

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON TRANSPORTATION

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 5, 1981

The Senate Committee on Transportation was called to order by Chairman Richard E. Blakemore, at 2:05, on Thursday, March 5, 1981, in Room 323 of the Legislative Building, 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 E. Jacobsen
Senator Wilbur Faiss
Senator Clifford E. McCorkle
Senator James H. Bilbray

STAFF MEMBER PRESENT:

Kelly R. Torvik, Committee Secretary

SENATE BILL NO. 60

Senator Joe Neal noted that this was not the first attempt to pass legislation which would prohibit the use of electronic devices for issuance of citations for excessive speed on Nevada's roadways. He stated that it has been proven that radar units used for the detection of speed can be up to 30 percent inaccurate. He mentioned that electrical radiation, two-way radios, low power citizens band radios and audible high pitched noises can influence inaccurate readings from a radar unit. Senator Neal stated that unknown factors could have an effect on the readings from a radar unit. Radar units respond to sound vibrations. Senator Neal pointed out that because of these inaccuracies there is a possibility of a law enforcement officer citing a driver who was driving within the speed limit. He stated that the radar beam will not always register the fastest automobile or the first automobile within a group. The radar beam registers the strongest signal, which could be the largest vehicle. He said that the co-sign error can also lead to inaccuracies. Senator Neal felt that if the reading from the radar unit is going to be used to convict a driver of speeding the reading must be accurate

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beyond a reasonable doubt. He felt that there is a considerable amount of doubt as to the accuracy of a reading from a radar unit. Senator Neal supplied the committee with information which disputed the accuracy of radar. (See Exhibits C, D, E and F). Senator Neal stated that the radar units are not the only method available to law enforcement agencies for the detection of automobile speed. Preventative measures are also available. He pointed out that the majority of the radar units within the state were purchased with federal funds. There is a possibility of these federal funds not becoming available because of federal budget cuts.

Senator Hernstadt asked why all electronic devices were prohibited within the bill. Senator Neal stated that the bill is addressing electronic devices which can be inaccurate.

Senator Neal presented a documentary film to the committee entitled, "Beyond a Reasonable Doubt," produced by the Channel Nine News in Denver, Colorado. This film disputed the accuracy of radar units used to detect the speed of automobiles. The film emphasized the following points which contribute to the inaccuracy of readings from a radar unit: 1) width of the beam, and; 2) radio transmissions and other vibration interference in the environment. Tests showed that the largest vehicle is detected rather than the fastest vehicle. The film disputed that the manual supplied with the radar units does not explain the inaccuracies of the units to the operator. There was a statement made within the film which explained that many citizens do not dispute a citation issued on the basis of a radar unit reading because the drivers believe that the radar must be correct.

Senator Hernstadt noted that it is a common television industry practice during rating periods to televise controversial issues in order to raise viewer ratings. Senator Neal pointed out that the man who developed the radar units testified that the system could be inaccurate.

Senator Hernstadt stated that the radar units have been proven inaccurate on multi-lane roadways and suggested that the units not be used in areas where there is a high risk of inaccuracy. He also noted that if the units are operated properly it will eliminate the inaccuracies. Senator Neal stated that drivers are being convicted of excessive speed charges because of a radar unit which could give an inaccurate reading.

Senator Hernstadt stated that during the 1979 legislative session he operated a radar unit, through the Nevada Highway Patrol, and he was convinced that if the unit is operated properly that it

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would give accurate readings. Senator Neal stated that he also went with the Highway Patrol during the previous session and operated a radar unit. He noted that while the system is being operated properly there is still the question of which automobile is being registered.

Senator Bilbray stated that many of the law enforcement agencies feel that the radar unit is an indispensable tool for slowing traffic in high-accident areas. He noted that the operator of the unit must be trained and tested on the use of the unit. Senator Neal again pointed out that the radar unit should not be used to cite drivers for exceeding the speed limit because the possible inaccuracies of the device do not prove beyond a reasonable doubt that the driver was exceeding the speed limit. The law enforcement officer who is operating the unit is incapable of determining what factors may interfere with the accuracy of the radar unit.

Senator Bilbray noted that the radar unit reading is only one factor of the conviction of a driver exceeding the speed limit. The officer's testimony that he observed the automobile moving at an excessive rate of speed is another factor. Senator Neal pointed out that drivers are not aware of the inaccuracies of the radar units and therefore do not challenge the citations that they receive due to a radar unit reading.

Douglas County Sheriff Jerry Maple noted that law enforcement officers who are operating the radar units use their judgement to offset the inaccuracies of the units. He stated that the majority of the complaints he receives as sheriff are in regard to excessive speed. He stated that radar is the only system available for controlling speed which, unlike the chase method, is not dangerous. He felt that radar is necessary to control the speed of automobiles.

Senator Neal asked Sheriff Maple if he admits the inaccuracies of the radar units. Sheriff Maple stated that during his own experience of operating a radar unit he has picked up a radar unit reading from the transmission of his automobile. He stated that the inaccuracies are within the operator of the radar unit. Training is where the inaccuracies are corrected.

Senator Hernstadt asked how much training the traffic officers in Douglas County receive in regard to the use of radar units. Sheriff Maple stated that his traffic officers are currently in the process of completing the Nevada Highway Patrol training for the operation of radar units.

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Senator Jacobsen asked Sheriff Maple what percentage of traffic citations radar units are responsible for. Sheriff Maple stated that the county issues approximately 600 citations per month. 90 percent of the citations issued for exceeding the speed limit are accounted for by the use of radar. Very few radar related citations are challenged in court. Sheriff Maple noted that the officer's testimony and amount of training the officer has had in the operation of a radar unit is very important in the decision of the court to sustain a citation issued in accordance with a radar unit.

Senator Jacobsen asked how much money Douglas County has invested in the radar units. Sheriff Maple explained that 95 percent of the units were purchased by the state.

Colonel Pete Zadra and Trooper Gary Wolff provided the committee with information regarding the operation of radar units. (See Exhibits G and H). Colonel Zadra explained that the federal funding used to purchase the state's radar units will continue to be available to the Nevada Highway Patrol for the purchase and maintenance of radar units. As of March 3, 1981 the Nevada Highway Patrol has certified 116 operators statewide and another 142 prospective operators are undergoing training at the present time. Colonel Zadra stated that the inaccuracies stated within the film presented by Senator Neal are not problems with a properly trained officer and a properly calibrated radar unit. Colonel Zadra explained the training and certification process officers must complete before they can operate a radar unit for citation purposes.

Senator Faiss asked what is the average age of the radar units. Trooper Wolff stated that the average age is two years. He stated that the Nevada Highway Patrol has radar technicians available to maintain the radar units.

Senator Faiss asked if any improvements have been made in the radar units during the last two years. Trooper Wolff explained that very few improvements have been made since 1949.

Senator Neal asked if the Bureau of Standards had approved the use of radar units. Colonel Zadra stated that the Bureau of Standards had only tested the various radar units in operation in the United States today. He stated that the type of radar unit used by the Nevada Highway Patrol was tested and determined adequate to be used for the purpose for which it was designed. Trooper Wolff stated that the bureau has developed guidelines which must be followed in order to determine that the radar unit is acceptable.

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Colonel Zadra explained that the National Bureau of Standards tested the radar unit used by the Nevada Highway Patrol and the radar unit was determined to be on the level of efficiency for that particular type of unit.

Senator Hernstadt noted that the Nevada Highway Patrol suspended the use of radar units for a short period of time during 1980. He asked why the use of radar units was suspended and what caused the patrol to reinstate the use of radar units. Colonel Zadra stated that there was an indication of a problem with the radar units. Six officers were sent to a training and evaluation program in Utah and it was determined that the radar units could be used properly with additional training to the operators.

Senator Jacobsen asked if radar is considered a important tool used to meet the federal compliance level in order to qualify for federal funds. Colonel Zadra stated that the use of radar units allowed Nevada to meet the compliance level set forth by the federal government. Senator Jacobsen felt that although the radar units have some inequities, they are a necessary tool for law enforcement agencies. He stated that the wording in the bill which stated that the law enforcement agencies may not use any electronic device could be contrued to include the use of automobiles which have electronic components.

Senator Neal asked Colonel Zadra what specific statute allows the Nevada Highway Patrol to use the radar units. Colonel Zadra believed that there was no such statute. He pointed out that the law gives the patrol the authority to enforce the speed laws of the state.

Senator Neal asked if a citation indicates if a radar units was used to determine the speed. Colonel Zadra stated that it is indicated on the citation that the speed was determined by a radar unit. He pointed out that the fact that the speed was clocked by radar, by itself, according to policy is not enough cause for the officer to issue a citation. The officer is required to observe and identify the speed violator, estimate the distance of the violator within 20 percent and he is required to visually estimate the speed of the violation within 5 percent.

Senator Neal asked if the citation becomes a complaint once it is issued. Colonel Zadra pointed out that some courts within the state do not accept a citation as a legal complaint. In the cases of a not guilty plea the patrol must obtain a legal complaint through the district attorney's office for use in the courts which do not accept the citation as a legal complaint.

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Senator Neal asked if the citation becomes evidence that a driver was exceeding the speed limit. Colonel Zadra explained that the citation becomes record that action was taken. When there is a not guilty plea the evidence that the driver was exceeding the speed limit is the officer's testimony.

Senator Neal asked if the Nevada Highway Patrol training program meets the standards for the training of radar unit operators. Colonel Zadra stated that he believed that the Nevada Highway Patrol training program currently exceeds the standards for training radar unit operators. He stated that it is the intention of the patrol to continually exceed the minimum standards.

Larry Ketzenberger from the Las Vegas Metropolitan Police Department urged the committee to retain the use of radar units as a tool for enforcing the speed limit in municipalities. He believed the second greatest cause of accidents in Clark County is excessive speed. He said that radar is the best tool available to reduce accidents and personal injury. He stated that the department receives numerous requests to use radar in a particular area to reduce the speed of traffic for safety reasons.

Senator Neal asked what are the requirements for training of the police officers in the Las Vegas Metropolitan Police Department. Mr. Ketzenberger stated that he is advised that all officers who use radar units have been through the Nevada Highway Patrol sponsored school on the use of radar units. He stated that he would not object to mandatory training of officers in the use of radar units.

SENATE BILL NO. 159

Sharon Alcamo representing the Driver's License Division of the Department of Motor Vehciles stated that Senate Bill No. 159 contains six pieces of legislation which are departmentally sponsored. She explained that on page one, lines three through seven the department would be allowed to supply a list of licensed drivers in any county upon the request of the district judge for the selection of jurors. There would be a reasonable fee charged for the list. She stated that this would eliminate the problems that arise because of lack of information on automobile registration lists which are currently supplied to the courts for the selection of jurors. She recommended that the committee not abolish the provision for the use of registered owners lists until it was determined that the drivers license list would be adequate.

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Senator McCorkle asked why the registered voters list is not used. Senator Hernstadt explained that the registered owners list is used in addition of the registered voters list.

Ms. Alcamo explained that the second change requires that social security numbers be provided on conviction reports that are received from the courts. This would provide each person in the state with an individual number for identification.

Ms. Alcamo stated that the third and fourth changes are combined. The first change is on page two, line 28, and requests that the word "forthwith" be removed from the law in regard to the period of time within a license may be revoked. The change on page four, lines 47 through 49, is requested to provide the language, "Whenever the department suspends or revokes a license the period of suspension or revocation begins upon the effective date of the revocation or suspension as contained in the notice thereof." The reason the change is being requested is that the statute does not provide any specific language for when a suspension or revocation does become effective and the lack of such language has caused problems in terms of when the revocation or suspension actually becomes effective. If the effective date is retroactive the violator is not serving the entire term which is required by the court.

Ms. Alcamo explained the fifth change on page three, lines 15 through 20. This change is in regard to the suspension of licenses for failure to appear in court. There is a large problem with violators not appearing in court or paying their fines for violations. She explained that there is not enough manpower to serve the warrants for a violator to appear in court and, therefore, no penalty is assessed against the violator. She stated the change is proposing that the driver's license be suspended or revoked upon notice from the court that the violator has not appeared. The driver's license would be reinstated upon notice from the court that the violator has appeared before the court.

Senator Bilbray felt that suspension of a license for failure to appear is very harsh punishment.

Senator Neal asked Ms. Alcamo why the department has the obligation to see that a violator appears before the court. Ms. Alcamo stated that such a responsibility is being assumed by driver's license divisions throughout the country. She explained that the courts will continue to use all the remedies available to them to force the violator appear. The driver's license division will not send out failure to appear notices until the court has exhausted all of its resources to get the violator to appear.

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Senator Neal pointed out that the violation to appear creates a new charge upon the violator and the suspension of the license is punishment while the violator still hasn't appeared to plead his case. Ms. Alcamo felt that this would deter violators from failing to appear before the court. Senator Herstadt explained that the suspension is not punishment because it would be reinstated as soon as the matter was settled. Senator Neal explained that by allowing the department to suspend a driver's license because of a failure to appear before the court would give the department a judicial function which it should not have.

Ms. Alcamo explained the sixth change on page five, lines 18 and 19, and lines 22 and 23. She stated that it removes wording which would require an additional revocation or suspension that a violator received for driving with a revoked or suspended driver's license be consecutive and follow the original suspension or revocation term. There are cases when the original suspension or revocation term has ended and due to the lag time for processing the additional revocation or suspension the violator does not serve the entire term of suspension or revocation. The new language would allow the division to begin the additional revocation or suspension term upon the date of the action so that the entire term is served by the violator.

SENATE BILL NO. 44

Chairman Blakemore pointed out that Senator Getto had discovered that there is no need for Senate Bill No. 44. The division currently has the ability as provided in the bill and therefore it is not necessary. Ms. Alcamo agreed.

SENATE BILL NO. 298

Mr. Daryl Capurro, Executive Director, Nevada Franchised Dealers Association, indicated to the committee that the bill was not drafted in accordance with the request to the bill drafter. (See Exhibit I). He explained that the purpose of the bill is to allow non-resident manufacturers a special license plate. This would solve the question of what type of identification to put on a vehicle which is owned by an out-of-state manufacturer but maintained in Nevada.

Senator Herstadt asked who will pay the privilege tax for the vehicle. Mr. Capurro explained that the first retail owner will pay the privilege and sales tax. There is no loss of revenue to the agencies involved.

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SENATE JOINT RESOLUTION NO. 24

Senator Hernstadt stated that the resolution asks the federal government to allow the states to set their own speed limit.

SENATE CONCURRENT RESOLUTION NO. 9 (See Exhibit J)

Senator Bilbray pointed out that the Department of Transportation felt there has been enough studies on the possible exemption of certain petroleum-ethonal mixtures from the motor vehicle fuel tax.

Senator McCorkle moved to indefinitely postpone Senate Concurrent Resolution No. 9.

Senator Hernstadt seconded the motion.

The motion passed unanimously.

SENATE BILL NO. 83 (See Exhibit K)

Senator McCorkle explained the amendments to Senate Bill No. 83 which the subcommittee of Senator McCorkle, Senator Jacobsen and Senator Bilbray drew up. (See Exhibit L).

Senator Hernstadt moved that the bill be reprinted with the amendments and re-referred to the committee.

Senator McCorkle seconded the motion.

The motion passed unanimously.

There being no further business, the meeting adjourned at 4:40 p.m.

Respectfully submitted by:


Kelly R. Torvik

APPROVED:


Senator Richard E. Blakemore
Chairman

Dated: 3/10, 1981

SENATE AGENDA

COMMITTEE MEETINGS

Committee on Transportation, Room 323.
Day Thursday, Date March 5, Time 2:00

S. B. 60--Prohibits use of electronic devices to enforce speed limits.

S. B. 159--Changes certain provisions of law relating to driver's licenses.

S. B. 44--Provides for restricted driver's license where license suspended for nonpayment of judgement.

S. B. 298--Makes nonresident manufacturers eligible for special license plates.

S. J. R. 24--Memorializes Congress to permit states to set speed limits on highways.

S. C. R. 9--Directs study of possible exemption of certain petroleum-ethonal mixtures from motor vehicle fuel tax.

Faster than a speeding tree!

MIAMI (AP) — Motorists caught speeding by radar-type devices used by the Florida Highway Patrol and other police in Dade County had their trials postponed Wednesday after judges were shown a film in which a tree was clocked at 86 mph.

In another example shown to Judge Alfred Nesbitt and other county judges, a house was clocked at 28 mph.

The films were made by reporters for Miami television station WTJV, which is broadcasting a series on potential problems, including the accuracy, of the radar-type speed detection devices.

"Acting in my capacity as administrative judge, I have ordered that radar ticket cases be postponed until both sides have an opportunity to present evidence in court," Nesbitt said.

He said a test case would be selected soon in which defense attorneys and representatives of the Highway Patrol or other police agencies would be called to testify about the accuracy of the devices.

It could not immediately be determined what kind of devices were used in the television demonstration.

The order applied only to Dade County — Florida's most populous — but Nesbitt said he wouldn't be surprised if judges in other counties took similar action.

Bob Mayer, a reporter for WTJV, said the series showed that the most common devices used by the Highway Patrol could be adversely affected by radio

transmissions from Citizens' Band radios and other devices.

Florida Highway Patrol Director Eldrige Beach said in Tallahassee that he wanted any questions about the devices' accuracy resolved, but he was confident that no serious problem existed.

"There's some doubt in their (judges') minds, but there's no doubt in our minds," Beach said. "We're going to continue using the radar."

Asked what the effect could be on cases in which motorists caught by radar were recently convicted, Nesbitt said, "They could petition for a rehearing and those petitions would be heard at the same time as the new ones will be."

San Francisco Chronicle
April 25, 1974

'Assembly Unit Kills Radar for CHP'

Sacramento

An Assembly committee killed a measure yesterday to give legislative blessing to the California Highway Patrol's bid for radar to help catch highway speeders.

After the action, CHP Commissioner Glen Craig told reporters, "It looks like radar is dead for this year and maybe many years to come."

By a 7-to-3 vote, the Assembly Transportation Committee sent the resolution to legislative limbo by

voting to send it to study during the interim recess when the Legislature is not meeting.

The measure would have given legislative approval to a CHP application for federal funds to install radar on 1200 patrol cars, at about \$2000 per car.

California is the only state whose highway patrol doesn't use some electronic system to catch speeders. Opponents, led by the Teamsters Union, have been able to

kill similar measures for several years.

The vote came after critics denounced the measure, by Assemblyman Jim Ellis, R-San Diego, as paving the way for "Gestapo tactics" and "overkill" in ticket-giving.

Assemblyman Lou Papan, D-Millbrae, led an attack on the bill, saying the CHP should concentrate on helping motorists, not adding to the 1.1 million speeding tickets it gives each year. *Associated Press*

Movement to Outlaw Radar On US Highways Speeds Up

By LaRoy Pope

The movement to outlaw the use of radar on the nation's highways is gaining momentum.

Anti-radar activists are out to make radar evidence inadmissible in court, on the grounds that even the most up-to-date police radar devices are not capable of properly identifying a speeding automobile in traffic.

At stake are millions of dollars in fines collected from speeders on the basis of radar evidence and millions of dollars worth of radar equipment sales—much of which is subsidized by the Department of Transportation—to state and local police. Also at stake is the national 55-mph speed limit initiated as a fuel conservation measure, which still arouses bitter controversy.

Some anti-radar activists just don't believe in the 55-mph speed limit and think that without police radar it couldn't exist. Others, like an official of Goodyear Tire & Rubber Co. who complained about his personal experience with police radar in New Jersey, say it is grossly unfair and inaccurate.

Recently, he said, a police radar gun overestimated the speed at which he was traveling by more than 10 mph. He is sure the radar reading came from another car—but fighting the case would have cost him up to \$10,000 in legal and research fees, he said.

The controversy has grown more heated in the two years since the Federal Department of Transportation began subsidizing the purchase of police

radar devices, made by several firms including Kustom Signals Inc. of Shawnee Mission, Kan., and MPH Industries of Canute, Kan. The police radar devices sell for from \$400 to just under \$3,000. States that use them may order several hundred at a time.

Radar manufacturers are willing to spend considerable sums defending their reliability in the courts, says Patrick Bedard, a writer for the national automotive magazine *Car and Driver* of Ann Arbor, Mich., which has been carrying the ball in the anti-radar campaign. Sandra Hartley, legal counsel for Kustom Electronics, parent firm of Kustom Signals, says Kustom has provided expert witness to the police at times to back up radar evidence.

Unconstitutional

Anti-radar activists include lawyers and judges who say the radar speed trap violates the search and seizure provisions of the Constitution.

Bedard says he has discovered that cops are commonly coached by their superiors to testify that they suspected the ticketed car of speeding before aiming the radar gun at it. Otherwise, the judge might dismiss the case on the grounds of entrapment.

But, he says, what usually happens is that a hidden radar device homes in on the car as it comes over a hill or around a curve.

Lt. Joseph Kobus of the New Jersey State Police said that in a test case, the New Jersey Supreme Court ruled

radar evidence valid provided that evidence in court showed that the officer using it had been thoroughly trained in its use and in its legal limitations.

Mike Knepper, executive editor of *Car and Driver*, says the magazine's campaign has received a huge public response. But he concedes that outlawing the use of police radar evidence against speeders probably would have to result from action by consumerists and civil rights groups.

"Radar doesn't point a finger at any particular car," Bedard charges. That, he contends, makes radar's admissibility as evidence dubious, although he concedes that radar can be reliable in catching speeders when it is used under perfect conditions—and not in heavy traffic, as is usually the case.

Among other contentions of anti-radar activists:

- While the police and radar manufacturers insist that radar always picks up the front car in a line of traffic, road tests by *Car and Driver* indicate that the signal may bounce back from a truck or larger car behind the lead car. The cops will mistakenly stop and ticket the lead car, which may be traveling at legal speed.

- A low-slung car, such as the Chevrolet Corvette, may go right under the radar signal, which would make radar discriminatory and its use possibly unconstitutional.

- Police radar devices are subject to all sorts of interference which can make them highly unreliable. Defroster

fans or some other part in the police car or another car, police radio and even citizens band radio can throw the radar out of kilter and make it show higher speed levels than the targeted vehicles actually are moving at.

Radar Jammers

According to *Car and Driver*, police radar can be deliberately jammed and distorted by motorists and made inaccurate and hence unreliable as legal evidence. Although it is against the law to make devices to jam police radar, several companies do manufacture and bootleg "jammers."

Through a quirk in the law, it is not illegal to sell kits to make radar jammers although it is illegal to assemble the kit and put the device to work in your car. It's also expensive. You need several jammers at around \$400 each to be successful at it and if you get caught, you're in real trouble.

Knepper and Bedard said the mere fact that it is possible to jam the radar and that the police can have no way of knowing if there is a jammer somewhere around "could prove the end of the arch-enemy of speeders."

Until that time, many motorists will continue to depend on radar detectors—which are legal—to warn them that they are approaching a police radar installation, either fixed or mobile, so that they can slow down and avoid a speeding ticket. Several dozen, of varying effectiveness, are now on the market for between \$110 and \$250.

EXHIBIT F
IN THE COUNTY COURT
IN AND FOR DADE COUNTY FLORIDA

THE STATE OF FLORIDA,
Plaintiff,
vs
ANA AQUILERA, (AND CONSOLIDATED)
CASES)
Defendant.

- CASE NOS: 711-101S, 309-104S, 711-307S
496-904R, -644-372P, 332-088Y
725-391S, 622-863S, 829-297X
132-781Y, 956-402X, 383-145T
634-395S, -123-764S, 233-748S
360-809S, 892-382S, 340-269S
239-297Y, 433-475Y, 257-431S
696-977S, 357-500S, 640-416S
115-325S, 250-708S, 429-646Y
647-109X, 163-947Y, 430-798Y
628-352T, 616-725X, 862-406R
160-543Y, 924-944S, 339-114S
649-601X, 713-798S, 381-575T
721-546S, 628-238T, 32-7-11
027-343Y, 922-484S, 21-466P
715-593S, 724-088S, 15-201Y
630-823S, 922-147X, 164-103Y
924-561S, 274-986S, 327-364Y
888-320S, 296-236T, 89-270S
742-142S, 427-996Y, 740-304E
897-418S, 240-683S, 894-357S
240-974Y, 730-504S, 296-143T
869-204S, 295-304T, 737-886S
910-199S, 302-805Y, 42-204T
631-951T, 242-194S, 356-319S
361-942S, 238-100Y, 790-215R
743-461S, 239-062Y

ORDER GRANTING MOTIONS TO SUPPRESS AND/OR EXCLUDE

THIS CAUSE came on to be heard on the Defendants' Motions to Suppress and/or Exclude the results of radar speed measuring devices with both the Defendants and the State presenting expert testimony and introducing exhibits to support their respective positions.

At the outset, Messrs Michael Laderberg and Paul Tunis for the Defendant's office and Mr. Ken Drucker for the State Attorney's office are to be commended for affording the Court an opportunity to truly be informed of the issues in this complex case of first impression, without the necessity of hurdling technical obstacles since all parties have agreed to waive most legal niceties in the search for reasonable answers to the questions involved. Although there have been a few challenges to radar readings in other courts, I say case of first impression because, as far as has been determined, this is the first time that any court has been presented so much testimony and exhibits from so many highly qualified experts summoned from all parts of the country. This is undoubtedly due to the fact that no single defendant can afford the tremendous cost in money and time to produce such a defense to a speeding charge.

The Court has heard over two thousand pages of testimony and arguments, and has also examined thirty-three exhibits presented by highly trained and experienced specialists in the fields of mathematics, electrical engineering, and the design, construction and testing of radar devices. Of course, the various and many times diverse opinions of these renowned experts must be tempered by their respective interests in the results of this hearing.

At this point, let us understand that this hearing has dealt only with radar used by police as speed measuring devices in its present mode. There has been no argument with the Doppler system itself, but only as to its use by the current units. Although not having an, real bearing on the questions before the court except, perhaps, to emphasize the arguments herein, there has been an apparent belief throughout this hearing that these devices can and should be improved to the extent that they are accurate and identification of the target vehicle can be readily made, under any conditions. Undoubtedly, the manufacturers with their scientific and financial resources can accomplish this in the very near future. The prime inhibition against such success is the quoted awareness that the Purchasing Agents at all levels of the Government seem to place economy ahead of quality. If this is true, it is a disservice to the motoring public, and can place the courts in an untenable position. As the court said in Wisconsin v. Hanson, No. 76-061, 1978, "For the average law abiding American citizen, speed traffic offenses constitute a only a small part of the burden with the law enforcement and judicial systems. Public confidence upon the fairness of such proceedings...fairness dictates that contested prosecutions are conducted according to meaningful standards, which insure the instrument's accuracy. Although the Court there referred to certain guidelines, I feel it is equally applicable to the use of inadequate specifications for the evidentiary speed measuring unit.

With respect to the desire for economy, we should refer to the testimony of Mr. Sargent, a manufacturer's official, who indicated that for a quantity purchase, they would like to see the price of the unit drop to \$2,000 per unit from the \$2,500 per unit. It is interesting to note that this would be a strange profit sure thing, if the unit were to be sold at the

central purchasing office on the state level for radar units so that advantage can be taken of such substantial reductions. The total number of units required could be determined by the requisition from the various lower governmental entities who would then pay for their share at the discount price. Thus the savings would, at least in part, offset the increased cost of the improved product. In line with this procedure, I would then urge such agency to retain the services of independent, highly skilled radar engineers to establish sufficiently high standards of specifications so that accuracy of speed readings and exact identification of the target vehicle will be assured under any conditions.

I recognize that many millions of dollars in revenue are involved in "speeding" fines but let it be understood once and for all, the function of the traffic court is to convict the guilty, acquit the innocent, and improve traffic safety but not to be merely an arm of any revenue collection office. At the same time, if the errors alleged by the opponents of radar do exist, then one must wonder - What percentage of those millions of dollars has been collected from erroneously convicted defendants? - How many of these defendants have suffered the additional penalties of extremely higher insurance rates, and the unnecessary compiling of points with the consequent loss of drivers' licenses and perhaps jobs?

While not pertaining to the reliability of radar, it is included in the testimony of the Court to refer to the part of the testimony which relates to the amount of radiation within the police vehicles. It is conceded that the amounts involved are within government safety limits, however, we must take notice that such limits have been wrong in other areas and unfortunately the effects are sometimes not observed until the next generation. My concern is further enhanced by the statement of the expert witness, Dr. Nichols, that there is an ongoing investigation of the problem.

Without repeating any of the voluminous testimony, suffice it to say that it contained in-depth studies of practically all of the errors alleged to be inherent in varying degrees in the vast majority of radar units in present usage. Documented errors were the Coline error; tracking error; leading and lagging error; shadowing error; errors due to outside interference such as billboards, overpasses, passing

C.B. radios and many other similar causes; errors due to inside interferences such as heater and airconditioning fans, and police radios etc. errors due to improper mounting of the radar unit; errors due to heat build up; errors due to power surge by shutting off and turning on the radar at the last minute to avoid radar detecting devices; errors due to the auto lock system; errors due to reliance on the auto alarm system errors due to mirror switch aiming; and errors in the identification of target vehicles due to modern day traffic patterns and the mixture of sizes of vehicles and varied materials in their construction. Some of these more of these errors pertain to radar in the moving mode than in the stationary mode. Certainly, some of these problems are minimal in degree but their potential has been attested to not only in scientific theory but many have been perceived in actual tests by the witnesses. The State's witnesses have denied these problems but in doing so have expressed a reliance on adequately trained officers recognizing speed and not issuing tickets. However, the defense witness, Dr. Nichols, whose expertise and objectivity have been conceded by Mr. Drucker, has described an intensive course of training in both classroom and in the field with written examinations for proof of qualification, conducted by an independent, highly skilled radar operator and not by a manufacturer's agent or his students. Such a program has not apparently been pursued. Even with this type of curriculum, Dr. Nichols believes that there would only be a lessening of the problems.

All of these problems fall into one main issue, to wit: the reliability of radar speed measuring devices as used today.

Based upon all of the testimony, exhibits, and argument of counsel, I find that the reliability of the radar speed measuring devices as used in their present modes and particularly in these cases, has not been established beyond and to the exclusion of every reasonable doubt and it is therefore,

ORDERED that the State's motion for judgment of acquittal be denied.

IT IS SO ORDERED this 12th day of June, 1969.

MICROWAVE EMISSION LEVELS
PROTECTION FROM RADIATION

EXHIBIT G

FOR NORMAL ENVIRONMENTAL CONDITIONS AND FOR INCIDENT ELECTROMAGNETIC ENERGY AT FREQUENCIES FROM 10 MHZ TO 100 GHZ, THE RADIATION PROTECTION GUIDE IS $10\text{mW}/\text{CM}^2$ AS AVERAGED OVER ANY POSSIBLE ONE HOUR PERIOD.

RADIATION PROTECTION GUIDE IS LOCATED IN THE CODE OF FEDERAL REGULATIONS 29, LABOR CHAPTER XVII - OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, PARAGRAPH 1910.97, 21 P. 171 JULY 1, 1976.

THE CMI SPEED GUN 8 TRANSMITS 20mW OF TOTAL POWER WHICH EQUATES TO LESS THAN $.25\text{mW}$ PER CM^2 AT THE FACE OF THE ANTENNA. IT SHOULD BE FURTHER NOTED, THAT FOR EACH FOOT FROM THE ANTENNA THE RADIATION POWER OUTPUT IS DECREASED BY THE SQUARE OF THE TOTAL OUTPUT PER CM^2 . AT ONE FOOT FROM THE ANTENNA, THE AMOUNT OF RADIATION OUTPUT IS REDUCED TO $.021\text{mW}$ PER CM^2 .

SUBSEQUENTLY, BASED ON O.S.H.A.'S STANDARDS, THE AMOUNT OF RADIATION ENERGY EMITTED FROM THE SPEED GUN 8 POSES NO APPARENT HEALTH HAZARD TO THE OFFICER OR TO THE MOTORING PUBLIC.

DEPARTMENT OF MOTOR VEHICLE

MEMORANDUM

February 27, 1981

To: Senate Transportation Committee

EXHIBIT H

From: Nevada Highway Patrol

Subject: RADAR - S.B. 60

Radar is an effective tool of the law enforcement profession. There is nothing mysterious or awesome about it and there is no evidence of a proven scientific nature, that it is in any way harmful to anyone involved in its use.

Like any tool, it has its limitations and its operator must be properly trained in its use and capabilities, as well as its limitation and maintenance requirements.

When a properly trained operator, using a properly maintained and calibrated radar unit issues a citation for violation of a posted speed limit, there should be no question, the use of the radar unit was the most accurate, efficient method available to law enforcement today to measure speed. The motoring public is entitled to this assurance and the Nevada Highway Patrol is doing everything possible to insure this is the case in Nevada.

At the present time the Highway Patrol has 168 radar units in use. These units were purchased through a federal grant from the United States Department of Transportation to assist us in enforcing the 55MPH speed limit, to the compliance levels they have set for the states. The Highway Patrol did not put these units into use until the operators had been trained and after the radar's were put into use, a monitoring program was instituted, wherein any problems that came to light were immediately corrected.

A copy of the Highway Patrol Policy and training program are attached for your information.

In addition to training Nevada Highway Patrol troopers, the Highway Patrol has made the same training available to traffic law enforcement personnel statewide.

Attachments

POLICE TRAFFIC RADAR

THE USE OF POLICE TRAFFIC RADAR HAS BECOME WIDESPREAD THROUGHOUT THE UNITED STATES, AND UNTIL RECENTLY, WAS WIDELY ACCEPTED BY THE COURTS AND THE GENERAL PUBLIC AS A RELIABLE AND ACCURATE MEANS OF MEASURING VEHICLE SPEED. HOWEVER, RECENT TECHNOLOGICAL ADVANCES, ESPECIALLY THE DEVELOPMENT OF "MOVING RADAR" HAVE ALTERED THE BASIC CONCEPTS INITIALLY ACCEPTED BY THE COURTS. THESE TECHNICAL INNOVATIONS HAVE RESULTED IN INCREASED AND HIGHLY PUBLICIZED CHALLENGES TO BOTH THE RELIABILITY AND ACCURACY OF MODERN TRAFFIC RADAR DEVICES AND THE ADEQUACY OF POLICE RADAR OPERATOR TRAINING.

A HIGHLY PUBLICIZED DADE COUNTY, FLORIDA HEARING REGARDING THE RELIABILITY AND ACCURACY OF RADAR ILLUSTRATES THE TYPE OF CHALLENGES NOW BEING ENCOUNTERED. THE HEARING CONDUCTED BY JUDGE ALFRED NESBITT IN APRIL, 1979 FOCUSED ON TWO ISSUES. FIRST, WHETHER RADAR SPEED MEASURING DEVICES CURRENTLY PRODUCED ARE RELIABLE ENOUGH TO BE USED AS EVIDENCE; AND SECOND, WHETHER POLICE OFFICERS ARE RECEIVING ADEQUATE TRAINING IN THE PROPER OPERATION OF THE DEVICES.

AFTER NINE DAYS OF TESTIMONY, DURING WHICH EXPERTS FROM BOTH SIDES WERE INVITED TO GIVE TESTIMONY, JUDGE NESBITT RULED THAT THE RELIABILITY OF RADAR SPEED MEASURING DEVICES AS USED IN THEIR PRESENT MODES AND PARTICULARLY IN THESE CASES, HAS NOT BEEN ESTABLISHED BEYOND AND TO THE EXCLUSION OF EVERY REASONABLE DOUBT. THIS RULING RESULTED FROM POORLY TRAINED OFFICERS IN THE DADE COUNTY AREA WHO HAD EXPECTED THE RADAR TO BE FOOL PROOF; IT ALSO RESULTED FROM RADAR OPPONENTS RESORTING TO ELECTRONIC TRICKERY TO SHOW RADAR TO BE AN INACCURATE SPEED DETECTION DEVICE.

WHILE THE DADE COUNTY HEARING HAS NOT TRIGGERED THE PREDICTED NATIONWIDE DEMISE OF POLICE RADAR, IT HAS HIGHLIGHTED THE FACT THAT IN CERTAIN CIRCUMSTANCES, RADAR DOES HAVE IT'S LIMITATIONS. SUBSEQUENT COURT DECISIONS SUCH AS THE STATE OF NEW JERSEY VS. WOJTKOWIAK, THE STATE OF HAWAII VS. EARL W. FREDJE, OHIO VS. FORD, DELAWARE VS. NEWTON AND THE WISCONSIN SUPREME COURT HAVE ALL UPHELD MOVING RADAR.

SINCE THE CONTROVERSY OVER MOVING RADAR WAS BROUGHT TO NATIONAL ATTENTION IN DADE COUNTY, THE NATIONAL BUREAU OF STANDARDS SET FORTH TO DETERMINE STANDARDS FOR POLICE SPEED MEASURING DEVICES. PROPOSED STANDARDS HAVE BEEN SUBMITTED TO THE DEPARTMENT OF TRANSPORTATION. AFTER REVIEWING THE PROPOSED STANDARDS, THE NEVADA HIGHWAY PATROL IS CONFIDENT THAT IT HAS MET AND WILL CONTINUE TO MEET ALL STANDARDS SET FORTH BY THE NATIONAL BUREAU OF STANDARDS.

THE NEVADA HIGHWAY PATROL FEELS THAT IT HAS ONE OF THE BETTER RADAR TRAINING PROGRAMS IN THE UNITED STATES. FROM 1973 THE NEVADA HIGHWAY PATROL HAS KEPT CURRENT IN THE RADAR FIELD. THE NEVADA HIGHWAY PATROL HAS PROVIDED RADAR TRAINING TO NEARLY EVERY LAW ENFORCEMENT AGENCY WITHIN THE STATE AND AT THE PRESENT TIME, IS RETRAINING THOSE AGENCIES BASED ON NEW PROPOSED STANDARDS.

THE NEVADA HIGHWAY PATROL IS CURRENTLY USING THE CMI SPEED GUN 8. THE SPEED GUN 8 IS A ONE PIECE MOUNTED DOPPLER RADAR UNIT. THE SPEED GUN 8 MONITORS TRAFFIC FROM BOTH THE STATIONARY AND MOVING MODES. THE SPEED GUN 8 OPERATES WITHIN THE X-BAND 10.525 GHZ OR 10,525,000,000 CYCLES PER SECOND. THE ACCURACY OF THE SPEED GUN 8 IS A PLUS OR MINUS 1 MPH. THE SPEED GUN HAS AN INTERNAL CALIBRATION TO CHECK THE COUNTING UNIT. THE EXTERNAL CALIBRATION IS DONE WITH TUNING FORKS. THE LOW DOPPLER

IS CHECKED WITH A CERTIFIED 50 MPH FORK AND THE HIGH DOPPLER IS CHECKED WITH AN 80 MPH FORK. THE 88 MPH FORK IS ALSO USED TO CHECK THE DIGITAL READOUT. THE ANTENNA POLARIZATION IS CIRCULAR WITH A BEAM WIDTH OF APPROXIMATELY 8 DEGREES TO 9 DEGREES TO THE HALF POWER POINT. THE OPERATING VOLTAGE IS FROM 11 TO 18 VOLTS AT .5 AMPS; OPERATING TEMPERATURE MAY RANGE FROM -50 DEGREES F. to +180 DEGREES F. WITHOUT AFFECTING ACCURACY.

NHP POLICY

GENERAL

ALL RADAR OPERATORS MUST ATTEND A RADAR TRAINING COURSE CONDUCTED BY A CERTIFIED RADAR INSTRUCTOR. TOTAL TIME REQUIRED PRIOR TO CERTIFICATION IS 40 HOURS MINIMUM CLASS AND FIELD TRAINING. THE CLASSROOM INSTRUCTION DEALS WITH THE FOLLOWING:

1. BASIC FUNCTIONS OF THE RADAR UNIT, DEALING IN THE DOPPLER SHIFT.
2. MAKE AND MODEL.
3. MANUFACTURER'S SPECIFICATIONS.
4. BEAM WIDTH.
5. RANGE.
6. TARGET IDENTIFICATION AND FACTORS.
7. SPURIOUS READING IDENTIFICATION.
8. SPEED AND RANGE DETERMINATIONS SKILLS.
9. OPERATING FREQUENCY.
10. CALIBRATION TECHNIQUES.
11. MOUNTING THE RADAR.
12. ANGLE ERROR.
13. CASE LAW.

FIELD APPLICATION

DEALS WITH THE TROOPER OBTAINING A MINIMUM OF 100 ESTIMATES ON BOTH SPEED AND DISTANCE OF TARGET VEHICLES.

CERTIFICATION

1. A WRITTEN EXAMINATION WITH A PASSING SCORE OF NO LESS THAN 80%.
2. FIELD APPLICATION WITH THE RADAR INSTRUCTION ON SPEED AND DISTANCE ESTIMATE. SPEED AVERAGE OF NO LESS THAN 5% AND DISTANCE OF NO LESS THAN 20%.
3. MUST SHOW PROPER MOUNTING OF THE RADAR.
4. MUST SHOW THE PROPER METHOD OF CALIBRATION.

RECERTIFICATION

OPERATORS MUST BE RECERTIFIED EVERY TWO YEARS. OPERATORS WILL BE ADVISED OF ANY NEW CHANGES.

7.22

RADAR POLICY

A. It is the policy of this Division to set up procedures and guidelines governing the use of Radar. This shall include, but not be limited to:

- (1) Assignment.
- (2) Instruction and Training.
- (3) Certification.
- (4) Administrative.
- (5) Operation.
- (6) Mounting.
- (7) Calibration.
- (8) Enforcement.
- (9) Repair and Service.

B. Forms for implementation of Radar Certification and the procedures for their use, will also be available and maintained.

C. The purpose of this policy is to eliminate all possibilities of error due to operation, equipment and/or lack of training.

A. ASSIGNMENT OF RADAR UNITS

1. Radar units will be assigned to patrol regions. The region commander will ensure reassignment of these units to the personnel under his command. Officers assigned a radar unit will be responsible for retaining all issued items including, but not limited to, the packing box and certificates of certification for both the tuning forks(s) and radar unit. Probationary officers will not be assigned a radar unit until they have successfully completed three (3) months of service with the Division, exclusive of Academy, and field training time.

B. INSTRUCTIONS

1. An instructor must be a currently certified radar operator with a minimum of two years satisfactory service with the Division. All instructors must complete specialized training in the theory and operation of police traffic radar administered by the Academy Staff. All radar instructors will be certified by the Academy upon successful completion of the training.

Each area will have at least two officers certified as instructors who shall be responsible for training and testing officers in their respective regions or as assigned. Region commanders may request the certification of additional officers as instructors when the need arises.

C. RADAR OPERATOR CERTIFICATION

1. No officer shall issue a radar based traffic citation until he has a current Division radar operators certification. Certifications will only be issued to those officers who have attended and successfully completed the prescribed radar training course.

a) Certification shall involve

- 1) Classroom instruction in traffic radar principles and operation.
- 2) Successful completion of a written examination with a minimum score of 80%.
- 3) A minimum of four (4) hour of field instruction in visual speed estimation, distance estimation and radar use.
- 4) Forty (40) hours of actual patrol familiarization and practice with radar. (The specific training objectives will be; accurate estimation of target vehicle, speed and distance).
- 5) The successful completion of an operational evaluation in the following areas, administered

by a region instructor.

- a. Proper radar unit set-up and verification of calibration.
- b. Proper moving and stationary mode techniques.
- c. Target vehicle identification ability.
- d. Knowledge of and ability to recognize, various factors effecting traffic radar.
- e. Successful completion of an objective test of ability to visually estimate target vehicle speed and distance. (Average error in either stationary or moving mode of not greater than five (5) miles per hour and of twenty (20) percent of actual distance).

b) Administrative Responsibilities

Instructors will complete a "Radar Operations Evaluation Form" for each officer tested. This form and all written examinations will be forwarded to the Training Academy where the Staff will score all written examinations and issue certifications to individual officers.

Certifications will be maintained by:

- 1) One copy - training Academy
- 2) One copy - region where the officer is assigned (Area personnel jacket).
- 3) One copy to officer.

c) Re-testing Upon Failure

Officers who fail to successfully complete either the written examination or field evaluation will not qualify for certification. In these instances the officer will be provided remedial help by the instructor. Officers failing to successfully complete the first examination will be re-tested within thirty (30) days of the original examination.

Failure to successfully complete the examination a second time will make it necessary for the officer to again attend the entire training program.

d) Expiration of Certifications

All certifications shall expire two years from the date issued and re-certification must be accomplished within ninety (90) days of expiration.

e) **Recertification**

The Academy Staff shall notify Region Commanders of the expiration date of officers certification on the first day of each quarter, of those officers cards expiring during that quarter. The Region Commander will arrange for recertification by coordinating with the Region Radar Instructors.

Recertification shall involved successful completion of additional training and examination in radar operational skills. Any officer failing the recertification examination or procedure test will be provided remedial help by the instructors and will be re-examined within thirty (30) days.

Recertification administrative responsibilities shall remain as stated above in "Certification".

f) **Operational Procedures Power**

All patrol vehicles should be equipped with two power sources. One in the driver's compartment and the other in the rear seat area. Power to these receptacles will be provided by running shielded cable directly from the vehicle battery. These receptacles will be used exclusively for radar operation.

g) **Mounting**

Radar units will be used only in the mounts provided. The mounts will be secured to either the dash or the rear deck in the manner prescribed by the manufacturer. Maximum security for the operator and the unit will be assured. The antenna will always remain parallel to the vehicle center line and roadway surface. The antenna will not be mounted directly over window defroster vents.

h) **Calibration Verification**

Radar units will have the calibration verified after every citation. Once at the beginning of the shift and again at the completion of the shift.

Calibration verification will be accomplished by:

- 1) Light segment check.
- 2) Internal calibration check.
- 3) Low speed tuning fork.
 - a. Stationary mode.
 - b. Moving mode.
- 4) High speed tuning fork.

a. Stationary mode

b. Moving mode

- 5) Target simulation using both forks in the moving mode.
- 6) Comparison of patrol vehicle speed with vehicle speedometer.
- 7) Officers shall maintain a daily certification verification log.

Any radar unit that fails to verify in any phase will be immediately removed from service and forwarded to the region radar technician for repair.

i) Stationary Radar Use

When radar is being used in the stationary mode every precaution shall be taken to insure that the patrol vehicle is not creating a traffic hazard and at no time will the patrol vehicle be hidden from view.

j) Enforcement Action

Traffic citations will not be issued on a radar speed reading alone. Supportive evidence, as listed below, will be obtained in addition to the speed reading:

- 1) Visual speed estimation.
- 2) Estimation of distance.
- 3) Audio speed estimation.
- 4) Proper verification and identification of target vehicle.

k) Contested Cases

In instances where "not guilty" pleas are appealed to courts that have a higher authority than Justice Courts, the issuing officer will contact the prosecuting attorney and determine if expert testimony will be required at the trial. If an expert witness will be required, the officer will immediately provide the Region Commander with the following information via the chain of command.

- 1) Copy of citation.
- 2) Date, time and location of trial.
- 3) Name of prosecuting attorney.

From this information, the Region Commander will determine if the case merits further prosecution.

1) **Rad Repair and Service**

Officers are not to attempt any repair of a radar unit. All repairs will be made by the region radio technician. Inoperable radars will be forwarded to the technician with a statement of the deficiency attached.

m) **Tuning Forks**

Tuning forks are to be checked annually by region radio technician using frequency counters to assure that the forks are at the specified frequency. Region radio technicians will assure checks are made as prescribed.

n) **Public Information**

Invitations to attend demonstrations of the radar should be extended to the District Attorney's Office, Judges and members of the press, so they may become familiar with it's operation.

o) **Radar Storage**

Radar units will not be left in the mounts when an officer is off duty. They will be placed in the provided case and secured in the passenger compartment or trunk. During periods of hot weather, radar units shall be removed from the mount and placed on the floor out of direct sunlight, when the officer is away from his vehicle for an extended period of time.

D. Officers are responsible for the general care of their units, and shall avoid acts which could damage the units.

E. Officers will not loan an issued radar to another division member, without first obtaining permission to do so through official channels.

F. RADAR FORMS AND THEIR PROCEDURES

1. Radar speed and distance estimations.
2. What the form is used for:
 - a) This form is to be used for training and practical application in speed and distance estimations for stationary and moving modes of radar.
3. How is the form to be used:
 - a) One hundred speed and distance estimations is established as minimum training for visual observations to prepare officers in the use of radar. It will take a minimum of thirty (30) hours of practice and practical application to obtain these clocks in preparation for final field certification. The officer should complete all applicable sections and return this form to the Area Instructor prior to certification, within fourteen (14) working days after receipt.
 - 1) TIME/DATE - time/date observation made.
 - 2) VEHICLE MAKE - record the make and model of vehicle observed (i.e. Datsun, 2 door, etc.).
 - 3) OFFICER'S ESTIMATED SPEED/DISTANCE - this is the actual officer's estimation of speed of target vehicle and distance at time of speed estimation.
 - 4) ACTUAL SPEED - this is the actual speed as recorded on the radar's "target" window.
 - 5) PATROL SPEED - record the actual speed of the patrol vehicle as recorded on the radar's "patrol" window. If a stationary clock is made a "zero" will be recorded.
 - 6) PATROL SPEED-O-METER SPEED - record the actual vehicle speed as noted on the speed-o-meter. When clock is made in the stationary mode, a "zero" will be recorded.
 - 7) COMMENTS - this section to be used for officer comments. License number, if an actual stop is made, speed estimates, action taken, (i.e. stopped and warned, stopped and cited, etc.), and any other comments that may be pertinent to the observation and estimation of speed.
4. This form when completed, must be signed and dated by each officer who uses and enforces applicable NRS by the use of a radar device, certifying that the information contained therein is true and correct.

RADAR OPERATOR'S EVALUATION

OFFICER _____

INSTRUCTOR _____

DATES OF INSTRUCTION _____

DATE OF CERTIFICATION _____

DATE OF RECERTIFICATION _____

FINAL EXAMINATION SCORE _____

RECERTIFICATION SCORE _____

CERTIFICATION SCORES:

Average error (moving mode) Speed _____

Distance _____

Average error (stationary mode)

Speed _____

Distance _____

OPERATIONAL SET-UP CHECK LIST

Proper Mounting

Proper Antenna Aim

Calibration Verification

Attachments:

- (1) Officer Practical Radar Speed/Distance Estimations
- (2) Examination Radar Speed/Distance Estimations
- (3) Final Examination

RANGE AND SPEED DETERMINATION TEST

(Name)

STATIONARY

MOVING

Article No.	Speed Est.	Range Est.	Speed Actual	Range Actual	Speed Est.	Range Est.	Speed Actual	Range Actual
1								
2								
3								
4								
5								
6								
7								
8								
9								

(Instructor)

0700/0745	Introduction pretest	Effects	Practical	Practical	Practical
0800/0845	Review of Pretest History and Theory of Radar	"	"	"	"
0900/0945	History and Theory of Radar	Distance and Speed estimates	"	"	"

1000/1045	Case Law	Field	"	"	"
1100/1200	Stationary Radar	Field	"	"	"

LUNCH

1300/1345	Stationary Radar	Radar Specification	"	"	"
1400/1445	Review and Exam	Court Room Presentation	"	"	Final Certification

1500/1545	Moving Radar	Review	"	"	"
1600/1645	" "	Final Exam	"	"	"

1700/1800	Effects	New Policy Explain Worksheet	"	"	"
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390

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Section 2. "Non-Resident Manufacturer" means any person who manufactures or assembles new motor vehicles subject to registration, but does not maintain an established place of business for such activities in this state. Term applies only to a person who has granted franchises to dealers or distributors established in this state.

Section 3. 1. A non-resident manufacturer owning or controlling any new motor vehicles of a type required to be registered under the provisions of this chapter, may operate or move such vehicles if there is displayed thereon a special plate or plates issued to such non-resident manufacturer as provided in NRS 482.330. The provisions of this subsection do not apply to work or service vehicles.

2. Any non-resident manufacturer qualified to receive a non-resident manufacturer's license is entitled to register in his name new motor vehicles of the make which he manufactures or assembles upon payment of the registration and licensing fees provided in this chapter. The non-resident manufacturer is not subject to the payment of privilege taxes on these registrations, and may transfer such registrations to other new motor vehicles without payment of such taxes.

3. New motor vehicles so registered are subject to the payment of privilege taxes by the first retail purchaser at the time of their transfer to such purchase.

4. A non-resident manufacturer is not required to procure and file any bond or deposit with the department or maintain an established place of business in this state, but must maintain security as set forth in NRS 485.185.

Section 4. NRS 482.318 is hereby amended to read as follows:

482.318. The legislature finds and declares that the distribution and sale of motor vehicles in the State of Nevada vitally affects the general economy of the state and the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate and to license motor vehicle manufacturers, motor vehicle non-resident manufacturers, distributors, new and used vehicle dealers, rebuilders, leasing companies, salesmen, and their representatives doing business in the State of Nevada in order to prevent frauds, impositions and other abuse upon its citizens.

Section 5. NRS 482.322 is hereby amended to read as follows:

- 482.322. 1. No person may engage in the activities of a vehicle dealer, manufacturer, non-resident manufacturer or rebuilder in this state, or be issued any other license or permit required by this chapter, until he has been issued a dealer's, manufacturer's, non-resident manufacturer's, rebuilder's or lessor's license certificate or similar license or permit required by the department.
2. A vehicle dealer's, manufacturer's, non-resident manufacturer's or rebuilder's license issued pursuant to this chapter does not permit a person to engage in the business of a new or used mobile home dealer, manufacturer, non-resident manufacturer or rebuilder.
3. The department shall investigate any applicant for a dealer's, manufacturer's, non-resident manufacturer's, rebuilder's or lessor's license certificate or license and complete an investigation report on a form provided by the department.

Section 6. NRS 482.325 is hereby amended to read as follows:

482.325. 1. Applications for a manufacturer's, non-resident manufacturer's, dealer's or rebuilder's license shall be filed upon forms

supplied by the department, and the applicant shall furnish:

(a) Such proof as the department may deem necessary that the applicant is a manufacturer, non-resident manufacturer, dealer or re-builder.

(b) A fee of \$25.

2. Upon receipt of such application and when satisfied that the applicant is entitled thereto, the department shall issue to the applicant a dealer's, manufacturer's, non-resident manufacturer's or re-builder's license certificate containing the latter's name and the address of his established place of business [.] , or main office in the case of the non-resident manufacturer.

3. Licenses issued pursuant to this section shall expire on December 31 of each year. Prior to December 31 of each year, licensees shall furnish the department with an application for renewal of such license accompanied by an annual fee of \$25. The renewal application shall be provided by the department and shall contain information required by the department.

Section 7. NRS 482.330 is hereby amended to read as follows:

482.330. 1. Upon issuance of a dealer's, manufacturer's, non-resident manufacturer's or re-builder's license certificate pursuant to NRS 482.322, the department shall furnish to the manufacturer, non-resident manufacturer, dealer or re-builder one or more registration certificates and special plates for use on vehicles which come within the provisions of NRS 482.320 [.] or this act. Each plate must have displayed upon it the identification number which is assigned to the dealer, manufacturer, non-resident manufacturer or re-builder, and may at the discretion of the department have a different letter or symbol on each plate or pair of plates. The manufacturer, non-resident manufacturer, dealer or re-builder license plates may be used interchangeably on that vehicle.

2. The department shall by regulation determine the number of manufacturer, non-resident manufacturer, dealer or rebuilder license plates to which each manufacturer, non-resident manufacturer, dealer or rebuilder is entitled, which, in the case of a dealer, must be at least three more than the number of salesmen in his employ.

3. The department may also provide by regulation for the issuance to dealers or rebuilders of special license plates and for the number of those plates for use on vehicles loaned by those dealers or rebuilders to customers in the course of business. The regulations, if adopted, must provide what use may be made of the plates.

Section 8. NRS 482.335 is hereby amended to read as follows:

482.335. 1. No such manufacturer, non-resident manufacturer, dealer or rebuilder shall operate any vehicle owned or controlled by him upon any public highway, or permit it to be so operated, unless number plates assigned to him are attached thereto in the manner specified in this chapter.

2. It shall be unlawful for a manufacturer, non-resident manufacturer or dealer to operate new vehicles without the plates being attached thereto from the railroad depot, warehouse or other place of storage to the place of business of such manufacturer, non-resident manufacturer or dealer where the depot, warehouse or place of storage is within the same city or town or not more than 5 miles from the place of business.

Section 9. NRS 482.490 is hereby amended to read as follows:

482.490. There shall be paid to the department for each manufacturer, non-resident manufacturer, dealer or rebuilder license plate or pair of plates in lieu of any other fees specified in this chapter, fees accord-

ing to the following schedule, which fees shall be paid at the time application is made for such plates:

For motor vehicles, including	
motorcycles	\$5.50
For plates for trailers and	
semitrailers	\$5.50

S. C. R. 9

SENATE CONCURRENT RESOLUTION NO. 9—COMMITTEE ON TRANSPORTATION

JANUARY 21, 1981

Referred to Committee on Transportation

SUMMARY—Directs study of possible exemption of certain petroleum-ethanol mixtures from motor vehicle fuel tax. (BDR 98)

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

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the reasons for and against an exemption of certain petroleum-ethanol mixtures from taxes on motor vehicle fuel by the state and counties, and its anticipated financial effect.

- 1 WHEREAS, The exemption of certain mixtures of petroleum and etha-
- 2 nol was proposed at the last session of the Nevada legislature; and
- 3 WHEREAS, The legislature is already faced with a decrease in the
- 4 amount of revenue available for the repair of highways within the State
- 5 of Nevada; now, therefore, be it
- 6 *Resolved by the Senate of the State of Nevada, the Assembly concur-*
- 7 *ring, That the legislative commission is hereby directed to study the rea-*
- 8 *sons for and against such an exemption, and its anticipated financial*
- 9 *effect; and be it further*
- 10 *Resolved, That the legislative commission submit a report of its find-*
- 11 *ings to the 62d session of the Nevada legislature.*



Library Note:

Exhibit K from this meeting was found filed with the March 3, 1981 meeting. That exhibit has been moved back with this meeting. The Bates numbering at the bottom of the pages will appear inconsistent.

Research Library
May 2014

S. B. 83

SENATE BILL NO. 83—SENATORS DON ASHWORTH, KEITH ASHWORTH, BILBRAY, BLAKEMORE, CLOSE, McCORKLE, 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 the influence of intoxicants; prohibiting probation, parole or the reduction of charges for this offense; establishing a treatment option for alcoholics; 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 484.379 is hereby amended to read as follows:**
2 **484.379 1. It is unlawful for any person who is under the influence**
3 **of intoxicating liquor to drive or be in actual physical control of a vehicle**
4 **within this state.**
5 **2. It is unlawful for any person who is an habitual user of or under**
6 **the influence of any controlled substance or any person who inhales,**
7 **ingests, applies or otherwise uses any chemical, poison or organic sol-**
8 **vent, or any compound or combination of any chemical, poison or**
9 **organic solvent, to a degree which renders him incapable of safely driv-**
10 **ing or steering a vehicle to drive or steer a vehicle within this state. The**
11 **fact that any person charged with a violation of this subsection is or has**
12 **been entitled to use [such] *that* drug under the laws of this state [shall**
13 **not constitute] *is not* a defense against any charge of violating this sub-**
14 **section.**
15 **3. [Any person who violates the provisions of this section is guilty**
16 **of a misdemeanor and such person's license to operate a vehicle in this**
17 **state may, by the decision of the court, be suspended by the department**
18 **of motor vehicles for a period of not less than 30 days nor more than 1**
19 **year.**

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

5 5. No judge or justice of the peace in imposing sentences provided
6 for in this section shall suspend the same or any part thereof. *Any per-*
7 *son who violates the provisions of subsection 1 or 2, for the first offense,*
8 *is guilty of a misdemeanor. The court shall sentence him to 40 hours of*
9 *physical labor and order him to attend, and pay tuition for, educational*
10 *courses on the use and abuse of alcohol and controlled substances given*
11 *by the department of motor vehicles, and shall also:*

12 (a) *Direct the department of motor vehicles to suspend his driver's*
13 *license for not less than 90 days and not to allow him any limited driv-*
14 *ing privileges; or*

15 (b) *If he was not a holder of a valid driver's license at the time he*
16 *committed the offense, sentence him to imprisonment for not less than*
17 *30 days in the county jail and consider this aggravating circumstance in*
18 *imposing a fine.*

19 4. *Any person who violates the provisions of subsection 1 or 2, for*
20 *the second offense, is guilty of a gross misdemeanor, and except as pro-*
21 *vided in subsection 5, the court shall:*

22 (a) *Sentence him to imprisonment for not less than 15 days in the*
23 *county jail and direct the department of motor vehicles to suspend his*
24 *license for not less than 6 months and not to allow him any limited driv-*
25 *ing privileges; or*

26 (b) *If he was not the holder of a valid driver's license at the time he*
27 *committed the offense, sentence him to imprisonment for not less than*
28 *30 days in the county jail and consider this aggravating circumstance in*
29 *imposing the fine.*

30 5. *Upon a second conviction, the court shall sentence the violator to*
31 *undergo specified treatment for alcoholism or drug abuse if he is deter-*
32 *mined, by a physician certified for that purpose by the bureau of alcohol*
33 *and drug abuse of the rehabilitation division of the department of human*
34 *resources to be an alcoholic or drug abuser and elects to undergo treat-*
35 *ment, and direct the department of motor vehicles to suspend his license*
36 *until he is certified by the physician as no longer using alcohol or a con-*
37 *trolled substance.*

38 6. *A person who has elected treatment pursuant to subsection 5 who*
39 *drives a motor vehicle upon a highway in this state while his license is*
40 *suspended, and any person who violates the provisions of subsection 1*
41 *or 2, for the third or any subsequent offense, shall be punished by*
42 *imprisonment in the state prison for not less than 1 year nor more than*
43 *6 years and must be further punished by a fine of not less than \$2,000*
44 *nor more than \$5,000.*

45 7. *No person convicted of violating the provisions of subsection 1*
46 *or 2 may be paroled or released on probation. No sentence imposed for*
47 *violating the provisions of subsection 1 or 2 may be suspended. No*
48 *prosecuting attorney may dismiss a charge of violating the provisions of*
49 *subsection 1 or 2 in exchange for a plea of guilty or nolo contendere to*

1 a lesser charge or for any other reason unless he knows or it is obvious
2 that the charge is not supported by probable cause.

3 [6.] 8. Any term of confinement imposed under the provisions of
4 [subsection 4] this section may be served intermittently at the discretion
5 of the judge or justice of the peace. This discretion [shall] must be
6 exercised after considering all the circumstances surrounding the offense,
7 and the family and employment [situation] of the person convicted [.]
8 However, the full term of confinement shall , but any sentence of 30
9 days or less must be served within [a 6-month period] 6 months from
10 the date of conviction, and any segment of time the person is confined
11 [shall] must not consist of less than [a 24-hour period.] 24 hours.

12 [7.] 9. Jail sentences simultaneously imposed under this section [.]
13 and NRS 483.560 or 485.330 [shall] must run consecutively.

14 Sec. 2. NRS 484.3795 is hereby amended to read as follows:

15 484.3795 1. Any person who, while under the influence of intoxi-
16 cating liquor, or a controlled substance as defined in chapter 453 of
17 NRS, or under the combined influence of intoxicating liquor and a con-
18 trolled substance, or any person who inhales, ingests, applies or other-
19 wise uses any chemical, poison or organic solvent to a degree which
20 renders him incapable of safely driving or steering a vehicle, does any
21 act or neglects any duty imposed by law while driving or in actual physi-
22 cal control of any vehicle, which act or neglect of duty proximately
23 causes the death of, or substantial bodily harm to, any person other than
24 himself, shall be punished by imprisonment in the state prison for not
25 less than 1 year nor more than 6 years [, or] and must be further pun-
26 ished by a fine of not less than \$2,000 nor more than \$5,000. [, or by
27 both fine and imprisonment.]

28 2. No person convicted of violating the provisions of subsection 1
29 may be paroled or released on probation. No prosecuting attorney may
30 dismiss a charge of violating the provisions of subsection 1 in exchange
31 for a plea of guilty or nolo contendere to a lesser charge or for any other
32 reason unless he knows or it is obvious that the charge is not supported
33 by probable cause. No judge may suspend a sentence provided in this
34 section or release on probation a person convicted under the provisions
35 of subsection 1.

ASSEMBLY ACTION

SENATE ACTION

Senate

AMENDMENT BLANK

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Date:
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AMENDMENTS to Senate
Bill No. 83 Resolution No. _____
BDR 43-431
Proposed by Committee on Transportation

Amendment No 163



Amend the bill as a whole by adding a new section designated Section 1, preceding Section 1, to read as follows:

"Section 1. NRS 483.460 is hereby amended to read as follows:

483.460 (1.) Unless otherwise provided by law, the department shall forthwith revoke, for a period of 1 year, the license of any driver upon receiving a record of [such driver's] his conviction of any of the following offenses, when [such] the conviction has become final:

- [(a)] 1. Manslaughter resulting from the driving of a motor vehicle.
- [(b)] 2. Any felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.
- [(c)] 3. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another.
- [(d)] 4. Perjury or the making of a false affidavit or statement under oath to the department under NRS 483.010 to 483.630, inclusive, or under any other law relating to the ownership or driving of motor vehicles.
- [(e)] 5. Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.

To: E & E
LCB File
Journal
Enrollment
Bill

Drafted by FWD: smc Date 3-4-81

((2) A second or subsequent conviction after 3 years but within 7 years of a prior conviction for driving under the influence of intoxicating liquor or any controlled substance.

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

Amend the bill as a whole by renumbering sections 1 and 2 as sections 2 and 3.

Amend Section 1, page 2, line 8 by deleting “The” and inserting: “Except as provided in subsection 3, the”.

Amend Section 1, page 2, line 10 by deleting “given” and inserting:

“approved”.

Amend Section 1, page 2, by deleting lines 13 and 14 and inserting:

“license for a definite period of not less than 90 days nor more than 1 year and not to allow him any limited driving privileges unless his inability to drive to and from work or in the course of his work would cause extreme hardship or prevent his earning a living; or”.

Amend Section 1, page 2, line 16 after “offense,” by inserting: “and this lack resulted from any violation of this section, NRS 484.3795 or NRS 484.385,”.

Amend Section 1, page 2 by inserting after line 18:

flush “The court may specify how the required labor is to be supervised, and may take into account any physical limitations of the violator.”.

Amend Section 1, page 2, line 20 after “offense” by deleting the comma and inserting “within 3 years after his first offense,”.

Amend Section 1, page 2, line 22 after “days” by inserting: “nor more than 6 months”.

Amend Section 1, page 2, line 23 by deleting “jail” and ^{inserting} “jail,”
“fine him not less than \$1,000”.

Amend Section 1, page 2, by deleting lines 24 and 25 and inserting:

"license for a definite period of not less than 6 months nor more than 2 years, and not to allow him any limited driving privileges unless his inability to drive to and from work or in the course of his work would cause extreme hardship or prevent his earning a living; or".

Amend Section 1, page 2, line 27 after "offense," by inserting: "and this lack resulted from any violation of this section, NRS 484.3795 or NRS 484.385,".

Amend Section 1, page 2, by deleting lines 30 through 37 and inserting:

"3. Except as limited in this subsection, upon any conviction for a violation of this section, the court shall sentence the violator to undergo specified treatment:

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

(b) For drug abuse if he is determined to be a drug abuser by a counselor certified for that purpose by the bureau of alcohol and drug abuse in the rehabilitation division of the department of human resources,

flush and the violator elects to undergo the treatment and pay for his examination and treatment. The court shall also direct the department of motor vehicles to suspend the violator's license until he satisfactorily completes the treatment, as determined by the court. If the violator does not satisfactorily complete the treatment, he must be sentenced according to subsection 3, 4 or 6 as appropriate. A violator may elect treatment under this subsection only once in any period of 5 years."

Amend Section 1, page 2, line 40 by deleting "suspended, and" and inserting:

"suspended for any violation of this section, NRS 484.3795 or NRS 484.385, and except as provided in subsection 5".

Amend Section 1, page 2, line 41 after "offense" by deleting the comma and inserting:

"within 3 years after his most recent prior offense,".

Amend Section 1, page 2, line 44 after the period by inserting:
"A person so imprisoned must be segregated insofar as practicable from offenders whose crimes were violent, and must be assigned to an institution of minimum security or, if space is available, to an honor camp or similar facility."

Amend Section 1, page 2, line 46 by deleting "paroled or".

Amend Section 1, page 3, line 2 by deleting the period and inserting:

"or cannot be proved at the time of trial."

Amend sec. 2, page 3, line 27 by inserting after the bracket:

"A person so imprisoned must be segregated insofar as practicable from offenders whose crimes were violent, and must be assigned to an institution of minimum security or, if space is available, to an honor camp or similar facility."

Amend sec. 2, page 3, by deleting lines 28 and 29 and inserting:

"2. No prosecuting attorney may".

Amend sec. 2, page 3, by deleting lines 33 through 35 and inserting:

"by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may be suspended and probation granted only if the violator has not previously violated this section, NRS 484.3795 or NRS 484.385 within 5 years. If probation is granted, the court shall order:

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

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

Amend the bill as a whole by adding new sections designated as sections 4 and 5, following section 2, to read as follows:

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

484.385 1. If a person under arrest refuses to submit to a required chemical test as directed by a police officer under NRS

484.383, none shall be given; but the department of motor vehicles, upon receipt of a sworn written statement of such officer that he had reasonable grounds to believe the arrested person had been driving a vehicle upon a highway while under the influence of intoxicating liquor or a controlled substance and that [such] the arrested person refused to submit to such test upon the request of [such] the officer, shall immediately notify the person by mail that his privilege to drive is subject to suspension and allow him 15 days after the date of mailing such notice to make a written request for a hearing. If no request is made within [such] the 15-day period, the department shall immediately:

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

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

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

2. If the affected person requests that the hearing be continued to a date beyond the period set forth in subsection 1 of NRS 484.-387, the department shall issue an order suspending the license, privilege or permit to drive a motor vehicle, which [suspension shall be] is effective upon receipt of notice that the continuance has been granted.

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

4. Notice of intention to suspend, notice of an order of suspension and notice of the affirmation of a prior order of suspension provided

in NRS 484.387 is sufficient if it is mailed to the person's last-known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the department of motor vehicles, specifying the time of mailing the notice. Such a notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

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

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

Amend the title of the bill by deleting the second and third lines and inserting:

"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".