

ASSEMBLY BILL NO. 192—ASSEMBLYMEN SEGERBLOM, WILLIAMS, PARKS,
ANDERSON, GIBBONS, BUCKLEY, FREEMAN, ARBERRY, BERMAN,
MANENDO, CHOWNING, MCCLAIN, KOIVISTO, DE BRAGA, EVANS,
GOLDWATER, GIUNCHIGLIANI, MORTENSON AND LESLIE

FEBRUARY 10, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning firearms. (BDR 15-74)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to firearms; prohibiting a person from negligently storing a firearm; imposing civil liability upon the parent, guardian or other person who is legally responsible for a minor for negligently storing a firearm if the minor gains access to the firearm and commits a negligent act or willful misconduct; providing penalties; 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.** Chapter 202 of NRS is hereby amended by adding thereto
2 a new section to read as follows:

3 ***1. Except as otherwise provided in NRS 202.300 and subsection 5, a***
4 ***child who is under the age of 18 years shall not handle or have in his***
5 ***possession or under his control, except while accompanied by or under***
6 ***the immediate charge of his parent or guardian or an adult person***
7 ***authorized by his parent or guardian to have control or custody of the***
8 ***child, any firearm of any kind for hunting or target practice or for any***
9 ***other purpose. A child who violates this subsection commits a delinquent***
10 ***act and the court may order the detention of the child in the same***
11 ***manner as if the child had committed an act that would have been a***
12 ***felony if committed by an adult.***

13 ***2. A person who aids or knowingly allows a child to violate***
14 ***subsection 1 or who negligently stores a firearm in a manner that results***
15 ***in a child gaining access to the firearm in violation of subsection 1:***

1 (a) *For the first offense:*

2 (1) *If the child does not discharge the firearm, is guilty of a*
3 *misdemeanor;*

4 (2) *If the child discharges the firearm and causes serious bodily*
5 *injury or death to himself or another person and the person who*
6 *committed the offense did not know or have reason to know that there*
7 *was a substantial risk that the child would use the firearm to commit a*
8 *violent act, is guilty of a gross misdemeanor; and*

9 (3) *If the child discharges the firearm and causes serious bodily*
10 *injury or death to himself or another person and the person who*
11 *committed the offense knew or had reason to know that there was a*
12 *substantial risk that the child would use the firearm to commit a violent*
13 *act, is guilty of a category C felony and shall be punished as provided in*
14 *NRS 193.130.*

15 (b) *For the second or any subsequent offense, is guilty of a category B*
16 *felony and shall be punished by imprisonment in the state prison for a*
17 *minimum term of not less than 1 year and a maximum term of not more*
18 *than 6 years, and may be further punished by a fine of not more than*
19 *\$5,000.*

20 3. *A person shall be deemed to have negligently stored a firearm if he*
21 *kept the firearm at a location that was under his custody or control and*
22 *he knew or had reason to know that a child was likely to gain access to*
23 *the firearm without permission.*

24 4. *A person does not aid or knowingly allow a child to violate*
25 *subsection 1 and does not negligently store a firearm in a manner that*
26 *results in a child gaining access to the firearm in violation of subsection*
27 *1 if:*

28 (a) *The firearm was stored in a securely locked container or at a*
29 *location which the person believed or had reason to believe was secure;*

30 (b) *The child obtained the firearm as a result of an unlawful entry by*
31 *any person in or upon the premises where the firearm was stored;*

32 (c) *The child discharged the firearm causing serious bodily injury or*
33 *death to himself or another person and the serious bodily injury or death*
34 *resulted from an accident which was incident to target shooting, sport*
35 *shooting or hunting; or*

36 (d) *The child gained possession of the firearm from a member of the*
37 *military or a law enforcement officer, while the member or officer was*
38 *performing his official duties.*

39 5. *The provisions of subsection 1 do not apply to a child who is a*
40 *member of the Armed Forces of the United States.*

1 **Sec. 2.** NRS 202.300 is hereby amended to read as follows:

2 202.300 1. ~~Except as otherwise provided in this section, a child~~
3 ~~under the age of 18 years shall not handle or have in his possession or~~
4 ~~under his control, except while accompanied by or under the immediate~~
5 ~~charge of his parent or guardian or an adult person authorized by his parent~~
6 ~~or guardian to have control or custody of the child, any firearm of any kind~~
7 ~~for hunting or target practice or for other purposes. A child who violates~~
8 ~~this subsection commits a delinquent act and the court may order the~~
9 ~~detention of the child in the same manner as if the child had committed an~~
10 ~~act that would have been a felony if committed by an adult.~~

11 ~~—2.—A person who aids or knowingly permits a child to violate~~
12 ~~subsection 1:~~

13 ~~—(a) Except as otherwise provided in paragraph (b), for the first offense,~~
14 ~~is guilty of a misdemeanor.~~

15 ~~—(b) For a first offense, if the person knows or has reason to know that~~
16 ~~there is a substantial risk that the child will use the firearm to commit a~~
17 ~~violent act, is guilty of a category C felony and shall be punished as~~
18 ~~provided in NRS 193.130.~~

19 ~~—(c) For a second or any subsequent offense, is guilty of a category B~~
20 ~~felony and shall be punished by imprisonment in the state prison for a~~
21 ~~minimum term of not less than 1 year and a maximum term of not more~~
22 ~~than 6 years, and may be further punished by a fine of not more than~~
23 ~~\$5,000.~~

24 ~~—3.—A person does not aid or knowingly permit a child to violate~~
25 ~~subsection 1 if:~~

26 ~~—(a) The firearm was stored in a securely locked container or at a~~
27 ~~location which a reasonable person would have believed to be secure;~~

28 ~~—(b) The child obtained the firearm as a result of an unlawful entry by~~
29 ~~any person in or upon the premises where the firearm was stored;~~

30 ~~—(c) The injury or death resulted from an accident which was incident to~~
31 ~~target shooting, sport shooting or hunting; or~~

32 ~~—(d) The child gained possession of the firearm from a member of the~~
33 ~~military or a law enforcement officer, while the member or officer was~~
34 ~~performing his official duties.~~

35 ~~—4.—The provisions of subsection 1 do not apply to a child who is a~~
36 ~~member of the Armed Forces of the United States.~~

37 ~~—5.]~~ Except as otherwise provided in subsection ~~[8,]~~ 4, a child who is 14
38 years of age or older, who has in his possession a valid license to hunt,
39 may handle or have in his possession or under his control, without being
40 accompanied by his parent or guardian or an adult person authorized by his
41 parent or guardian to have control or custody of him:

1 (a) A rifle or shotgun that is not a fully automatic firearm, if the child is
2 not otherwise prohibited by law from possessing the rifle or shotgun and
3 the child has the permission of his parent or guardian to handle or have in
4 his possession or under his control the rifle or shotgun; or

5 (b) A firearm capable of being concealed upon the person, if the child
6 has the written permission of his parent or guardian to handle or have in
7 his possession or under his control such a firearm and the child is not
8 otherwise prohibited by law from possessing such a firearm,
9 and the child is traveling to the area in which he will be hunting or
10 returning from that area and the firearm is not loaded, or the child is
11 hunting pursuant to that license.

12 ~~16.1~~ 2. Except as otherwise provided in subsection ~~18.1~~ 4, a child who
13 is 14 years of age or older may handle or have in his possession or under
14 his control a rifle or shotgun that is not a fully automatic firearm if the
15 child is not otherwise prohibited by law from possessing the rifle or
16 shotgun, without being accompanied by his parent or guardian or an adult
17 person authorized by his parent or guardian to have control or custody of
18 him, if the child has the permission of his parent or guardian to handle or
19 have in his possession or under his control the rifle or shotgun and the
20 child is:

21 (a) Attending a course of instruction in the responsibilities of hunters or
22 a course of instruction in the safe use of firearms;

23 (b) Practicing the use of a firearm at an established firing range or at
24 any other area where the discharge of a firearm is permitted;

25 (c) Participating in a lawfully organized competition or performance
26 involving the use of a firearm;

27 (d) Within an area in which the discharge of firearms has not been
28 prohibited by local ordinance or regulation and he is engaging in a lawful
29 hunting activity in accordance with chapter 502 of NRS for which a license
30 is not required;

31 (e) Traveling to or from any activity described in paragraph (a), (b), (c)
32 or (d), and the firearm is not loaded;

33 (f) On real property that is under the control of an adult, and the child
34 has the permission of that adult to possess the firearm on the real property;
35 or

36 (g) At his residence.

37 ~~17.1~~ 3. Except as otherwise provided in subsection ~~18.1~~ 4, a child who
38 is 14 years of age or older may handle or have in his possession or under
39 his control, for the purpose of engaging in any of the activities listed in
40 paragraphs (a) to (g), inclusive, of subsection ~~16.1~~ 2, a firearm capable of
41 being concealed upon the person, without being accompanied by his parent
42 or guardian or an adult person authorized by his parent or guardian to have
43 control or custody of him, if the child:

1 (a) Has the written permission of his parent or guardian to handle or
2 have in his possession or under his control such a firearm for the purpose
3 of engaging in such an activity; and

4 (b) Is not otherwise prohibited by law from possessing such a firearm.

5 ~~18.1~~ 4. A child shall not handle or have in his possession or under his
6 control a loaded firearm if he is:

7 (a) An occupant of a motor vehicle;

8 (b) Within any residence, including his residence, or any building other
9 than a facility licensed for target practice, unless possession of the firearm
10 is necessary for the immediate defense of the child or another person; or

11 (c) Within an area designated by a county or municipal ordinance as a
12 populated area for the purpose of prohibiting the discharge of weapons,
13 unless he is within a facility licensed for target practice.

14 ~~19.1~~ 5. For the purposes of this section, a firearm is loaded if:

15 (a) There is a cartridge in the chamber of the firearm;

16 (b) There is a cartridge in the cylinder of the firearm, if the firearm is a
17 revolver; or

18 (c) There is a cartridge in the magazine and the magazine is in the
19 firearm or there is a cartridge in the chamber, if the firearm is a
20 semiautomatic firearm.

21 **Sec. 3.** NRS 41.472 is hereby amended to read as follows:

22 41.472 1. If a parent, guardian or other person legally responsible for
23 a minor under the age of 18 years:

24 (a) Knows that the minor has previously been adjudicated delinquent or
25 has been convicted of a criminal offense ~~1.1~~ *and allows the minor to use or*
26 *possess a firearm;*

27 (b) Knows that the minor has a propensity to commit violent acts ~~1.1 or~~
28 *and allows the minor to use or possess a firearm;*

29 (c) Knows or has reason to know that the minor intends to use ~~the~~ *a*
30 firearm for unlawful purposes ~~1.1 and permits~~ *and allows* the minor to use
31 or possess a firearm ~~1.1~~ *; or*

32 *(d) Negligently stores a firearm in violation of section 1 of this act and*
33 *the minor gains access to the firearm,*

34 any negligence or willful misconduct of the minor in connection with such
35 use or possession *of the firearm* is imputed to the person who permits such
36 use or possession *or who negligently stores the firearm* for all purposes of
37 civil damages, and, notwithstanding the provisions of subsection 2 of NRS
38 41.470, that person is jointly and severally liable with the minor for any
39 and all damages caused by such negligence or willful misconduct.

40 2. As used in this section, "firearm" has the meaning ascribed to it in
41 NRS 202.253.

1 **Sec. 4.** NRS 62.228 is hereby amended to read as follows:

2 62.228 1. In addition to the options set forth in NRS 62.211 and
3 62.213, if a child is adjudicated delinquent pursuant to paragraph (b) of
4 subsection 1 of NRS 62.040 because he handled or possessed a firearm or
5 had a firearm under his control in violation of ~~NRS 202.300,~~ **section 1 of**
6 **this act**, the court shall:

7 (a) For the first offense:

8 (1) Require him to perform 200 hours of public service in the manner
9 provided in paragraph (i) of subsection 1 of NRS 62.211; and

10 (2) Suspend his driver's license for not more than 1 year or, if he
11 does not possess a driver's license, prohibit the child from receiving a
12 driver's license for not more than 1 year:

13 (I) Immediately following the date of the order, if the child is
14 eligible to receive a driver's license.

15 (II) After the date he becomes eligible to receive a driver's license,
16 if the child is not eligible to receive a license on the date of the order.

17 (b) For the second offense:

18 (1) Require him to perform at least 200 hours, but not more than 600
19 hours, of public service in the manner provided in paragraph (i) of
20 subsection 1 of NRS 62.211; and

21 (2) Suspend his driver's license for at least 90 days but not more than
22 2 years or, if he does not possess a driver's license, prohibit the child from
23 receiving a driver's license for at least 90 days but not more than 2 years:

24 (I) Immediately following the date of the order, if the child is
25 eligible to receive a driver's license.

26 (II) After the date he becomes eligible to receive a driver's license,
27 if the child is not eligible to receive a license on the date of the order.

28 2. If the court issues an order suspending the driver's license of a child
29 pursuant to this section, the judge shall require the child to surrender his
30 driver's license to the court.

31 3. If a child is already the subject of a court order suspending or
32 delaying the issuance of his driver's license, the court shall order an
33 additional suspension or delay, as appropriate, to apply consecutively with
34 the previous order.

35 **Sec. 5.** NRS 62.229 is hereby amended to read as follows:

36 62.229 In addition to the options set forth in NRS 62.211 and 62.213
37 and the requirements of NRS 62.228, if a child is adjudicated delinquent
38 pursuant to paragraph (b) of subsection 1 of NRS 62.040 because he
39 handled or possessed a firearm or had a firearm under his control in
40 violation of ~~NRS 202.300,~~ **section 1 of this act**, the court shall order that
41 any license to hunt issued to the child pursuant to chapter 502 of NRS must
42 be revoked by the division of wildlife of the state department of
43 conservation and natural resources and that the child shall not receive a

1 license to hunt within the 2 years following the date of the order or until he
2 is 18 years of age, whichever is later. The judge shall require the child to
3 surrender to the court any license to hunt then held by the child. The court
4 shall, within 5 days after issuing the order, forward to the division of
5 wildlife any license to hunt surrendered by the child, together with a copy
6 of the order.

7 **Sec. 6.** NRS 179.118 is hereby amended to read as follows:

8 179.118 1. The proceeds from any sale or retention of property
9 declared to be forfeited must be applied, first, to the satisfaction of any
10 protected interest established by a claimant in the proceeding, then to the
11 proper expenses of the proceeding for forfeiture and resulting sale,
12 including the expense of effecting the seizure, the expense of maintaining
13 custody, the expense of advertising and the costs of the suit.

14 2. Any balance remaining after the distribution required by subsection
15 1 must be deposited as follows:

16 (a) Except as otherwise provided in this subsection, if the plaintiff
17 seized the property, in the special account established pursuant to NRS
18 179.1187 by the governing body that controls the plaintiff.

19 (b) Except as otherwise provided in this subsection, if the plaintiff is a
20 metropolitan police department, in the special account established by the
21 metropolitan police committee on fiscal affairs pursuant to NRS 179.1187.

22 (c) Except as otherwise provided in this subsection, if more than one
23 agency was substantially involved in the seizure, in an equitable manner to
24 be directed by the court hearing the proceeding for forfeiture.

25 (d) If the property was seized pursuant to NRS 200.760, in the state
26 treasury for credit to the fund for the compensation of victims of crime to
27 be used for the counseling and the medical treatment of victims of crimes
28 committed in violation of NRS 200.366, 200.710 to 200.730, inclusive, or
29 201.230.

30 (e) If the property was seized as the result of a violation of ~~NRS~~
31 ~~202.300,1~~ **section 1 of this act**, in the general fund of the county in which
32 the complaint for forfeiture was filed, to be used to support programs of
33 counseling of persons ordered by the court to attend counseling pursuant to
34 paragraph (e) of subsection 1 of NRS 62.211.

35 **Sec. 7.** NRS 179.121 is hereby amended to read as follows:

36 179.121 1. All personal property, including any tool, substance,
37 weapon, machine, money or security, which is used as an instrumentality
38 in:

39 (a) The commission of or attempted commission of the crime of
40 murder, robbery, kidnaping, burglary, invasion of the home, grand larceny
41 or pandering;

42 (b) The commission of any crime by a criminal gang, as defined in NRS
43 213.1263;

or

1 (c) A violation of NRS 200.465, 202.265, 202.287 or 465.070 to
2 465.085, inclusive,
3 is subject to forfeiture.

4 2. Except as otherwise provided for conveyances forfeitable pursuant
5 to NRS 453.301 or 501.3857, all conveyances, including aircraft, vehicles
6 or vessels, which are used or intended for use during the commission of a
7 felony or a violation of NRS 202.287 ~~[-, 202.300]~~ *or section 1 of this act*,
8 or 465.070 to 465.085, inclusive, are subject to forfeiture except that:

9 (a) A conveyance used by any person as a common carrier in the
10 transaction of business as a common carrier is not subject to forfeiture
11 under this section unless it appears that the owner or other person in charge
12 of the conveyance is a consenting party or privy to the felony or violation;

13 (b) A conveyance is not subject to forfeiture under this section by
14 reason of any act or omission established by the owner thereof to have
15 been committed or omitted without his knowledge, consent or willful
16 blindness;

17 (c) A conveyance is not subject to forfeiture for a violation of ~~NRS~~
18 ~~202.300]~~ *section 1 of this act* if the firearm used in the violation of that
19 section was not loaded at the time of the violation; and

20 (d) A forfeiture of a conveyance encumbered by a bona fide security
21 interest is subject to the interest of the secured party if he neither had
22 knowledge of nor consented to the felony. If a conveyance is forfeited the
23 appropriate law enforcement agency may pay the existing balance and
24 retain the conveyance for official use.

25 3. For the purposes of this section, a firearm is loaded if:

26 (a) There is a cartridge in the chamber of the firearm;

27 (b) There is a cartridge in the cylinder of the firearm, if the firearm is a
28 revolver; or

29 (c) There is a cartridge in the magazine and the magazine is in the
30 firearm or there is a cartridge in the chamber, if the firearm is a
31 semiautomatic firearm.

32 **Sec. 8.** NRS 502.010 is hereby amended to read as follows:

33 502.010 1. A person who hunts or traps any of the wild birds or
34 mammals or who fishes without having first procured a license or permit to
35 do so, as provided in this Title, is guilty of a misdemeanor, except that:

36 (a) A license to hunt or fish is not required of a resident of this state
37 who is under 12 years of age, unless required for the issuance of tags as
38 prescribed in this Title or by the regulations of the commission.

39 (b) A license to fish is not required of a nonresident of this state who is
40 under 12 years of age, but the number of fish taken by such a nonresident
41 must not exceed 50 percent of the daily creel and possession limits as
42 provided by law.

1 (c) Except as otherwise provided in subsection ~~5 or 6~~ **1 or 2** of NRS
2 202.300, it is unlawful for any child who is under 18 years of age to hunt
3 any of the wild birds or mammals with any firearm, unless the child is
4 accompanied at all times by his parent or guardian or is accompanied at all
5 times by an adult person authorized by his parent or guardian to have
6 control or custody of the child for the purpose of hunting if the authorized
7 person is also licensed to hunt.

8 (d) A child under 12 years of age, whether accompanied by a qualified
9 person or not, shall not hunt big game in the State of Nevada. This section
10 does not prohibit any child from accompanying an adult licensed to hunt.

11 (e) The commission may adopt regulations setting forth the species of
12 wild birds or mammals which may be hunted or trapped without a license
13 or permit.

14 (f) The commission may declare one day per year as a day upon which
15 persons may fish without a license to do so.

16 2. This section does not apply to the protection of persons or property
17 from unprotected wild birds or mammals on or in the immediate vicinity of
18 home or ranch premises.

19 **Sec. 9.** The amendatory provisions of this act do not apply to an
20 offense that is committed before October 1, 1999.