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BDR 43-117

2 Main Purposes of BDR

- (1) Closes the "loophole" as between NRS 484.474 and 484.641. (Currently, a child who is less than 5 years of age, but who weighs 40 pounds or more, is **not** covered by either NRS 484.474 (devices for restraining children, i.e., "child safety seats") or 484.641 (regular safety belts).
- (2) Provides that if the person not wearing a seatbelt is a person who is less than 18 years of age (whether the person is the driver **or** a passenger), the violation constitutes a "primary offense" for which the vehicle in question may be pulled over even where there is no other reason to pull the vehicle over.

Explanations of Certain Individual Subsections

Subsection 2: The changes to this subsection close the "loophole" as between NRS 484.474 and 484.641. By removing the existing reference to "5 years of age" and instead referring to any child who weighs "40 pounds or more," the safety belt requirements in NRS 484.641 will apply to any child who is not required to be in a child safety seat pursuant to NRS 484.474.

Subsection 3: The new language at the beginning of subsection 3 is there to recognize 2 things: **(a)** that, per subsection 4, a driver only gets one citation even if both the driver and the child passenger are not wearing their seatbelts (existing law); and **(b)** that, per the language at the beginning of subsection 5, if the violation of NRS 484.641 is a violation of an **adult** not wearing a safety belt, such a violation doesn't constitute a primary offense to pull over the vehicle in question.

Subsection 4: This language remains largely the same as in the existing NRS 484.641. It simply makes clear that it is a violation for a driver to not require a child weighing 40 pounds or more to wear a safety belt, **but** if both the driver and the child are not wearing a safety belt, only one citation is issued to cover both violations.

Subsection 5: The new subsection 5 exists to explain **when** a vehicle may be pulled over solely for a safety belt violation. The first sentence in subsection 5 (the sentence that begins with "5. If the provisions . . ." and ends with ". . . another alleged violation or offense") makes clear that if it is an **adult** who is not wearing a safety belt, the vehicle can only be pulled over if there is another offense to justify the stop. The second sentence of subsection 5 (beginning with "A citation must be issued . . .") provides that for violations which are **other than** an adult not wearing a safety belt (i.e., a **child** not wearing a safety belt), a peace officer must issue a citation whenever the peace officer discovers such a violation, even if there is no other reason to stop the vehicle in question. In the case in which both an adult AND a child were not wearing safety belts, the fact that the child is not wearing a safety belt would control, and the vehicle in question could be pulled over on that basis alone.

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ASSEMBLY TRANSPORTATION
DATE: 3/6/07 ROOM: 3143 EXHIBIT E.1 of 7
SUBMITTED BY: *Officer Reseyork*

SUMMARY—Revises provisions relating to use of safety belts in motor vehicles.

(BDR 43-117)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State: Yes.

AN ACT relating to motor vehicles; requiring that a passenger in a motor vehicle who is a child weighing 40 pounds or more be secured with a safety belt if a safety belt is available for the child's seating position; providing under certain circumstances that a vehicle may be halted and its driver cited for the primary offenses of the driver failing to wear a safety belt and of the driver failing to secure with a safety belt a passenger who is a child weighing 40 pounds or more; providing a civil penalty; and providing other matters properly relating thereto.

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

Section 1. NRS 484.641 is hereby amended to read as follows:

484.641 1. It is unlawful to drive a passenger car manufactured after:

(a) January 1, 1968, on a highway unless it is equipped with at least two lap-type safety belt assemblies for use in the front seating positions.

FIRST
PARALLEL
SECTION



(b) January 1, 1970, on a highway, unless it is equipped with a lap-type safety belt assembly for each permanent seating position for passengers. This requirement does not apply to the rear seats of vehicles operated by a police department or sheriff's office.

(c) January 1, 1970, unless it is equipped with at least two shoulder-harness-type safety belt assemblies for use in the front seating positions.

2. Any person driving , *any adult passenger* and any *child* passenger ~~{5 years of age or older}~~ *weighing 40 pounds or more* who rides in the front or back seat of any vehicle described in subsection 1, having an unladen weight of less than 6,000 pounds, on any highway, road or street in this state shall wear a safety belt if one is available for his seating position.

3. ~~{A}~~ *Except as otherwise provided in subsections 4 and 5, a citation must be issued to any driver or to any adult passenger who fails to wear a safety belt as required by subsection 2.*

4. If the passenger is a child ~~{5 years of age or older but under 18 years,}~~ *weighing 40 pounds or more*, a citation must be issued to the driver for his failure to require that child to wear the safety belt, but if both the driver and that child are not wearing safety belts, only one citation may be issued to the driver for both violations. ~~{A}~~

5. *If the provisions of subsection 2 are violated by the failure of:*

(a) *A driver who is 18 years of age or older; or*

(b) *An adult passenger,*

FLUSH *to wear a safety belt as required by that subsection, a citation may be issued pursuant to ~~{this}~~ subsection 3 only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. A citation must be issued for any other violation of the*



provisions of subsection 2 whenever a peace officer discovers the violation, regardless of whether the vehicle is halted or its driver arrested for another alleged violation or offense.

6. Any person who ~~violates~~ *is cited for a violation of* the provisions of subsection 2 shall be punished by a fine of not more than \$25 or by a sentence to perform a certain number of hours of community service.

~~4.7.~~ 7. A violation of subsection 2:

(a) Is not a moving traffic violation under NRS 483.473.

(b) May not be considered as negligence or as causation in any civil action or as negligent or reckless driving under NRS 484.377.

(c) May not be considered as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product.

~~5.8.~~ 8. The Department shall exempt those types of motor vehicles or seating positions from the requirements of subsection 1 when compliance would be impractical.

~~6.9.~~ 9. The provisions of subsections 2, ~~and~~ 3 and 4 *that require the use of safety belts* do not apply:

(a) To a driver or passenger who possesses a written statement by a physician certifying that he is unable to wear a safety belt for medical or physical reasons;

(b) If the vehicle is not required by federal law to be equipped with safety belts;

(c) To an employee of the United States Postal Service while delivering mail in the rural areas of this state;



(d) If the vehicle is stopping frequently, the speed of that vehicle does not exceed 15 miles per hour between stops and the driver or passenger is frequently leaving the vehicle or delivering property from the vehicle; or

(e) To a passenger riding in a means of public transportation, including a taxi, school bus or emergency vehicle.

~~7.~~ 10. It is unlawful for any person to distribute, have for sale, offer for sale or sell any safety belt or shoulder harness assembly for use in a motor vehicle unless it meets current minimum standards and specifications of the United States Department of Transportation.

11. *As used in this section, "child" means a person who is less than 18 years of age.*



F. 547

Two main purposes of this bill:

1. There is currently a loophole in child seats. Our seatbelt law applies to those 5 YOA and older. Our child restraint law applies only to those children that are under the age of 5 and less than 40 lbs. This leaves those who are under 5 but over 40 lbs. unprotected under our current law.
Explanation: It is similar to the DUI law. A person must be intoxicated **and** be in physical control a vehicle to be DUI. If either part does not fit the crime then there is no offense. Our seatbelt law says a child who is under 5 years of age **and** 40 lbs or less must be in a child seat. Our seatbelt law only applies to persons 5 YOA or older.
2. The second purpose is to make the non-use of a seatbelt by any person under 18 YOA a primary offense. In the state of Nevada seatbelts are a secondary offense, meaning that a police officer cannot enforce the law unless another offense is the reason for the stop.

A NHTSA Study released in 1998 gave us of the following facts:

Nation Wide

(Page 43) Saving lives is a noble cause, but most people don't believe they will be involved in a fatal crash. They are correct. Less than 1% of motor vehicle crashes result in a death. But 1/3 of all crashes result in injury. So we are not just focusing on saving lives but also saving on pain and suffering, cost of medical insurance, also medical malpractice.

(Pages 103, 119) Excluding motorcycles and Buses (not affected by this bill) 21.96%, or more than 1 out of 5, of our vehicle fatalities are our children. 47% of those fatalities under the age of 5 were not restrained. 68.9% age 20 and under were not restrained (**this does not include unknown restraint use**).

28.23% or over 1 out of 4 of our injuries are to children. 13.9% of those under the age of 5 were not restrained. 23.14% age 20 and under were not restrained (**this does not include unknown restraint use**).

(Pages 21,88,89 & 99)

NHTSA compiled statistics about the ages of persons injured and killed when inside a motor vehicle involved that was in a crash. During every year of the study the group at the highest risk was 16-20 year olds.

(Page 98)

Per 100,000 crashes the rate of involvement in a fatal crash is 61.33 for 16-20

Injury crashes 5,163 for 16-20.

(Page 86) 21.01% of fatalities were 20 YOA or under: 8717 of 41,471

29.12% of incapacitating injuries were 20 YOA or under: 113,000 of 388,000

32.93% of non-incapacitating injuries were 20 YOA or under: 277,000 of 841,000

Nevada

(Page 152) the NHTSA study also informed us that of 361 fatalities in Nv, 68 were 20 YOA and under (18.8%)

(Page 156) 52.5% of fatalities were unrestrained (4.9% unknown)

(Page 43) Nationally 56% of fatal crashes and 28% of injury crashes involved only one vehicle. Collisions with fixed objects and non-collisions accounted for only 17% of all crashes, but accounted for 40% of fatal crashes.

(Page 52) During the year of this study 59.2% were in Rural areas with over most at speeds in excess of 50 MPH

(Page 144) 19.68% of fatal crashes in Nv were on Rural Interstates, not to include rural highways or roads.

(Page 48) Nationally EMS response times to crashes in rural areas **once EMS received the call**.

Only 55% arrived within 10 minutes.

Once EMS arrived at the scene only 2.7% got to a hospital within 10 minutes

Over 52% took more than 30 minutes.

(Page 170, 171) These are national averages, Nv lags behind that as well

F. 607

2. CRASHES

This chapter presents statistics about motor vehicle crashes according to the most severe injury in the crash: **Fatal**, **Nonfatal Injury** (Injury), and **Property Damage**. The tables and figures are presented in four groups: Time, Location, Circumstances, and Alcohol. Below are some of the crash statistics you will find in this section:

- More than 6.3 million police-reported motor vehicle crashes occurred in the United States in 1998. Almost one-third of these crashes resulted in an injury, with less than 1 percent of total crashes (37,081) resulting in a death.
- Midnight to 3 a.m. on Saturdays and Sundays proved to be the deadliest 3-hour periods throughout 1998, with 1,218 and 1,208 fatal crashes, respectively.
- Fifty-six percent of fatal crashes involved only one vehicle, compared to 28 percent of both injury crashes and property-damage-only crashes.
- More than half of fatal crashes occurred on roads with posted speed limits of 55 mph or more, while only 23 percent of property-damage-only crashes occurred on these roads.
- Collision with another motor vehicle in transport was the most common first harmful event for fatal, injury, and property-damage-only crashes. Collisions with fixed objects and noncollisions accounted for only 17 percent of all crashes, but they accounted for 40 percent of fatal crashes.
- Thirty-nine percent of fatal crashes involved alcohol. For fatal crashes occurring from midnight to 3 a.m., 76 percent involved alcohol.