

**City of Carson City
Agenda Report**

Date Submitted: April 18, 2014

Agenda Date Requested: May 1, 2014

Time Requested: 5 minutes

To: Board of Supervisors

From: Neil Rombardo, District Attorney

Subject Title: For Possible Action: To introduce, on first reading, Bill No.____, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 10-VEHICLES AND TRAFFIC, SECTION 10 SPECIAL RESPONSIBILITIES OF VEHICLE DRIVERS AND OWNERS, SECTION-10.25.060 DRIVING WHILE LICENSE CANCELED, SUSPENDED OR REVOKED-SUSPENDED SENTENCES AND PLEA BARGAINING PROHIBITED-PENALTIES BY UPDATING THE NEVADA REVISED STATUTES WHICH PERTAIN TO DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE IN THE SECTION TO REFLECT THE CHANGES MADE BY THE LEGISLATURE'S REPLACING AND RESTRUCTURING OF NRS CHAPTER 484-TRAFFIC LAWS; AND BY ADDING THE EXPRESS LANGUAGE THAT THE MANDATORY PUNISHMENTS LISTED DO NOT APPLY WHEN THE REVOCATION PERIOD HAS EXPIRED; AND OTHER MATTERS PROPERLY RELATED THERETO.

Staff Summary: Currently, Title 10, Chapter 25 Section 10.25.060 driving while license canceled, suspended or revoked- suspended sentences and plea bargaining prohibited-penalties, cites to provisions of Chapter 484 of the NRS which have been re-numbered. This ordinance updates the NRS sections cited in the CCMC. As the sections of the NRS the CCMC currently cites have been replaced with new sections, the CCMC should reflect such changes.

Type of Action Requested:

(check one)

Resolution

Ordinance First Reading

Formal Action/Motion

Other (Specify) Information Only

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to introduce on first reading, Bill No.____, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 10-VEHICLES AND TRAFFIC, SECTION 10 SPECIAL RESPONSIBILITIES OF VEHICLE DRIVERS AND OWNERS, SECTION-10.25.060 DRIVING WHILE LICENSE CANCELED, SUSPENDED OR REVOKED-SUSPENDED SENTENCES AND PLEA BARGAINING PROHIBITED-PENALTIES BY UPDATING THE NEVADA REVISED STATUTES WHICH PERTAIN TO DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE IN THE SECTION TO REFLECT THE CHANGES MADE BY THE LEGISLATURE'S REPLACING AND RESTRUCTURING OF NRS CHAPTER 484-TRAFFIC LAWS; AND BY ADDING THE EXPRESS LANGUAGE THAT

THE MANDATORY PUNISHMENTS LISTED DO NOT APPLY WHEN THE REVOCATION PERIOD HAS EXPIRED; AND OTHER MATTERS PROPERLY RELATED THERETO.

Explanation for Recommended Board Action: In 2011, the State legislature amended Chapter 484, Traffic, by breaking such chapter into subsections A through D. As a result, the former provisions regarding the offense of driving under the influence of alcohol or a controlled substance have been re-numbered. The proposed change updates the Carson City Municipal Code's references to the NRS. As the sections of the NRS the CCMC currently cites have been replaced with new sections, the CCMC should reflect such changes.

Applicable Statute, Code, Policy, Rule or Regulation: CCMC 10.25.060; NRS 483.560, 484C.110, 484C.120, 484C.210, 484C.320, 484C.330, 484C.400, 484C.410, 484C.430.

Fiscal Impact: Impact neutral

Explanation of Impact: n/a

Funding Source: n/a

Alternatives: 1) Refer back to staff and District Attorney's office for further review
2) Do not adopt the ordinance (leave the code the same way it is now)

Supporting Material: 1) CCMC Title 10, Chapter 25 Section 10.25.060
2) NRS 483.560

Prepared By: Tina Russom, Deputy D.A.

Reviewed By: _____ Date: _____
(Department Head)
Marenag Works Date: 4/22/14
(City Manager)
Janet Jeffries Date: 4/22/14
(District Attorney)
Janay Paulson Date: 4/22/14
(Finance Director)

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay _____
2) _____ _____

(Vote Recorded By)

**10.25.060 - Driving while license canceled, suspended or revoked—
Suspended sentences and plea bargaining prohibited—Penalties.**

1. Except as provided in subsection 2, any person who drives a motor vehicle on a highway or on premises to which the public has access at a time when his driver's license has been canceled, revoked or suspended is guilty of a misdemeanor.
2. If the license was suspended, revoked or restricted because of a violation of NRS 484.379, 484.4795, 484.384 or homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance, or the violation of a law or ordinance of any other jurisdiction which prohibits the same or similar conduct, he shall be punished by imprisonment in jail for not less than thirty (30) days nor more than six (6) months, and by a fine of not less than five hundred (500) nor more than one thousand (1,000). No person who is punished under this subsection may be granted probation and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty or of nolo contendere to a lesser charge or for any other reason unless, in his judgment the charge is not supported by probable cause or cannot be proved at trial.
3. Any term of confinement imposed under the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of confinement must be served within six (6) months after the date of conviction, and any segment of time the person is confined must consist of not less than twenty-four (24) hours.
4. Jail sentences simultaneously imposed under this section, CCMC 10.22.020 or NRS 484.3792 must run consecutively.

NRS 483.560 Driving while license cancelled, revoked or suspended; probation, suspended sentences and plea bargaining prohibited; exception; penalties.

1. Except as otherwise provided in subsection 2, any person who drives a motor vehicle on a highway or on premises to which the public has access at a time when the person's driver's license has been cancelled, revoked or suspended is guilty of a misdemeanor.
2. Except as otherwise provided in this subsection, if the license of the person was suspended, revoked or restricted because of:
 - (a) A violation of NRS 484C.110, 484C.120, 484C.210 or 484C.430;
 - (b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or
 - (c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

→ the person shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months or by serving a term of residential confinement for not less than 60 days nor more than 6 months, and shall be further punished by a fine of not less than \$500 nor more than \$1,000. A person who is punished pursuant to this subsection may not be granted probation, and a sentence imposed for such a violation may not be suspended. A prosecutor may not dismiss a charge of such a violation in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason, unless the prosecutor believes the charge is not supported by probable cause or cannot be proved at trial. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated the license.
3. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours.
4. Jail sentences simultaneously imposed pursuant to this section and NRS 484C.320, 484C.330, 484C.400, 484C.410 or 484C.420 must run consecutively.

5. If the Department receives a record of the conviction or punishment of any person pursuant to this section upon a charge of driving a vehicle while the person's license was:

- (a) Suspended, the Department shall extend the period of the suspension for an additional like period.
- (b) Revoked, the Department shall extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.
- (c) Restricted, the Department shall revoke the restricted license and extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.
- (d) Suspended or cancelled for an indefinite period, the Department shall suspend the license for an additional 6 months for the first violation and an additional 1 year for each subsequent violation.

6. Suspensions and revocations imposed pursuant to this section must run consecutively.

[Part 20:190:1941; A 1953, 191; 1955, 65] + [Part 42:190:1941; 1931 NCL § 4442.41]—(NRS A 1967, 593, 1261; 1969, 551; 1973, 1276; 1981, 535, 1923; 1983, 1083; 1989, 1153; 1993, 113, 2265; 1995, 261, 2470; 1997, 1743; 1999, 3412; 2003, 1489; 2005, 135; 2007, 1449, 2789)

ORDINANCE NO. _____

BILL NO. _____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 10-VEHICLES AND TRAFFIC, SECTION 10 SPECIAL RESPONSIBILITIES OF VEHICLE DRIVERS AND OWNERS, SECTION-10.25.060 DRIVING WHILE LICENSE CANCELED, SUSPENDED OR REVOKED-SUSPENDED SENTENCES AND PLEA BARGAINING PROHIBITED-PENALTIES BY UPDATING THE NEVADA REVISED STATUTES WHICH PERTAIN TO DRIVING UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE IN THE SECTION TO REFLECT THE CHANGES MADE BY THE LEGISLATURE'S REPLACING AND RESTRUCTURING OF NRS CHAPTER 484-TRAFFIC LAWS; AND BY ADDING THE EXPRESS LANGUAGE THAT THE MANDATORY PUNISHMENTS LISTED DO NOT APPLY WHEN THE REVOCATION PERIOD HAS EXPIRED; AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: Title 10, Chapter 25, Section 10.25.060 of the Carson City Municipal Code ("CCMC") is hereby amended as follows:

**10.25.060 - Driving while license canceled, suspended or revoked—
Suspended sentences and plea bargaining prohibited—Penalties.**

1. Except as provided in subsection 2, any person who drives a motor vehicle on a highway or on premises to which the public has access at a time when his driver's license has been canceled, revoked or suspended is guilty of a misdemeanor.
2. [If the license was suspended, revoked or restricted because of a violation of NRS 484.379, 484.4795, 484.384 or homicide resulting from driving a vehicle while under the influence of intoxicating liquor or a controlled substance, or the violation of a law or ordinance of any other jurisdiction which prohibits the same or similar conduct, he shall be punished by imprisonment in jail for not less than thirty (30) days nor more than six (6) months, and by a fine of not less than five hundred (500) nor more than one thousand (1,000). No person who is punished under this subsection may be granted probation and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty or of nolo contendere to a lesser charge or for any other reason unless, in his judgment the charge is not supported by probable cause or cannot be proved at trial.] Except as otherwise provided in this subsection, if the license of the person was suspended, revoked or restricted because of:

- (a) A violation of NRS 484C.110, 484C.120, 484C.210 or 484C.430;
- (b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or

- (c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b).

the person shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months or by serving a term of residential confinement for not less than 60 days nor more than 6 months, and shall be further punished by a fine of not less than \$500 nor more than \$1,000. A person who is punished pursuant to this subsection may not be granted probation, and a sentence imposed for such a violation may not be suspended. A prosecutor may not dismiss a charge of such a violation in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason, unless the prosecutor believes the charge is not supported by probable cause or cannot be proved at trial. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated the license.

3. Any term of confinement imposed under the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of confinement must be served within six (6) months after the date of conviction, and any segment of time the person is confined must consist of not less than twenty-four (24) hours.

4. Jail sentences simultaneously imposed under this section, CCMC 10.22.020 [or NRS 484.3792] ,484C.320, 484C.330, 484C.400, 484C.410 or 484C.420 must run consecutively.

Section II: If any clause, sentence, section, provision or part of Chapter 10.25 of the Carson City Municipal Code shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not invalidate, impair or affect the remainder of such chapter.

Section III: That no other provisions of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____ (month) _____ (day), 2014.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2014.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

ALAN GLOVER
CLERK/RECORDER.

This ordinance shall be in force and effect from and after the ___ day of the
month of _____ of the year, 2014.