

MINUTES OF THE  
MEETING OF THE SENATE COMMITTEE  
ON TRANSPORTATION

SIXTY-FIRST SESSION  
NEVADA STATE LEGISLATURE  
March 17, 1981

The Senate Committee on Transportation was called to order by Chairman Richard E. Blakemore, at 2:04 p.m., on Tuesday, March 17, 1981, in Room 323 of the Legislative Building in Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Richard E. Blakemore, Chairman  
Senator William Hernstadt, Vice Chairman  
Senator Joe Neal  
Senator Lawrence Jacobsen  
Senator Wilbur Faiss  
Senator Clifford E. McCorkle  
Senator James H. Bilbray

STAFF MEMBER PRESENT:

Kelly R. Torvik, Committee Secretary

SENATE BILL NO. 369

Mr. Lodi Smith from the Nevada Department of Forestry explained that the purpose of the bill is to allow the Division of Forestry to be included as a regulatory agency which is permitted to stop vehicles for law enforcement. He stated that when the law was enacted the Division of Forestry was overlooked. He felt that it was necessary for the division to have such authority.

Senator Jacobsen felt that it was imperative that the Division of Forestry be granted such authority.

Chairman Blakemore believed that most states allowed their Divisions of Forestry to stop vehicles for law enforcement. Mr. Smith agreed and reiterated that he felt that the exclusion of the division was an oversight.

SENATE BILL NO. 379

Chairman Blakemore asked the committee if it objected to postponing the hearings on the bill until Tuesday, March 24th, because

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certain testimony would be available at that time. There were no objections.

SENATE BILL NO. 83 (See Exhibit C)

Chairman Blakemore directed the committee's attention to a letter from the Reno City Attorney's Office (See Exhibit III of the March 2, 1981 minutes).

Chairman Blakemore explained some recommendations to the bill which he had received from concerned attorneys.

Chairman Blakemore pointed out that if the term "gross" remained in the bill there would most likely be a necessity for a fiscal note because of the strain on the district court. Senator Hernstadt felt that it would only require a fiscal note if it provided for an additional judge. He noted that Mr. Daykin had not felt that a fiscal note was necessary.

Chairman Blakemore stated that the 40 hours of physical labor should be made optional to the counties in order to prevent involuntary servitude. Senator McCorkle stated that Mr. Daykin had said that there was no problem with involuntary servitude within the bill.

Chairman Blakemore noted that the second reprint did not include municipal jails along with county jails. Senator McCorkle stated that it was the intent of the subcommittee not to include municipal courts because Mr. Daykin had explained that branch jails fall under the purview of county jails.

Chairman Blakemore said that the Department of Motor Vehicles and the judges should be required to report to the Legislature the disposition of all persons arrested for a driving under the influence of intoxicants. He explained that this requirement would allow the records to be exposed to the public and therefore provide the public with more information.

Senator Hernstadt felt that all of the recommendations had been addressed by the subcommittee in the first reprint of the bill.

Chairman Blakemore referred to the section of the bill which allows driving permits on the first offense. He was concerned that a violator who is issued a work permit for driving to work would not obey the limitations of that permit. Mr. Hale Bennett, Registration Division, Department of Motor Vehicles, explained

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that the restrictions of the work permit are listed on the permit. He stated that if a violator who has been issued a work permit is found driving under conditions other than those allowed by the work permit he is cited.

Chairman Blakemore suggested that the bill be read by or referred to the Senate Committee on Judiciary for their review as to the legality of the bill. Senator McCorkle felt that referral of the bill to the Senate Committee on Judiciary would create unnecessary delays.

Senator Hernstadt moved that Senate Bill No. 83 receive a do pass recommendation.

Senator Bilbray seconded the motion.

The motion passed. (Chairman Blakemore, Senator Neal and Senator Faiss voted "no".)

Chairman Blakemore felt that the bill was a piece of irresponsible legislation that would not solve the problem of drunken drivers. He stated that some action should be taken to solve the problem. Senator Hernstadt stated that he felt that the sentiment of the Senate was to pass Senate Bill No. 83. He felt that the committee should rely on the competency of the bill drafters to draft a proper and constitutional piece of legislation. Senator Bilbray felt that the bill was a good piece of legislation and if there were any problems with it they would be discovered in the Assembly. Chairman Blakemore felt that it was the committee's obligation to develop a workable piece of legislation.

Senator Hernstadt asked the Chairman if he intended on filing a Minority Report in opposition to the bill. Chairman Blakemore stated that he did not intend to file a minority report.

There being no further business, the meeting adjourned at 2:25 p.m.

Respectfully submitted by:

  
Kelly R. Zorvik

APPROVED:

  
Senator Richard E. Blakemore  
Chairman

Dated: 3/18, 1981

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on Transportation, Room 323.

Day Tuesday, Date March 17, 1981, Time 2:00

S. B. No. 369--Authorizes certain foresters and firewardens to halt motor vehicles.

S. B. No. 379--Strengthens provisions for protection of blind persons in traffic.

SENATE COMMITTEE ON TRANSPORTATION

DATE: 3/17/81

EXHIBIT B

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
GARY WOLFF	NEVADA HIGHWAY PATROL	885-5300
LADY SMITH	NEV DIV OF FORESTRY	885-4350
Roy Trenchard	" " " "	" "
Mrs Fay Licens III	Ops. 5383	
Mrs. [unclear]	"	
Mrs. [unclear]	"	
Mrs. [unclear]	" "	359-5570
Mrs. [unclear]	"	"
Helen Anderson	AAA.	826-8800
B.J. Smith	AAA	826-8800
Jean Kvan	Intern	826-8266
Jane Farringer	Intern	
Charles R. Darnell	Plant Eng. Sen. Reggie	331-1950
Donald Bakout	Intern	
JACK Pieretti	Ops 5383	882-4960

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(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

S. B. 83

SENATE BILL NO. 83—SENATORS McCORKLE, DON ASHWORTH, KEITH ASHWORTH, BILBRAY, BLAKEMORE, CLOSE, FAISS, GETTO, GIBSON, GLASER, HERNSTADT, JACOBSEN, KOSINSKI, LAMB, RAGGIO, WAGNER, WILSON AND ECHOLS

JANUARY 27, 1981

Referred to Committee on Transportation

SUMMARY—Increases punishment for driving under influence of intoxicants. (BDR 43-431)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to traffic violations; increasing the penalties for driving under or refusing a test for the influence of intoxicants; limiting probation or the reduction of charges for so driving; authorizing treatment for alcoholism or drug abuse in lieu of punishment; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 483.460 is hereby amended to read as follows:  
2 483.460 [1.] Unless otherwise provided by law, the department  
3 shall forthwith revoke, for a period of 1 year, the license of any driver  
4 upon receiving a record of [such driver's] *his* conviction of any of the  
5 following offenses, when [such] *the* conviction has become final:  
6 [(a)] 1. Manslaughter resulting from the driving of a motor vehicle.  
7 [(b)] 2. Any felony in the commission of which a motor vehicle is  
8 used, including the unlawful taking of a motor vehicle.  
9 [(c)] 3. Failure to stop and render aid as required under the laws  
10 of this state in the event of a motor vehicle accident resulting in the death  
11 or personal injury of another.  
12 [(d)] 4. Perjury or the making of a false affidavit or statement  
13 under oath to the department under NRS 483.010 to 483.630, inclu-  
14 sive, or under any other law relating to the ownership or driving of  
15 motor vehicles.  
16 [(e)] 5. Conviction, or forfeiture of bail not vacated, upon three  
17 charges of reckless driving committed within a period of 12 months.

1 [(f) A second or subsequent conviction after 3 years but within 7  
2 years of a prior conviction for driving under the influence of intoxicat-  
3 ing liquor or any controlled substance.

4 2. The department shall revoke for 2 years the license of any driver  
5 convicted of a second or subsequent offense within 3 years of a prior  
6 conviction for driving under the influence of intoxicating liquor or any  
7 controlled substance.]

8 SEC. 2. NRS 484.379 is hereby amended to read as follows:

9 484.379 1. It is unlawful for any person who is under the influence  
10 of intoxicating liquor to drive or be in actual physical control of a vehicle  
11 within this state.

12 2. It is unlawful for any person who is an habitual user of or under  
13 the influence of any controlled substance or any person who inhales,  
14 ingests, applies or otherwise uses any chemical, poison or organic sol-  
15 vent, or any compound or combination of any chemical, poison or  
16 organic solvent, to a degree which renders him incapable of safely driv-  
17 ing or steering a vehicle to drive or steer a vehicle within this state. The  
18 fact that any person charged with a violation of this subsection is or has  
19 been entitled to use [such] that drug under the laws of this state [shall  
20 not constitute] is not a defense against any charge of violating this sub-  
21 section.

22 3. [Any person who violates the provisions of this section is guilty  
23 of a misdemeanor and such person's license to operate a vehicle in this  
24 state may, by the decision of the court, be suspended by the department  
25 of motor vehicles for a period of not less than 30 days nor more than 1  
26 year.

27 4. Upon a subsequent conviction within 3 years, the person so con-  
28 victed shall be punished by confinement in the county or municipal jail  
29 for not less than 10 days, nor more than 6 months or by a fine of not  
30 more than \$500 or by both such fine and imprisonment.

31 5. No judge or justice of the peace in imposing sentences provided  
32 for in this section shall suspend the same or any part thereof.] Any per-  
33 son who violates the provisions of subsection 1 or 2, for the first offense,  
34 is guilty of a misdemeanor. Except as provided in subsection 5, the court  
35 shall sentence him to 40 hours of physical labor and order him to attend,  
36 and pay tuition for, educational courses on the use and abuse of alco-  
37 hol and controlled substances approved by the department of motor vehi-  
38 cles, and shall also:

39 (a) Direct the department of motor vehicles to suspend his driver's  
40 license for a definite period of not less than 90 days nor more than 1 year  
41 and not to allow him any limited driving privileges unless his inability to  
42 drive to and from work or in the course of his work would cause extreme  
43 hardship or prevent his earning a living; or

44 (b) If he was not a holder of a valid driver's license at the time he com-  
45 mitted the offense, and this lack resulted from any violation of this sec-  
46 tion, NRS 484.3795 or NRS 484.385, sentence him to imprisonment for  
47 not less than 30 days in the county jail and consider this aggravating cir-  
48 cumstance in imposing a fine.

49 The court may specify how the required labor is to be supervised and  
50 may take into account any physical limitations of the violator.

1 4. Any person who violates the provisions of subsection 1 or 2, for  
2 the second offense, within 3 years after his first offense, is guilty of a gross  
3 misdemeanor, and except as provided in subsection 5, the court shall:

4 (a) Sentence him to imprisonment for not less than 15 days nor more  
5 than 6 months in the county jail, fine him not less than \$1,000 and direct  
6 the department of motor vehicles to suspend his license for not less than  
7 6 months and not allow him any limited driving privileges; or

8 (b) If he was not the holder of a valid driver's license at the time he  
9 committed the offense, and this lack resulted from any violation of this  
10 section, NRS 484.3795 or NRS 484.385, sentence him to imprisonment  
11 for not less than 30 days in the county jail and consider this aggravating  
12 circumstance in imposing the fine.

13 5. Except as limited in this subsection, upon any conviction for a vio-  
14 lation of this section, the court shall sentence the violator to undergo  
15 specified treatment:

16 (a) For alcoholism if he is determined to be an alcoholic by a licensed  
17 physician certified for that purpose by the board of medical examiners; or

18 (b) For drug abuse if he is determined to be a drug abuser by a coun-  
19 selor certified for that purpose by the bureau of alcohol and drug abuse  
20 in the rehabilitation division of the department of human resources,  
21 and the violator elects to undergo the treatment and pay for his examina-  
22 tion and treatment. The court shall also direct the department of motor  
23 vehicles to suspend the violator's license until he satisfactorily completes  
24 the treatment, as determined by the court. If the violator does not satis-  
25 factorily complete the treatment, he must be sentenced according to sub-  
26 section 3, 4 or 6 as appropriate. A violator may elect treatment under  
27 this subsection only once in any period of 5 years.

28 6. A person who has elected treatment pursuant to subsection 5 who  
29 drives a motor vehicle upon a highway in this state while his license is  
30 suspended for any violation of this section, NRS 484.3795 or NRS  
31 484.385, and except as provided in subsection 5 any person who violates  
32 the provisions of subsection 1 or 2, for the third or any subsequent offense  
33 within 3 years after his most recent prior offense, shall be punished by  
34 imprisonment in the state prison for not less than 1 year nor more than  
35 6 years and must be further punished by a fine of not less than \$2,000  
36 nor more than \$5,000. A person so imprisoned must be segregated inso-  
37 far as practicable from offenders whose crimes were violent, and must be  
38 assigned to an institution of minimum security or, if space is available, to  
39 an honor camp or similar facility.

40 7. No person convicted of violating the provisions of subsection 1  
41 or 2 may be released on probation. No sentence imposed for violating  
42 the provisions of subsection 1 or 2 may be suspended. No prosecuting  
43 attorney may dismiss a charge of violating the provisions of subsection  
44 1 or 2 in exchange for a plea of guilty or nolo contendere to a lesser  
45 charge or for any other reason unless he knows or it is obvious that the  
46 charge is not supported by probable cause or cannot be proved at the  
47 time of trial.

48 [6.] 8. Any term of confinement imposed under the provisions of  
49 [subsection 4] this section may be served intermittently at the discretion  
50 of the judge or justice of the peace. This discretion [shall] must be



1 exercised after considering all the circumstances surrounding the offense,  
2 and the family and employment [situation] of the person convicted [.]  
3 However, the full term of confinement shall] , but any sentence of 30  
4 days or less must be served within [a 6-month period] 6 months from  
5 the date of conviction, and any segment of time the person is confined  
6 [shall] must not consist of less than [a 24-hour period.] 24 hours.

7 [7.] 9. Jail sentences simultaneously imposed under this section [.]  
8 and NRS 483.560 or 485.330 [, shall] must run consecutively.

9 Sec. 3. NRS 484.3795 is hereby amended to read as follows:

10 484.3795 1. Any person who, while under the influence of intoxi-  
11 cating liquor, or a controlled substance as defined in chapter 453 of  
12 NRS, or under the combined influence of intoxicating liquor and a con-  
13 trolled substance, or any person who inhales, ingests, applies or other-  
14 wise uses any chemical, poison or organic solvent to a degree which  
15 renders him incapable of safely driving or steering a vehicle, does any  
16 act or neglects any duty imposed by law while driving or in actual phys-  
17 ical control of any vehicle, which act or neglect of duty proximately  
18 causes the death of, or substantial bodily harm to, any person other than  
19 himself, shall be punished by imprisonment in the state prison for not  
20 less than 1 year nor more than 6 years [, or] and must be further pun-  
21 ished by a fine of not less than \$2,000 nor more than \$5,000. [, or by  
22 both fine and imprisonment.] A person so imprisoned must be segre-  
23 gated insofar as practicable from offenders whose crimes were violent,  
24 and must be assigned to an institution of minimum security or, if space  
25 is available, to an honor camp or similar facility.

26 2. No prosecuting attorney may dismiss a charge of violating the  
27 provisions of subsection 1 in exchange for a plea of guilty or nolo con-  
28 tendere to a lesser charge or for any other reason unless he knows or it  
29 is obvious that the charge is not supported by probable cause or cannot  
30 be proved at the time of trial. A sentence imposed pursuant to subsec-  
31 tion 1 may be suspended and probation granted only if the violator has  
32 not previously violated this section, NRS 484.3795 or NRS 484.385  
33 within 5 years. If probation is granted, the court shall order:

34 (a) The department of motor vehicles to revoke the violator's license  
35 and never issue him another; and

36 (b) The violator to pay a specified amount not less than \$5,000 into  
37 court for the benefit of the person injured or killed.

38 Sec. 4. NRS 484.385 is hereby amended to read as follows:

39 484.385 1. If a person under arrest refuses to submit to a required  
40 chemical test as directed by a police officer under NRS 484.383, none  
41 shall be given; but the department of motor vehicles, upon receipt of a  
42 sworn written statement of such officer that he had reasonable grounds to  
43 believe the arrested person had been driving a vehicle upon a highway  
44 while under the influence of intoxicating liquor or a controlled substance  
45 and that [such] the arrested person refused to submit to such test upon  
46 the request of [such] the officer, shall immediately notify the person by  
47 mail that his privilege to drive is subject to suspension and allow him 15  
48 days after the date of mailing such notice to make a written request for a  
49 hearing. If no request is made within [such] the 15-day period, the  
50 department shall immediately:

1 (a) Suspend [such person's] *his* license or instruction permit to drive  
2 for a period of [6 months;] *1 year*;

3 (b) If [such person] *he* is a nonresident, suspend his privilege to drive  
4 a vehicle in this state for a period of [6 months] *1 year* and inform the  
5 appropriate agency in the state of his residence of such action; or

6 (c) If [such person] *he* is a resident without a license or instruction  
7 permit to drive, deny [to such person] *him* the issuance of a license or  
8 permit for a period of [6 months] *1 year* after the date of the alleged  
9 violation.

10 2. If the affected person requests that the hearing be continued to a  
11 date beyond the period set forth in subsection 1 of NRS 484.387, the  
12 department shall issue an order suspending the license, privilege or per-  
13 mit to drive a motor vehicle, which [suspension shall be] *is* effective  
14 upon receipt of notice that the continuance has been granted.

15 3. The suspension provided for in subsection 1 [shall become]  
16 *becomes* effective 10 days after the mailing of written notice thereof by  
17 [such] *the* department to any such person at his last-known address.

18 4. Notice of intention to suspend, notice of an order of suspension  
19 and notice of the affirmation of a prior order of suspension provided  
20 in NRS 484.387 is sufficient if it is mailed to the person's last-known  
21 address as shown by any application for a license. The date of mailing  
22 may be proved by the certificate of any officer or employee of the depart-  
23 ment of motor vehicles, specifying the time of mailing the notice. Such a  
24 notice is presumed to have been received upon the expiration of 5 days  
25 after it is deposited, postage prepaid, in the United States mail.

26 SEC. 5. NRS 616.082 is hereby amended to read as follows:

27 616.082 Any person [less than 18 years of age] who is subject to  
28 the jurisdiction of [the juvenile division of the district] *a* court and who  
29 has been ordered by the court to do work, [and] while engaged in such  
30 work and while so acting in pursuance of the court's order, shall be  
31 deemed, for the purpose of this chapter, an employee of the county at a  
32 wage of \$50 per month, and [shall be] *is* entitled to the benefits of this  
33 chapter, upon compliance by the county.