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Transportation and Motor Vehicles; Child Passenger Seat Restraints

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alcohol content.⁸⁸

In addition, the validity of blood alcohol testing has recently been questioned.⁸⁹ Some experts assert that blood alcohol content may actually increase *after* an accident or arrest.⁹⁰ Consequently, a person not legally intoxicated at the time of the alleged violation may reach that level during the period of delay before the evidentiary test.⁹¹

Constitutional issues may also be raised by provisions of Chapter 426 that require first-time DUI offenders to wear distinctive garb⁹² while performing work for the community.⁹³ Under existing case law, an individual's personal appearance is protected by the due process clause⁹⁴ and a restriction on that right may violate personal liberties.⁹⁵ For these restrictions to be valid, there must be a legitimate state interest that is reasonably related to the regulation.⁹⁶ Therefore, this provision of Chapter 426 must be sufficiently tailored to justify the interest of the state in punishing drunk drivers.⁹⁷

88. NEV. REV. STAT. §484.381(2)(c)(amended by 1983 Nev. Stat. c. 426, §13(2)(c), at 1073); see also Comment, *Under the Influence of California's New Drunk Driving Law: Is the Drunk Driver's Presumption of Innocence on the Rocks?* 10 PEPPERDINE L. REV. 91, 98 (1982).

89. See Fitzgerald and Hume, *The Single Chemical Test for Intoxication: A Challenge to Admissibility*, 66 MASS. L.J. 23 (1981); see also NEV. REV. STAT. §484.385 (amended by 1983 Nev. Stat. c. 426, §15, at 1075) (procedure for evidentiary testing).

90. Fitzgerald and Hume, *supra* note 89, at 31.

91. *Id.*; see also NEV. REV. STAT. §484.381 (amended by 1983 Nev. Stat. c. 426, §13(1), at 1073) (amount of alcohol shown by a chemical analysis presumed to be no less than the amount present at the time of the alleged violation).

92. 1983 Nev. Stat. c. 426, §10(1)(a)(2), at 1070 (distinctive garb requirement).

93. See *infra* notes 94-95 and accompanying text.

94. See U.S. CONST. amend. XIV; NEV. CONST. art. I, §8; see also *Dwen v. Barry*, 483 F.2d 1126, 1130 (1973).

95. See *Shelton v. Tucker*, 364 U.S. 479, 488 (1960); see, e.g., *Burgin v. Henderson*, 536 F.2d 501, 504 (1976) (balancing a person's free exercise of religion in wearing a prayer hat against the possibility of concealed weapons).

96. See L. TRIBE, *AMERICAN CONSTITUTIONAL LAW* 891-92 (1978).

97. See *id.*

Transportation and Motor Vehicles; child passenger seat restraints

NEV. REV. STAT. §484.— (new).

AB 307 (Swain); 1983 STAT. Ch 589

Chapter 589 expressly establishes requirements for the use of federally approved child passenger seat restraints.¹ In addition, Chapter 589

1. 49 C.F.R. §571.213 (1982) (establishes federal standards for child seat restraints); 1983 Nev. Stat. c. 589, §1, at 1888; see also *id.* c. 589, §1(3), at 1888 (providing that a violation shall not be considered a moving traffic violation under NEV. REV. STAT. §483.470); 1983 Nev. Stat. c. 589,

requires that all children under three years of age must be secured in a seat restraint while being transported in the rear seat of a vehicle registered in the state.² A safety belt may be used if the child is three or four years of age and is in the rear seat of a vehicle registered in the state.³

Any person who violates the provisions of Chapter 589 will be subject to a fine ranging from \$35 to \$100.⁴ The charges will be dismissed, however, if the violator presents proof of purchase or rental of a restraining device to the court within fourteen days of issuance of the citation.⁵

Exempted from the requirements of Chapter 589 are persons transporting children (1) as a means of public transportation, including a taxi, school bus or emergency vehicle,⁶ or (2) in a rented vehicle.⁷ Also exempt are persons who possess a signed statement from a physician stating that the use of seat restraints or safety belts for a particular child would be impractical or dangerous because of the child's weight, physical unfitness, or medical condition.⁸ Finally, the requirements of Chapter 589 are inapplicable if (1) all seating positions with safety belts are occupied,⁹ (2) preference in the use of safety belts is given to children under three years of age,¹⁰ and (3) all unrestrained children under five years of age are in the rear seat.¹¹

§1(4), at 1888 (providing that a violation shall not be considered negligence in any civil action, or negligence or reckless driving under NEV. REV. STAT. §484.377); 1983 Nev. Stat. c. 589, §1(1)(a), at 1888.

2. *Id.* c. 589, §1(1)(b), at 1888.

3. *Id.* c. 589, §1(1)(c), at 1888.

4. *Id.* c. 589, §1(2), at 1888.

5. *Id.*

6. *Id.* c. 589, §1(5)(a), at 1888.

7. *Id.*

8. *Id.* c. 589, §1(5)(b), at 1888. The physician's signed statement must be carried in the vehicle. *Id.*

9. *Id.* c. 589, §1(5)(c)(1), at 1889.

10. *Id.* c. 589, §1(5)(c)(2), at 1889.

11. *Id.* c. 589, §1(5)(c)(3), at 1889.

Transportation and Motor Vehicles; slower drivers—use of highways

NEV. REV. STAT. §84.373 (amended).

SB 407 (Committee on Transportation); 1983 STAT. Ch 341

Prior law imposed a duty upon the driver of a motor vehicle¹ travel-

1. NEV. REV. STAT. §84.081 (definition of motor vehicle).