Vegas; the Nevada Motor Transport Association, Reno; and United Press International, Carson City. Information concerning height, weight, use of medication, drinking habits, etc. was obtained from each individual volunteer. (Information is included in this report.)

\*\*\*\*\* INSTRUCTIONS TO VOLUNTEERS \*\*\*\*\*

The volunteers were given instructions approximately one week before the experiment. They were asked to arrive at 4 p.m. on the day of the experiment. On the day of the experiment the volunteers were asked to eat a normal lunch and ~~not~~ to have any alcoholic beverages to drink during that day. The volunteers were strongly advised to have someone drive them to the experiment and rides ~~was~~ offered both to and from the Sands Hotel.



In most cases, the volunteers followed their instructions completely, except for one individual who failed to eat lunch. Each volunteer was given a choice as to what he or she wanted to drink, but the choices were limited to Scotch, Bourbon, Gin, or Vodka.

\*\*\*\*\* FORMAT OF EXPERIMENT \*\*\*\*\*

A separate bar was set up for the volunteers. Those drinking straight shots received individual shots containing one ounce of alcohol. Those who preferred mixed drinks received one ounce of alcohol compared to three ounces of mix. At selected intervals, the volunteers were checked by the Nevada Highway Patrol's Alco Analyzer Gas Chromatograph machine, designed by Luckey Laboratories.

\*\*\*\*\* TYPE OF TESTING \*\*\*\*\*

As mentioned, an Alco Analyzer Gas Chromatograph machine was used to test the blood-alcohol content of the seven volunteers. This machine was operated by three trained personnel: Sgt. Art Block, Nevada Highway Patrol, Las Vegas; Patrolman Bernard Elvin, Nevada Highway Patrol, Las Vegas; and Floyd Osborn, Assistant Chief of Police, Henderson. These three gentlemen have been trained in the techniques of operating the Gas Chromatograph. The inventor of the machine was in Las Vegas at the time of the experiment and was available if needed. The machine, of course, was thoroughly tested before the experiment began.

The starting times for the volunteers to begin drinking were staggered and the individual's were periodically tested throughout the evening by the Nevada Highway Patrol's breath Gas Chromatograph. Volunteers had to wait 15 minutes after finishing their last drink before being tested. This 15 minute break was to prohibit the possibility of a mis-reading by the Alco Analyzer Gas Chromatograph machine due to an individual's immediate consumption. It is the practice of the Nevada Highway Patrol to wait at least 15 minutes before testing anyone with the machine and this procedure is actually a benefit to the defendant.

\*\*\*\*\* ADMINISTERING THE TEST \*\*\*\*\*

Besides the qualified personnel operating the Gas Chromatograph machine, other qualified personnel were present to conduct the experiment. Dr. Mark Herman, M.D. was on hand during the entire experiment and assisted Dick Mayne of the Clark County Health Department in pouring drinks, etc. Mayne has had experience in conducting similar tests outside Nevada. E.H. "Bud" Miller, Nevada Highway Safety Coordinator, and Dick King of his office were also present to assist Dr. Herman and Mr. Mayne.

\*\*\*\*\* SUMMARY \*\*\*\*\*

We certainly feel that our cocktail experiment proved our purpose---that it takes a sufficient number of drinks before an average person's blood-alcohol content registers 0.10. It is interesting to note that most of the volunteers at no time felt they were unable to operate a motor vehicle safely. This is even more interesting when you consider the average person eliminates alcohol from the blood at a fairly constant rate of 0.015% per hour. It would take six hours to get rid of 0.10%. We asked the volunteers to act as if they were at a regular cocktail party---that is to move around and mingle with guests. During the course of the evening, most of the volunteers were given field sobriety tests by Sgt. Block and Assistant Chief Osborn. The results of these tests indicate all would have experienced difficulty in the safe operation of a motor vehicle. Movies were taken of the evening's experiment by the various television stations represented, and the

Nevada Highway Patrol has on record the graphs from the Gas Chromatograph machine showing each volunteer's breath tests taken throughout the experiment.

Following is an individual breakdown for each volunteer, AND ONE IMPORTANT FACT MUST BE CONSIDERED. ALL OF THE VOLUNTEERS, EXCEPT ONE, HAD NOT HAD ANYTHING TO EAT SINCE LUNCH. THE OTHER VOLUNTEER SKIPPED LUNCH AND HAD ONLY A LIGHT BREAKFAST AT 4:00 A.M.

STATISTICS INDICATE THAT IF THE VOLUNTEERS HAD A MEAL BEFORE THEY BEGAN DRINKING, THAT EACH INDIVIDUAL COULD OF POSSIBLY HAD ONE-THREE ADDITIONAL DRINKS BEFORE THEIR BLOOD-ALCOHOL CONTENT REACHED 0.10.

IN OTHER WORDS----IN THE CASE OF VOLUNTEER #1 WHO HAD 16 DRINKS AND REACHED 0.16----HAD THIS VOLUNTEER HAD DINNER BEFORE THE EXPERIMENT BEGAN, HE PROBABLY COULD OF HAD ONE-THREE MORE DRINKS BEFORE HIS BLOOD-ALCOHOL LEVEL WOULD REGISTER OVER 0.16.

\* VOLUNTEER #1

SEX: Male  
DRINKING HABITS: More than moderate  
HEIGHT: 6'  
WEIGHT: 185 lbs.

TAKES MEDICATION: None  
LUNCH: No lunch  
DRINK: Scotch  
straight - 86 proof

TIME STARTED: 4:45 p.m.

First test	5:45 p.m.	4 drinks	.05
Second test	7:08 p.m.	8 "	.08
Third test	8:30 p.m.	12 "	.11
Fourth test	10:15 p.m.	16 "	.16

\* This subject did not have lunch and had a light breakfast at 4 a.m. His blood-alcohol content level would not have been as high per drink if he had lunch.

VOLUNTEER #2

SEX: Female  
DRINKING HABITS: Moderate  
HEIGHT: 5' 9"  
WEIGHT: 165 lbs.

TAKES MEDICATION: None  
LUNCH: Tuna sandwich  
DRINK: Gin (Beefeaters)  
Mixed with tonic  
(ratio 3/1)

TIME STARTED: 6:30 p.m.

First test	8:00 p.m.	3 drinks	.03
Second test	9:07 p.m.	7 "	.06
Third test	10:20 p.m.	9 "	.07

VOLUNTEER #3

SEX: Male  
DRINKING HABITS: Moderate  
HEIGHT: 5' 4½"  
WEIGHT: 140 lbs.

TAKES MEDICATION: Digitalis  
LUNCH: Lamb chops & fruit  
DRINK: Scotch & soda  
(ratio 3/1)  
86 proof

TIME STARTED: 6:15 p.m.

First test	7:38 p.m.	4 drinks	.05
Second test	8:55 p.m.	8 "	.10
Third test	10:25 p.m.	11 "	.14

VOLUNTEER #4

SEX: Male  
DRINKING HABITS: Moderate  
HEIGHT: 5' 10"  
WEIGHT: 162 lbs.

TAKES MEDICATION: None  
LUNCH: Diet plate  
DRINK: Scotch & soda  
(ratio 3/1)  
86 proof

TIME STARTED: 4:45 p.m.

First test	6:00 p.m.	3 drinks	.02
Second test	7:30 p.m.	9 "	.10
Third test	8:45 p.m.	13 "	.14
(No time)		18 "	
(No test)			

VOLUNTEER #5

SEX: Male  
DRINKING HABITS: Moderate  
HEIGHT: 5' 9"  
WEIGHT: 175 lbs.

TAKES MEDICATION: None 22  
LUNCH: Seafood & french fries  
DRINK: Bourbon & water  
(ratio 3/1)

TIME STARTED: 5:30 p.m.

First test	6:48 p.m.	3 drinks	.04
Second test	9:00 p.m.	7 "	.08
(no time)		9 "	
(no test)			

\*\* VOLUNTEER #6

SEX: Male  
DRINKING HABITS: Light  
HEIGHT: 6'  
WEIGHT: 280 lbs.

TAKES MEDICATION: None  
LUNCH: Turkey sandwich  
DRINK: Bourbon  
straight - 100 proof

TIME STARTED: 4:55 p.m.

First test	5:50 p.m.	3 drinks	.014
Second test	7:15 p.m.	6 "	.032
Third test	8:35 p.m.	7 "	.029

\*\* This volunteer was not used to drinking and had straight bourbon for his first three drinks. His next three drinks were mixed with water (3/1) and from 7:15-8:35 p.m. he had only one more drink. He was feeling pretty good and did not feel he should continue.

VOLUNTEER #7

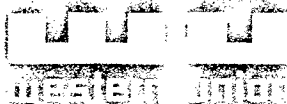
SEX: Female  
DRINKING HABITS: Light  
HEIGHT: 5' 5"  
WEIGHT: 118 lbs.

TAKES MEDICATION: Vitamin pills  
LUNCH: Sandwich & an orange  
DRINK: Vodka & orange juice  
(ratio 3/1)

TIME STARTED: 5:30 p.m.

First test	6:59 p.m.	4 drinks	.05
Second test	8:07 p.m.	6 "	.09





Telegram

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PRB031 SSJ229

(530) 0711 2 1116 05

PR LGA285 MH PDF=LAS VEGAS NEV 2 513P PST=

ASSEMBLYMAN ZEL D LOWMAN=

LEGISLATIVE BUILDING RM 240 CARSON CITY NEV:

=WE URGE YOUR APPROVAL OF BILLS AB25 AND 60 ESPECIALLY  
AB24=

CATHERINE HENRY SOUTHERN DISTRICT DIRECTOR  
OF BUSINESS AND PROFESSIONAL WOMENS CLUB=



=PR B008 SSD093

PR LGA045 LA OM=LAS VEGAS NEV 3 :

1971 3 AM 10 01

=COMITTEE ON TRANSPORTATION=

STATE CAPITOL CARSON CITY NEV=

TOTALLY APPROVE BILLS 23 24 25 SUGGEST CONSIDERATION  
PENALIZING LITTERING FROM THE MOVING VEHICLES=

ADELENE BARTLETT CONSERVATION CHAIRMAN NEV ADA  
STATE FEDERATION OF GARDEN 1825 BRACKEN .





Telegram

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NNNN (0940P EST)

=PRB036 SSJ 226

1971 1 PM 6 53

PR FFA447 (SF 032FF205447)PD=WU LSV

0937P

EST02/01/71 =ZCZC 001 NL PD LAS VEGAS NEV 1 =

ASSEMBLYMAN ZEL LOWMAN =

NEVA DALEGISLATURE CARSON CITYNEV =

THE NEVADA FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN  
CLUBS =URGE A "DO PASS" VOTE ON A.B. 24. TO LOWER  
PRESUMPTIVE LIMITS =FROM .015 TO .010. WE BELIEVE IT WILL  
INCREASE THE EFFECTIVENESS =OF LAW ENFORCEMENT OFFICERS  
IN DEALING WITH THE PROBLEM DRUNKEN DRIVER WITHOUT  
INFRINGING UPON THE RIGHTS OF THE MODERATE SOCIAL DRINKERS.  
BREATH-ALIZOR TESTS MADE BY THE NEVADA =SAFETY COUNCIL,



THE OCTOBER WOMEN'S CONFERENCE OF THE NATIONAL SAFETY  
COUNCIL IN CHICAGO AND THE JANUARY FORUM ON ALCOHOL  
COUNTERMEASURES IN WASHINGTON, D.C., PROVE CONCLUSIVELY  
THAT MOST PEOPLE DO NOT REACH .010 UNLESS ACTUALLY DRUNK.  
WE SINCERELY URGE A "DO PASS".

DOROTHY D BRIMACOMBE LEGISLATIVE CHAIRMAN  
NEVADA FEDERATION BPW CLUBS

