

STAFF REPORT

Date: November 9, 2022

To: Mayor and City Council

Thru: Doug Thornley, City Manager

Subject: Staff Report (For Possible Action): Ordinance Adoption - Bill No. 7220 Ordinance amendment to Section 1.04015 – State misdemeanors and civil infractions - of the Reno Municipal Code to comply with changes made by the 2021 Nevada Legislature to the Nevada Revised Statutes converting some traffic violations from misdemeanor crimes to civil infractions.

From: Brian Sooudi

Department: City Attorney's Office

Summary:

The 2021 Nevada Legislature passed AB 116 converting a majority of traffic laws in the State of Nevada from a misdemeanor crime to a civil infraction with an effective date of January 1, 2023. The proposed ordinance amendments to the Reno Municipal Code reflect the changes made by the Nevada Legislature and bring the Reno Municipal Code into compliance with the Nevada Revised Statutes. The first proposed change amends Reno Municipal Code Title 1 – General Provisions, Chapter 1.04. – Penalties and Arrest Procedure, Section 1.04.015. – State misdemeanors. This will allow the City of Reno to enforce violations of civil infractions contained within the Nevada Revised Statutes. The Second change creates a new ordinance within Reno Municipal Code Title 6 - Vehicles and Traffic, Chapter 6.04 – Definitions, Section 6.04.001. - Findings. The new ordinance acknowledges the change from criminal violations to civil infractions within our traffic code and acknowledges that only the state equivalent traffic violations within Reno Municipal Code will remain a misdemeanor. AB 116 prohibited a local government from enacting any ordinance that provides a criminal penalty for certain traffic and related offenses for which the penalty prescribed by law is a civil infraction.

Alignment with Strategic Plan:

Public Safety

Previous Council Action:

There is no recent Council action relevant to this item.

Discussion:

Nevada was a minority state which still had traffic violations classified as a misdemeanor criminal offense. In 2021, the 81st session of the Nevada Legislature passed AB 116 establishing civil penalties for certain traffic and related violations. Effective January 1, 2023, many traffic violations in the state will be reclassified to civil infractions while some will remain misdemeanor offenses. The bill prohibits a local government from enacting any ordinance that provides a criminal penalty for certain traffic and related offenses for which the penalty prescribed by law is a civil infraction.

On August 16, 2022, the Reno Municipal Court received communication from the Nevada Supreme Court that they were working with the Department of Public Safety to get civil infractions created. During this process they have found several instances where city codes or county ordinances still listed traffic matters as misdemeanors rather than civil infractions. The Nevada Supreme Court and the Department of Public Safety have directed all cities and counties to make clarifications within their respective codes and ordinances to comply with AB 116. In review of the request from the Nevada Supreme Court, staff has recognized two changes that need to be made within the Reno Municipal Code to bring it into compliance with the changes made by AB 116.

Staff recommends amending Reno Municipal Code Title 1 – General Provisions, Chapter 1.04. – Penalties and Arrest Procedure, Section 1.04.015 – State misdemeanors. Currently, RMC 1.04.015 allows any act amounting to a state misdemeanor to be a crime within city limits. With the change of traffic violations from a misdemeanor crime to civil infractions, RMC 1.04.015 needs to be amended to extend city jurisdiction to civil infractions. The proposed amendment would add language to reflect civil infractions.

Section 1.04.015. – State misdemeanors and civil infractions.

The commission of any act within the corporate limits of the City of Reno or the failure to perform any within such corporate limits which is made a misdemeanor or civil infraction by the laws of the State of Nevada is declared to be and shall constitute a misdemeanor or civil infraction under this code.

State Law Reference – Power to establish misdemeanors by ordinance, NRS 268.018. Power to impose civil liability instead of criminal sanction, NRS 268.019.

Financial Implications:

There are no financial implications with this item at this time.

Legal Implications:

Legal review completed for compliance with City procedures and Nevada law.

Recommendation:

Staff recommends Council adoption of Ordinance No. _____

Proposed Motion:

I move to adopt Ordinance No. _____

Attachments:

Ordinance 1.04