

Chairman Price called the work session of the Assembly Transportation Committee to order at 5:00 p.m. May 13, 1981 in Room 214 of the Legislative Building.

MEMBERS PRESENT:

Assemblyman Price, Chairman
Assemblyman Polish, Vice Chairman
Assemblyman Beyer
Assemblyman DuBois
Assemblyman Glover
Assemblyman Mello
Assemblyman Prengaman
Assemblyman Schofield
Assemblyman Westall

MEMBERS ABSENT:

None

SB 83, Increases punishment for driving under influence of intoxicants.

Mr. Price stated that extensive amendments to this bill have been drafted and that he had asked Assemblyman Sader to come and explain them to the committee. These amendments were developed by a subcommittee of both Transportation and Judiciary.

Mr. Sader and Fred Welden, Senior Research Analyst of the Legislative Counsel Bureau, presented a copy of the amendments. This is attached to these minutes as Exhibit A.

Mr. Sader began by stating that the first substantive change found in the amendment is on page 1 at the bottom of the page and has to do with the penalties. He explained that the penalties in all three categories have been changed somewhat. He went through the first offense penalties. He pointed out that there is a clause in both first and second offense for driving without a valid driver's license in the original bill. He stated that they were removed and put under the statute relating to driving without a valid driver's license and put the provisions there. Language regarding this found at the bottom of the first page and top of the second. Also found here is the provision whereby plea bargaining would not be allowed. He stated that if they were going to have driving under a suspended license mean anything and with somebody up for a DUI also there has to be these bans against plea bargaining.

Mr. Mello inquired what the difference was between driving with a suspended license and without a license. Mr. Sader stated that they are the same. He then asked if this would be different than the bill previously passed regarding this. Mr. Sader stated that what they were doing here is that there will be a second type of

offense for driving with a suspended license and that will be it is suspended for a DUI and in that case it is an enhanced penalty situation.

Mr. Sader stated that the original language had no provision for a fine for the first offense. The only place a fine was mentioned if the first offense was under the paragraph regarding not holding a valid driver's license.

Mr. Sader stated that the next substantive change was a whole new concept. He stated this is found at the bottom of the second page and top of the third and applies to any DUI offense. He stated that they were attempting to keep people from driving while drunk and there were two types of people that drive while drunk. The first is the alcoholic or drug abuser and has a real problem and this type of person they are not going to get with this new concept. The second is the social drinker and is a contributing member of society and would be very embarrassed by having his picture published in the paper. That is exactly what they want. They want people to be scared that their picture might be in the newspaper for a DUI to the point that they will not drive while drunk. They feel it is a viable pressure who otherwise might drink and drive. The reason for including the judge's name is so that the public will compare the sentences of the judges.

Mr. Sader stated that there were new amendments that included some minor changes that had to be made. The next groups of amendments were merely technical amendments. The next substantive part of the amendment is found on the bottom of the page 3 and involves the penalties for the first offense. He stated that they have reworked these penalties substantially. They have changed the 40 hours to 40 hours of work or community work. This avoids all the problems from the testimony presented.

In response to Mrs. Westall's question regarding the option, Mr. Sader stated that it would be up to the judge which was allowed, the 40 hours or the 2 days in jail and that the 2 days was a minimum, it could be up to 6 months.

Mr. Glover inquired why they decided on a minimum of 2 days and Mr. Sader explained that this was the equivalent of 48 hours and that they felt this balanced with the 40 hours of work.

Mr. Sader stated that these two are an either/or situation but the rest of the items were not optional. He explained that the \$500 limit on of the fine would change if the misdemeanor provisions presently being discussed go through. This fine could be up to \$1250.

Mr. Glover inquired if this was standard language for misdemeanors. Mr. Sader stated that it was not as the standard language simply states not more than \$500. They included the lower limit so that the judge would be required to fine at least \$100. Many judges on a first offense are doing much better than that. Mr. Glover suggested that perhaps this should be a higher minimum fine.

Mr. Sader stated that they have to evaluate these sentences also in light of the alcohol and drug treatment program. If they make the first offense so tough, then nobody is going to elect the drug treatment program and alcohol treatment program.

Mr. Sader continued that this is followed by the penalties for the second offense found on the bottom of page 3 and top of page 4. He stated that they have deleted out the amendment references to first, second and third offense as they are inappropriate since the bill now has a set period of years that are being considered for conviction. It could possibly be someone's fifth offense during their lifetime but only the 1st in the last 5 years. The penalty provisions simply state prior offenses to allow for this.

Mr. Glover inquired if somebody has two convictions already when this becomes effective, if they receive another conviction would it be their first or their third. Mr. Sader stated that it would be their third. There is a big policy question here according to Mr. Sader. It is not included in the amendments but will be something that committee should consider. Mr. Glover stated that he felt that there would be problems with that either way. Mr. Sader pointed out that there were really two answers to this in that one was a moral question and another a legal one. He stated that legally and constitutionally there is no problem with retroactivity on these offenses. Morally there may be some conflict with whether everyone should start with a clean slate or not.

Mr. Sader continued by stated that the original bill cleansed a record every three years and this amendment changes that to every 5 years. They felt that three years was too short of a period of time. He stated that the next change was with the second conviction aspect is that they reduced this from a gross misdemeanor to a misdemeanor. Gross misdemeanors are tried in the district court and often have jury trials. Regular misdemeanors are tried either in the justice court or municipal court and almost never have jury trials. It would be a very substantial expense and a great opportunity for delay to go to district court. The amendments are oriented towards making the bill work and be effective within the existing system. The original bill on this point would not have been effective. The penalties are just as still. The fine can go back up if the jurisdictional amounts are changed as presently being contemplated.

Mr. Sader stated that the third offense is covered under subsection 5 on page 4. This offense would be a felony and the punishment is the same as in the original bill.

Mr. Sader stated that there was one thing he neglected to mention was the fact that they have changed the wording from the time of conviction to the time of arrest. He explained that if a person had two convictions on their record and they didn't want to get that third conviction they would get a good attorney and he would delay for as long as he could. Hopefully they would get to a point where one of those convictions would no longer be allowed to be considered.

636

This language would avoid this because it would run from violation to violation, not from the time of conviction. There would be no percentage to delay this.

Subsection 6 deals with the treatment programs. This has been substantially changed. This would require certified substance abuse counselors to make the decision on whether treatment is needed. There was a strong feeling on the subcommittee that in the past these treatment programs have been very attractive and people can literally "skate" the charge by getting on the program. The new language would require that they be convicted, and a mandatory 2 days in jail be served by the first offender, 5 days for a second offender and 30 days for a third offender. Also changed was the suspension of the license. This amendment would make the license suspended for not less than 90 days or more than the time it takes for the treatment. He stated that language should have been included for getting out for a hardship exemption. He stated that for many people the worse thing they could do to them is take away their license. These are people who would not ever drive with a suspended license. To tell these people that they can get on a program but yet they will lose their license for a full year, they will be discouraged from accepting the program. This is especially true when talking about a first offender.

In answer to Mr. Glover's question regarding sentencing, Mr. Sader explained that the person would not be sentenced unless he failed the program. Then he would appear before the judge for sentencing and the days spent in jail before the program would be taken off this sentence. A vital element of this is that they must be convicted before they get on the programs. Don't want situation where people take the program just to get out of the conviction.

In answer to Mr. DuBois's question on who determines whether a person fails the program. Mr. Sader stated that currently there is a program where that is being done and he would envision that this would be similar.

The next change is found on page 5, subsection 5 and deals with the refusal to take a chemical test. He stated that unless the penalty was stiff on this, everyone would refuse to take the test. If a person refuses the first time they lose their license for a year, the second time they refuse, they lose their license forever.

In answer to Mr. Beyer's question, Sharon Alcamo of the DMV, stated that they do keep a record of refusal. Mr. Sader added that refusal of the test does not mean that a person is not going to be prosecuted for DUI. It is however, more difficult to get a conviction without the results of the test.

Mr. Sader stated that on page 6 and that the first 2/3 of this was a technical change. They found that the municipal court may not have any jurisdiction to impose any other sentence than a

fine or imprisonment because of the way that misdemeanor is defined. This amendment takes out the definition of a misdemeanor in municipal court. This should avoid any lawsuit and clear up the jurisdictional question.

The only other thing on this page that is quite a change is something that was not in the original bill at all and doesn't even involve the same statutory scheme. This involves punitive damages and civil remedies against a drunk driver.

It was the feeling of the subcommittee that if someone is injured by a drunk driver they should be able to bring a civil claim against him besides just negligence and personal injury action. They should be able to bring a claim for punitive damages. These are damages which are designed as punishment and are designed to be heavy to punish the offender beyond just the injury to the victim. This language states that in the civil field it provides punitive damages be allowable against drunk drivers. This will make an important change in the way personal injury suits are conducted right now. This is the law in California right now and many attorneys believe it is the law in Nevada also, but it has not been decided by the Supreme Court. This would make the legislature decide the issue.

That concluded the amendment and Fred Welden distributed a comparison of the present DUI law and the proposed. This is also a part of Exhibit A of these minutes.

Mr. Prengaman inquired why they were amending Chapter 268 and giving local government the power to enact a similar ordinance. Mr. Sader stated that this was because some municipalities have that power now but some don't. The municipalities that do not or are not charter municipalities need the ability to enact a substantially similar ordinance. For the municipal court to have jurisdiction it has to be a violation of municipal code, not a violation of NRS. If it is a violation of NRS and there is no municipal code it would go to the justice court. This would keep jurisdiction as it is now for a DUI that was committed in the jurisdiction of a municipality.

Mr. Beyer stated that he felt the subcommittee should be commended for their extensive work on this bill.

Mr. Price stated that there were some loopholes in the original the worse of which probably involved the negligence injury accident caused by DUI penalty. Mr. Sader pointed out this section in the original bill page 4, lines 30-37. This is the felony DUI and in the original bill there would be an exception to the plea bargaining. The person could plea bargain and instead of getting the one year they could just take away the license forever and fine \$5,000 or more. It seemed to the subcommittee that this would be totally inconsistent to allow this to exist for the worst possible offense under DUI.

Mr. Sader stated that he also had another amendment which would require the proof of insurance when suspended license is reinstated.

A general discussion was held on how the bill should be handled at this point. Whether the amendments should be adopted and a new bill printed with the amendments or adopt these amendments and send it to Judiciary for additional amendments discussed during this meeting, etc.

Mr. Sader stated that it would be necessary to make it clear that if the limitations on a misdemeanor fine are changed that the limitations included in this bill would also be changed.

Mr. Sader stated that the new amendment he had just received during this meeting does include the language which incorporates the mandatory work requirement they already passed. This takes care of a conflict on the bill.

Mrs. Westall moved to amend the bill by raising the minimum of two days for the first offense to a minimum of five days. She however would leave the two days required to be served before going on a treatment program as is. Mr. Glover seconded the motion. The motion carried with Mr. Mello absent at this point.

Mr. Beyer moved to raise the minimum fine for the first offense from \$100 to \$400 and with the second offense a minimum of \$750. Mrs. Westall seconded the motion. Discussion on the motion brought the point that at this point it might cause a problem because of other legislation being contemplated regarding the jurisdiction limitations of misdemeanor. After discussion, Mr. Beyer withdrew his motion and Mrs. Westall withdrew her second. It was pointed out that this was something that could be worked out in conference committee right at the end before passage of the bill.

Under discussion of the philosophy of the amendment, Mr. Prengaman stated that he had some real problems with the part dealing with publication of the picture in the paper. He stated that he felt that this punishment didn't fit the crime especially in connection with the first offense. Publication of a picture after a first offense would subject the offender as well as his whole family to ridicule, possible loss of job, and general humiliation. He added that even if the person chooses to take the treatment program he still would be subject to having his picture in the paper. He added that he also felt that inclusion of the judges name was unnecessary and that he would see that as a great campaign help.

Mr. Price stated that it was humiliating but that it would make a person think twice about driving while drunk. He stated that he felt it would be a real deterrent.

Mr. Prengaman stated that he still felt that it was too severe for a first offense and that it would be different if an accident was involved. He added that he felt it was humiliation not punishment. Mr. DuBois stated that he would agree with Mr. Prengaman on this point. He stated that he felt the effect would be to

punish other members of the family. Everyone in the family would share in one individual's crime. He stated that he knows of no law that even approaches this public ridicule type of thing.

Mrs. Westall stated that they were assuming that the first offender was caught the first time he drove while drunk when in reality they probably have driven that way many times and were not caught.

Mr. Prengaman stated that he also felt that fiscal impact of this was not being addressed. He added that he felt it would be tremendous especially considering that many of our jails are under court mandate not to accept any more prisoners.

Mr. Beyer stated that he would hope that they would not have to use this very often, that just having it on the books would be a deterrent and act as a warning to everybody.

Mr. DuBois inquired if community service was defined in the statutes. Mr. Sader agreed that this was something that would have to be addressed. Mr. DuBois inquired if someone came out here from New York and rented a car and were picked up for DUI would their picture be in the New York Times. Mr. Price stated that it would not but would be in the local paper.

Mr. Prengaman reiterated that the legislature should not operate in a vaccum but should be considering the fiscal impact that this would have on the jails. Courts will have to sentence the second offender, there is no choice. He stated that he felt he was not sure that the state was ready for this. He finished by stating that he felt there was much that was not addressed. He stated that he probably would be a deterrent but that he was not sure that he wanted to "hang people for a first offense".

Mrs. Westall moved for a "do pass as amended" and Mr. Polish seconded the motion. Under discussion of the motion, Mr. Prengaman stated that this amendment made the bill much different from what was discussed and testified to and that perhaps they should hold the bill and get reaction to the amendment. It was pointed out that if the motion carries the bill will be re-referred to Judiciary Committee. The motion carried on a roll call vote with 5-2 with Mr. Prengaman and Mr. DuBois voting against the bill and Mr. Mello and Mr. Schofield absent at this time.

Murray ?, a guest at the meeting stated that he would have to agree that the punishment does not fit the crime and that it is nondiscriminatory in that it only addresses itself to the non-impact driver. There is nothing that addresses itself to the minor impact driver. He stated that his association did address themselves exactly to that issue and that they feel that they should address the legislation to the impact driver.

As the hour was late and many members had other commitments Chairman Price stated that he would reschedule the work session for a time when most of the members could be present and he adjourned the meeting.

Respectfully submitted,

Sandee Gagnier
Assembly Attache

For the record the amendment adopted was the amendment received by Mr. Sader during the meeting not the attached amendment. Mr. Sader's amendment included several points discussed during this meeting which had been inadvertently left out of the attached amendment.

ASSEMBLY

AGENDA FOR COMMITTEE ON.....TRANSPORTATION.....

WEDNESDAY

Date.....MAY 13.....1981.....Time.....P.M.....Room 214.....

Bills or Resolutions
to be considered

Subject

Counsel
requested*

WORK SESSION

*Please do not ask for counsel unless necessary.



STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710



EXHIBIT A PAGE 1
LEGISLATIVE COMMISSION (702) 885-5627

KEITH ASHWORTH, Senator, Chairman
Arthur J. Palmer, Director, Secretary

INTERIM FINANCE COMMITTEE (702) 885-5640

DONALD R. MELLO, Assemblyman, Chairman
Ronald W. Sparks, Senate Fiscal Analyst
William A. Biele, Assembly Fiscal Analyst

ARTHUR J. PALMER, Director
(702) 885-5627

FRANK W. DAVIN, Legislative Director (702) 885-5627
JOHN R. CROSSLEY, Legislative Secretary (702) 885-5610
ANDREW P. ROSE, Records Director (702) 885-5637

May 5, 1981

D.U.I.

MEMORANDUM

TO: Assemblyman Robert Price
FROM: Fred Welden, Senior Research Analyst *FW*
SUBJECT: Chart Showing Current and Proposed Penalties for
DUI Convictions

Attached is a chart which outlines the current and proposed penalties for DUI convictions.

FWW:jlc
Encl.

CURRENT AND PROPOSED PENALTIES FOR DUI CONVICTIONS

Type of Offense	Current Penalties	Proposed Penalties
I. First DUI Conviction	<p>I.A. Misdemeanor (NRS 484.379) punishable by a fine not exceeding \$500, or imprisonment not exceeding 6 months, or both. (NRS 4.370 and 5.050)</p> <p>B. Discretionary (with court) license suspension of 30 days to 1 year with possibility of receiving a restricted license. (NRS 484.379 and 483.250)</p> <p>*Alcoholic or drug addict may elect treatment under NRS 458.290-458.350 before conviction.</p>	<p>I.A. Misdemeanor punishable by either 40 hours of work or community service, or imprisonment in the county jail for 48 hours to 6 months; and</p> <ol style="list-style-type: none"> 1. A fine of \$100 to \$500, 2. Participation at violator's expense in educational courses, and 3. Revocation of driver's license for 90 days to 1 year with restricted license possible only in cases of extreme hardship related to work. <p>B. Publication of picture and information in newspaper.</p> <p>C. Probation, suspension of sentence, orders to take treatment prior to conviction, and plea bargaining are not allowed.</p> <p>*Alcoholic or drug abuser may elect treatment under provisions of this bill after conviction.</p>
II. Second DUI Conviction	<p>II.A. Confinement in jail for 10 days to 6 months, or a fine of not more than \$500, or both. (For conviction within 3 years of previous conviction) (NRS 484.379)</p> <p>B. Mandatory license revocation for 1 year without possibility of receiving a restricted license. (For conviction after 3 years but within 7 years of previous conviction) (NRS 483.460 and 483.490)</p> <p>C. Mandatory license revocation for 2 years with possibility of receiving a restricted license after 1 year. (For conviction within 3 years of previous conviction) (NRS 483.460 and 483.490).</p> <p>*Alcoholic or drug addict may elect treatment under NRS 458.290-458.350 before conviction.</p>	<p>II.A. Misdemeanor punishable by:</p> <ol style="list-style-type: none"> 1. Imprisonment in county jail for 15 days to 6 months, 2. Fine of \$500, and 3. Revocation of license for not less than 6 months. (For conviction within 3 years of previous conviction) <p>B. Publication of picture and information in newspaper.</p> <p>C. Probation, suspension of sentence, orders to treatment prior to conviction, and plea bargaining are not allowed.</p> <p>*Alcoholic or drug abuser may elect treatment under provisions of this bill after conviction.</p>
III. Third or Subsequent DUI conviction	<p>III.A. Confinement in jail for 30 days to 6 months, or a fine of not more than \$500, or both. (For conviction within 3 years of previous conviction) (NRS 484.379)</p> <p>B. Mandatory license revocation for 1 year without possibility of receiving a restricted license. (For conviction after 3 years but within 7 years of previous conviction) (NRS 483.460 and 483.490)</p> <p>C. Mandatory license revocation for 2 years with possibility of receiving a restricted license after 1 year. (For conviction within 3 years of previous conviction) (NRS 483.460 and 483.490)</p> <p>*Alcoholic or drug addict may elect treatment under NRS 458.290-458.350 before conviction.</p>	<p>III.A. Felony punishable by:</p> <ol style="list-style-type: none"> 1. Imprisonment in state prison for 1 to 6 years, and 2. Fine of \$2,000 to \$5,000. (For conviction within 3 years of previous two convictions) <p>B. Mandatory revocation of license for 1 year without possibility of receiving a restricted license. (NRS 483.460 (2))</p> <p>C. Publication of picture and information in newspaper.</p> <p>D. Probation, suspension of sentence, orders to treatment prior to conviction, and plea bargaining are not allowed.</p> <p>*Alcoholic or drug abuser may elect treatment under provisions of this bill after conviction.</p>

CURRENT AND PROPOSED PENALTIES FOR DUI CONVICTIONS

<u>Type of Offense</u>	<u>Current Penalties</u>	<u>Proposed Penalties</u>
IV. Election of Treatment Rather than Punishment	<p>IV.A. Alcoholic or drug addict may elect treatment under NRS 458.290-458.350 before conviction.</p> <p>B. He may participate in the program only twice within a 2-year period.</p> <p>C. Upon satisfactory completion of treatment, charges are dropped.</p> <p>D. Upon non-completion or unsatisfactory progress in treatment, prosecution may be resumed.</p>	<p>IV.A. Alcoholic or drug abuser may elect treatment under provisions of this bill after conviction. The treatment must be for at least 1 year.</p> <p>B. He may participate in the program only once within a 5-year period.</p> <p>C. He must pay for the treatment.</p> <p>D. His picture and information about the conviction are published in the newspaper.</p> <p>E. Before entering treatment, he must be imprisoned in the county jail for:</p> <ol style="list-style-type: none"> 1. 48 hours on a first conviction within 5 years, 2. 5 days on a second conviction within 5 years, or 3. 30 days on a third conviction within 5 years. <p>F. Mandatory revocation of license for 90 days to the time necessary for completion of treatment, with restricted license possible only in cases of extreme hardship related to work.</p> <p>G. Upon satisfactory completion of treatment, the conviction stands against his record but no other sentence is imposed.</p> <p>H. Upon non-completion or unsatisfactory progress in treatment, sentence is mandatory as provided for the offense.</p>
V. Causing Death or Substantial Bodily Harm	<p>V.A. Imprisonment in state prison for 1 to 6 years, or a fine of not more than \$5,000, or both. (NRS 484.3795)</p> <p>B. Mandatory revocation of license for 1 year without possibility of receiving a restricted license (for a first conviction of DUI - NRS 483.460b and for a second conviction of DUI after 3 years but within 7 years of previous conviction - NRS 483.460f); or mandatory revocation of license for 2 years with possibility of receiving a restricted license after 1 year. (For a second conviction of DUI within 3 years of a previous conviction - NRS 483.460 and 483.490)</p> <p>*Alcoholic or drug addict may elect treatment under NRS 458.290 - 458.350 before conviction.</p>	<p>V.A. Imprisonment in state prison for 1 to 6 years, and fine of \$2,000 to \$5,000.</p> <p>B. Mandatory revocation of license for 1 year without possibility of receiving a restricted license. (NRS 483.460 (2))</p> <p>C. Publication of picture and information in newspaper.</p> <p>D. Probation, suspension of sentence and plea bargaining are not allowed.</p>

CURRENT AND PROPOSED PENALTIES FOR DUI CONVICTIONS

<u>Type of Offense</u>	<u>Current Penalties</u>	<u>Proposed Penalties</u>
VI. Refusal to Submit to Chemical Test	<p>VI.A. Suspension of license for 6 months (NRS 484.385) with possibility of receiving a restricted license. (NRS 483.250)</p> <p>B. Possibility of conviction and punishment for appropriate offense.</p>	<p>VI.A. Revocation of license for 6 months without possibility of receiving a restricted license. (For first refusal to submit to chemical test)</p> <p>B. Revocation of license permanently with possibility of receiving a restricted license after 1 year. (For second or subsequent refusal to submit to chemical test)</p> <p>C. Possibility of conviction and punishment for appropriate offense.</p>
VII. Driving When License is Canceled, Revoked or Suspended for Violation of DUI Laws	<p>VII.A. Misdemeanor punishable by a fine not exceeding \$300, or imprisonment not exceeding 6 months, or both. (NRS 4.370 and 5.050)</p>	<p>VII.A. Misdemeanor punishable by imprisonment in county jail for not less than 30 days, and a fine of not less than \$300.</p> <p>B. Probation, suspension of sentence, and plea bargaining are not allowed.</p>

FW/c4.2.DUI.1.2.4

1981 REGULAR SESSION (61st)

ASSEMBLY ACTION	SENATE ACTION	Assembly	AMENDMENT BLANK
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	AMENDMENTS to <u>Senate</u>	
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	<u>John</u>	
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>	Bill No. <u>83</u>	Resolution No. _____
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>	BDR <u>43-431</u>	
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Proposed by <u>Committees on Judiciary and</u>	
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>	<u>Transportation</u>	
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>		
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>		

Amendment No. 908



Amend the bill as a whole by renumbering sections 2 through 4 as sections 3 through 7 and by adding new sections to be designated sections 1 through 4, following section 1, to read as follows:

Sec. 2. NRS 483.490 is hereby amended to read as follows:

483.490 1. Unless otherwise provided by law, the department may not suspend a license for a period of more than 1 year.

2. Unless issuance of a license is prohibited by NRS 484.385, the department may, after the expiration of 1 year from the date of revocation of a license and when the period of revocation exceeds 1 year, issue a driver's license to an applicant permitting the applicant to drive a motor vehicle for purposes of his employment only, if the department is satisfied that a severe hardship exists.

3. The periods of suspension and revocations under this chapter and under NRS 484.385 shall run consecutively, except as provided in NRS 483.470, when the suspension shall run concurrently.

Sec. 3. NRS 483.560 is hereby amended to read as follows:

483.560 1. Except as otherwise provided in [NRS 485.330,] this section, any person who drives a motor vehicle on a highway of this state at a time when his driver's license has been canceled, revoked or suspended [shall be] is guilty of a misdemeanor. If the license was suspended or revoked because of a violation of NRS 484.379, 484.3795 or 484.385, he shall be punished by imprisonment in the county jail for not less than 30 days nor more than 6 months, and by a fine of not less than \$500.

To: E & E
LCB File
Journal ✓
Engrossment
Bill

Drafted by RS:ab Date 5-10-81

Amendment No. 908 to Senate Bill No. 83 (BDR 43-431) Page 2

2. No person who is convicted of a violation of this section and whose license had been suspended or revoked because of a violation of NRS 484.379, 484.3795 or 484.385 may be granted probation and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty or of nolo contendere to a lesser charge or for any other reason unless, in his judgment the charge is not supported by probable cause or cannot be proved at trial.

3. Any term of confinement imposed under the provisions of subsection 1 may be served intermittently at the discretion of the judge or justice of the peace. This discretion shall be exercised after considering all the circumstances surrounding the offense, and the family and employment [situation] of the person convicted. However, the full term of confinement [shall] must be served within [a 6-month period from] 6 months after the date of conviction, and any segment of time the person is confined [shall] must not consist of less than [a 24-hour period.] 24 hours.

[3.] 4. Jail sentences simultaneously imposed under this section and NRS 484.379 [shall] must run consecutively.

[4.] 5. The department upon receiving a record of the conviction of any person under this section upon a charge of driving a vehicle while [the license of such person] his license was suspended shall extend the period of [such] suspension for an additional like period [; and if] If the conviction was upon a charge of driving while a license was revoked the department shall extend the period of revocation for an additional period of 1 year [from and] after the date [such] on which the person would otherwise have been entitled to apply for a new license. Suspensions and revocations under this section [shall] must run consecutively.

Sec. 4. Chapter 484 of NRS is hereby amended by adding thereto a new section which shall read as follows:

Each court which enters a judgment of conviction for a violation of NRS 484.379 or 484.3795 shall order that there be published within 2 weeks after the date of the order in a newspaper of general circulation published in the county or, if there is no newspaper published in the

Amendment No. 908 to Senate Bill No. 83 (BDR 43-431) Page 1

county, in a newspaper which has a general circulation in the county, at the expense of the violator, a notice of the conviction containing:

1. A picture of the violator;
2. The name of the violator;
3. The number of convictions for driving under the influence of alcohol or another substance in violation of NRS 484.379, 484.3795 or a law which forbids similar conduct in another jurisdiction, whether the convictions were within 5 years before the present conviction or not;
4. The name of the judge who sentenced the violator; and
5. The sentence imposed."

Amend sec. 2, page 2, by deleting line 17 and inserting:

"ing or [steering] exercising actual physical control of a vehicle to drive or [steer] be in actual physical control of a vehicle within this state. The".

Amend sec. 2, page 2, line 33, by deleting "for the first offense," and inserting "and who has not been convicted of a violation of one of those subsections within 5 years before the violation took place."

Amend sec. 2, page 2, line 34, by deleting "5," and inserting "6,"

Amend sec. 2, page 2, by deleting lines 35 through 38 and inserting: "shall sentence him to 40 hours of work or community service or to imprisonment in the county jail for not less than 5 days nor more than 6 months, and in either case shall also:

(a) Sentence him to pay a fine of not less than \$100 nor more than \$500;

(b) Order him to pay tuition for and attend courses on the use and abuse of alcohol and controlled substances approved by the department; and".

Amend sec. 2, page 2, line 39, by deleting "(a)" and inserting "(c)".

Amend sec. 2, page 2, line 43, by deleting "living; or" and inserting "living."

Amend sec. 2, page 2, by deleting lines 44 through 48.

Amend sec. 2, page 3, by deleting lines 1 through 4 and inserting:

"4. Any person who violates the provisions of subsection 1 or 2 within 5 years after having once been convicted in any jurisdiction of a violation of subsection 1 or 2, NRS 484.3795 or a law which prohibits

Amendment No. 908 to Senate Bill No. 83 (BDR 43-431) Page 4

the same conduct is guilty of a misdemeanor. Except as provided in subsection 6, the court shall sentence him to imprisonment for not less than 15 days nor more".

Amend sec. 2, page 3, -line 5, by deleting "not less than \$1,000" and inserting "\$500".

Amend sec. 2, page 3, line 6, by deleting "license for" and inserting "driver's license for a period specified in the order which must be".

Amend sec. 2, page 3, line 7, by deleting "privileges; or" and inserting "privileges."

Amend sec. 2, page 3, by deleting lines 8 through 33 and inserting:

"5. Except as provided in subsection 6, any person who violates the provisions of subsection 1 or 2 within 5 years after having been convicted more than once in any jurisdiction of a violation of subsection 1 or 2, NRS 484.3795 or a law which prohibits the same conduct, shall be punished by".

Amend sec. 2, page 3, by inserting between lines 39 and 40:

"6. A person who has been convicted of a violation of subsection 1 or 2 may elect to undergo treatment approved by the court for at least 1 year if:

(a) He is classified as an alcoholic or abuser of drugs by a:

(1) Counselor certified to make that classification by the bureau of alcohol and drug abuse of the rehabilitation division of the department of human resources; or

(2) Physician certified to make that classification by the state board of medical examiners;

(b) He agrees to pay the costs of the treatment;

(c) He has served a term of imprisonment in the county jail of:

(1) Two days if it is his first conviction;

(2) Five days if it is his second conviction; or

(3) Thirty days if it is his third conviction,

flush of a violation of subsection 1 or 2; and

(d) The court orders the department to suspend his driver's license for a period specified in the order which must be not less than 90 days and not more than the time required to complete the treatment.

Amendment No. 908 to Senate Bill No. 83 (BDR 43-431) Page 5

fluct A person may elect treatment pursuant to this subsection once in any period of 5 years.

7. If a person who has elected and qualified for treatment pursuant to subsection 6:

(a) Fails to complete the treatment satisfactorily, he must be sentenced to the fine and imprisonment to which he would have been sentenced had he not elected treatment. The sentence to imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(b) Completes the treatment satisfactorily, he may not be sentenced further, but the conviction remains on his record of criminal history."

Amend sec. 2, page 3, line 40, by deleting "7." and inserting "8."

Amend sec. 2, page 3, line 48, by deleting "8." and inserting "9."

Amend sec. 3, page 4, line 5, by deleting "conviction, and any" and inserting "conviction (, and any) or within 6 months after the date of sentencing if the person elected to undergo treatment pursuant to subsection 6. Any".

Amend sec. 2, page 4, line 7, by deleting "9." and inserting "10."

Amend sec. 3, page 4, by deleting lines 31 through 37 and inserting: "tion 1 may not be suspended nor may probation be granted."

Amend sec. 4, page 4, line 49, by deleting "If" and inserting: "[If] Except as provided in subsection 2, if".

Amend sec. 4, page 5, by inserting between lines 9 and 10:

"2. If the person who refused the required chemical test has previously refused such a test, the department shall immediately revoke his license, instruction permit or privilege to drive in this state, and not restore it or grant any permit, license or privilege at any time."

Amend sec. 4, page 5, line 10, by deleting "2." and inserting: "[2.] 3."

Amend sec. 4, page 5, line 12, after "suspending" by inserting "or revoking".

Amend sec. 4, page 5, line 15, by deleting "3. The suspension" and inserting "[3.] 4. The suspension or revocation".

Amend sec. 4, page 5, by deleting line 18 and inserting:

"[4.] 5. Notice of intention to suspend (,) or revoke, notice of an

Amendment No. 908 to Senate Bill No. 83 (BDR 43-431) Page 6

order of suspension or revocation."

Amend sec. 4, page 3, line 19, after "suspension" by inserting "or revocation".

Amend the bill as a whole by renumbering section 5 as section 11 and by adding new sections to be designated as sections 8 through 10, following section 4, to read as follows:

"Sec. 8. NRS 5.050 is hereby amended to read as follows:

5.050

1. Municipal courts which are already established, or which may hereafter be established in any incorporated city of this state, shall have jurisdiction:

(a) Of an action or proceeding for the violation of any ordinance of their respective cities.

(b) Of an action or proceeding to prevent or abate a nuisance within the limits of their respective cities.

(c) Of proceedings respecting vagrants and disorderly persons.

2. The municipal court already established, or which may hereafter be established, shall also have jurisdiction of the following public offenses committed in their respective cities:

a) Petit larceny.

b) Assault and battery, not charged to have been committed upon a public officer in the execution of his duties, or with intent to kill.

c) Breaches of peace, riots, affrays, committing a willful injury to property, and all misdemeanors punishable by fine not exceeding \$500, or imprisonment not exceeding 6 months, or by both such fine and imprisonment.

Sec. 9. NRS 42.010 is hereby amended to read as follows:

42.010 In an action for the breach of an obligation not arising from contract, where the defendant : [has]

1. Has been guilty of oppression, fraud or malice, express or implied (.); or

2. Caused an injury by the operation of a motor vehicle in violation of NRS 484.379 or 484.3795 after willfully consuming or using alcohol or another substance, knowing that he would thereafter operate the motor vehicle,

And the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

Sec. 10. Chapter 268 of NRS is hereby amended by adding thereto a new section which shall read as follows:

The governing body of each city may enact an ordinance adopting the penalties set forth for misdemeanors in NRS 484.379 for similar offenses under city ordinance."

10. Section A THE VALLEY TIMES Monday, March 30, 1961

AS WE SEE IT*Bob - This
Jim Joyce***Boost Free Enterprise,
Pass Taxi Leasing Bill**

No one would guess it, but there are about 10 bills having to do with taxis and the Nevada Taxi Authority kicking around in the Legislature.

One bill, due to surface this week, would make sweeping changes in the Taxi Authority, giving it a new name and expanding its powers in the field of transportation.

There's a bill to equalize the number of cabs that each of the companies have now; and still another that would enable 30 per cent of the cabs to be owned by individual medallion holders.

THIS NEWSPAPER long ago urged the Legislature to allow the issuance of taxi medallions to individual owner-operators.

The system of private, one-man ownership of cabs works extremely well elsewhere, and we thought it would serve to upgrade the level of both the vehicles and the service in Las Vegas.

But, there has not been much appetite for that in the Legislature in the past and we don't see the mood changing this session.

There is, however, a bill that represents a step in the right direction, and one that we strongly believe deserves passage.

We are referring to SB 396 that would allow any cab company that desires to do so to lease its cabs to individual drivers.

We think it has merit for several reasons.

IN THE FIRST place, it gives individual cab drivers the opportunity to virtually go into business for themselves without a major outlay of capital.

The idea of creating more individual entrepreneurs, more persons working for themselves rather than big companies, seems to us to embody the Nevada spirit.

The chances are that because the cab drivers would be individual contractors, trying to make it on their own, the cleanliness and care of the vehicles would improve, and maybe even the courtesy shown visitors and residents.

The taxi companies would be free to lease their cabs or not, as they desired. The bill does not require leasing. If a company wants to continue to operate as it has without leasing to drivers, it would be free to do so.

Or, the companies would have the option of leasing a portion of their cabs.

OBVIOUSLY there would be certain financial benefits to the cab companies that decide to lease a portion or all of their vehicles, not the least of which is that they will gain financially by not having to treat the drivers as employees for the purposes

of Social Security and withholding taxes and state industrial insurance.

Those are benefits the drivers would have to assume for themselves, just as anyone going into business on their own must do.

It is true to say that Taxi Authority administrator Jim Avason, while not completely opposed to the bill, is not enthusiastic about it. He foresees some problems such as independent drivers failing to respond to calls from certain neighborhoods, substituting other drivers, and failing to keep adequate records.

AS WE SEE IT, however, there are none of those objections that cannot be overcome on a regulatory basis, particularly with the threat of revocation ever present.

Indeed, we are impressed that the bill does not in any way reduce the regulatory control exercised by the Taxi Authority over both companies and drivers.

The independent drivers would still have to be licensed by the Taxi Authority and thus meet all of its requirements.

There are approximately 400 cabs being operated by 12 companies in Southern Nevada. Strangely enough, even though it does not compel them to lease their cabs, several of the larger firms are opposed to this "free enterprise" taxi bill.

IN FACT, the companies have even hired two former Assemblymen, one a Republican and one a Democrat, to lobby against the bill.

Now, we can understand if there were substantive objections from a regulatory standpoint. But we must confess to being a little suspicious when the biggest and the richest of the taxi companies opposes a progressive piece of Legislation that expands our free enterprise system in Nevada, gives the little guy a chance for a piece of the action, and probably would result in better taxi service to tourists and local residents.

The taxi business is an important ingredient in our tourism industry. Anything we can do to help upgrade and improve it should be done.

THE LEASING system works well in a number of major cities, most particularly San Francisco. We think it would work well in Nevada.

We can only hope the Legislature is sufficiently perceptive to see through the selfish, vested interests of a few taxi companies trying to defeat the bill, and instead vote in favor of it. It will be a vote for the free enterprise system in Nevada.

16 LAS VEGAS SUN Monday, April 6, 1961

insight

Las Vegas SUN

EDITOR AND PUBLISHER — H.M. Greenspun
EXECUTIVE VICE PRESIDENT — Mike O'Callaghan
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Better Taxi Service Possible

It seems the Nevada Legislature has finally decided to address a number of problems plaguing Southern Nevada's taxi industry. Not too long ago, the SUN published a series of stories depicting the vicious daily cycle facing some 1,500 Las Vegas cabbies. It is a life filled with a lack of job security. It often includes payoffs to dispatchers for the privilege of getting a taxi in good working condition. Fringe benefits are hard to come by in an industry where most drivers do not belong to unions. And cabbies under Nevada law can't own their own taxis. There is a bill sitting somewhere up North that would allow drivers to own their own cabs, but it doesn't seem likely anything will come of it this session.

Leasing Cabs Possible

What may have more of a chance of making it through the legislature is SB 368 — a proposal that would allow all of the 12 taxi companies to lease cabs to drivers. There's nothing like fostering the free enterprise system in a state that prides itself on the free and independent spirit of its citizens. This bill would allow drivers to operate their own business relatively free of a capital investment. Companies that don't wish to lease cabs don't have to. The State Taxicab Authority can't be too pleased about the bill because it may make it harder for the agency to keep track of the independent drivers. State laws governing the taxi industry were designed to regulate cab companies, not individuals. Companies pay for the medallion rights, submit monthly financial reports to the agency and pay all state taxes.

Cabbies Are Important

But even with of these inconveniences in mind, this hardly makes for an excuse to oppose this free enterprise bill. Drivers still will be licensed by the taxicab authority and subject to its regulations. What the bill will do is give the drivers a little pride in their taxis and probably inspire them to be less hard on their vehicles. They might even keep them cleaner and be more courteous to passengers. The taxi industry has long played a major role in Southern Nevada's lucrative tourism industry. When cabbies are unhappy, it often carries over to the tourists they transport from hotel to hotel. This proposed legislation would only serve to improve the taxi industry. Over the years, this newspaper has led the way in pointing out deficiencies in a sometimes rocky taxi industry that has catered more to big business than the little guy. So when the little guy has spoken out, we've listened. We're listening again. We think it's time the little guy got a fair shake. We hope the legislature passes SB 368 and shows Nevadans the free enterprise system can win in the long run.

Taxicab Bill Goes To Assembly

By CHRIS WOODWARD
SUN Staff Writer

CANSON CITY — A bill to allow taxicab companies to lease their vehicles to independent drivers — a potentially far-reaching measure on the Las Vegas Taxicab Authority — passed the state Senate by a narrow 11-6 margin Wednesday. The bill now goes to the state Assembly and Nevada Gov. Robert List before coming law. Senate Bill 368 would allow low taxi firms to lease the cabs to independent drivers for \$40 to \$60 a shift plus fuel costs. It is a watered-down version of a bill that would have opened the taxicab industry to independent drivers with their own vehicles. Sen. Keith Appworth, D-

Las Vegas, opposed the measure, saying the taxi industry has finally matured after years of strife in Las Vegas and should be left alone. "I feel the cab industry in Clark County has been going well for the last decade," Appworth said. The bill resulted from a request by a Las Vegas cab company that wanted to

lease cabs to drivers who did not work for the firm. After discussion among the companies, "about six cab companies are interested in doing this, the other six are against," Herrostadt reported. He said the state taxicab authority, which already has the power to allow the leasing, is against the measure. Appworth expressed fears that the bill will allow inde-

pendent drivers to operate on the lucrative Las Vegas Strip, when their services might be needed in downtown or West Las Vegas. Sen. Richard Blakemore, D-Tenopah, responded that drivers would still have to take orders from the dispatchers. Sen. Cliff McCurtick, R- Reno, said he supported the

bill because it will allow drivers to act as their own bosses, resulting in cleaner vehicles and more courtesy that makes a good impression for Las Vegas. He described it as a "pro-competition" bill. Besides allowing independent drivers, the bill would also allow the North Las Vegas Cab Co. to operate on the Strip, a run from which they have been barred in the past, Herrostadt said.

SB 368 would be the worst thing that could happen, not only to the cab drivers but to the general public. If you think the cabs are in bad condition now, how will they be if the drivers had to make up for exorbitant leases and pay for gas? They'd never waste the time for repairs on their shift. They'd operate them as quickly as they could until they finished their shift. The companies would lease them the worst cabs and save the best ones for their own operation. An independent owner is the one who'd take care of his equipment, not a driver who leases his cab. Las Vegas wants good service. They better forget about SB 368. PHIL KARY