

ASSEMBLY BILL NO. 105—COMMITTEE ON JUDICIARY

(ON BEHALF OF NEVADA SHERIFFS AND CHIEFS ASSOCIATION)

FEBRUARY 12, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions pertaining to explosive and incendiary devices.
(BDR 15-425)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 crimes; prohibiting possession of components for constructing an explosive or incendiary device with the intent to manufacture such a device; prohibiting possession of any explosive or incendiary device or material, substance or component that may be converted to such a device in certain places; 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 the provisions set forth as sections 2 and 3 of this act.
3 **Sec. 2. 1. *A person shall not knowingly possess any component of***
4 ***an explosive or incendiary device with the intent to manufacture an***
5 ***explosive or incendiary device.***
6 ***2. A person who violates subsection 1 is guilty of a category B felony***
7 ***and shall be punished by imprisonment in the state prison for a***
8 ***minimum term of not less than 1 year and a maximum term of not more***
9 ***than 6 years, and may be further punished by a fine of not more than***
10 ***\$5,000.***
11 ***3. This section does not prohibit a person from possessing,***
12 ***manufacturing or using any material, component, substance or device as***
13 ***required for the performance of his duties related to mining, agriculture,***
14 ***construction or any other valid occupational purpose or if the person is***
15 ***authorized by a governmental entity which has lawful control over such***
16 ***matters to use those items in the performance of his duties.***
17 **Sec. 3. 1. *Except as otherwise provided in subsection 3, a person***
18 ***shall not possess any explosive or incendiary device or any explosive or***



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- 1 incendiary material, substance or component that may be readily
2 converted to an explosive or incendiary device:
- 3 (a) In or upon any public street or highway in this state;
4 (b) In or near any private habitation, public place or any place open to
5 the public; or
6 (c) In, on or near any public conveyance.
- 7 2. A person who violates subsection 1 is guilty of a category D felony
8 and shall be punished as provided in NRS 193.130.
- 9 3. This section does not prohibit a person from possessing any
10 material, component, substance or device:
- 11 (a) As required for the performance of his duties related to mining,
12 agriculture, construction or any other valid occupational purpose or if
13 the person is authorized by a governmental entity which has lawful
14 control over such matters to use those items in the performance of his
15 duties;
- 16 (b) In an amount which, if detonated or otherwise exploded, would
17 not ordinarily cause substantial bodily harm to another person or
18 substantial harm to the property of another; or
19 (c) As part of a model rocket or engine for a model rocket that is
20 designed, sold and used for the purpose of propelling a model rocket.
- 21 **Sec. 4.** NRS 202.253 is hereby amended to read as follows:
22 202.253 As used in NRS 202.253 to 202.369, inclusive ~~†~~ , and
23 sections 2 and 3 of this act:
- 24 1. "Explosive or incendiary device" means any explosive or
25 incendiary material or substance that has been constructed, altered,
26 packaged or arranged in such a manner that its ordinary use would
27 cause destruction or injury to life or property.
- 28 2. "Firearm" means any device designed to be used as a weapon from
29 which a projectile may be expelled through the barrel by the force of any
30 explosion or other form of combustion.
- 31 ~~†~~ 3. "Firearm capable of being concealed upon the person" applies
32 to and includes all firearms having a barrel less than 12 inches in length.
- 33 ~~†~~ 4. "Motor vehicle" means every vehicle that is self-propelled.
- 34 **Sec. 5.** NRS 202.260 is hereby amended to read as follows:
35 202.260 1. A person ~~†who unlawfully possesses, manufactures, or~~
36 ~~disposes†~~ shall not unlawfully possess, manufacture or dispose of any
37 explosive or incendiary device with the intent to destroy life or property is
38 guilty of a category B felony and shall be punished by imprisonment in the
39 state prison for a minimum term of not less than 1 year and a maximum
40 term of not more than 6 years, and may be further punished by a fine of not
41 more than \$5,000.
- 42 2. This section does not prohibit a person from possessing,
43 manufacturing or using any material, component, substance or device as
44 required for the performance of his duties related to mining, agriculture,
45 construction or any other valid occupational purpose or if the person is
46 authorized by a governmental entity which has lawful control over such
47 matters to use those items in the performance of his duties.
- 48 3. For the purposes of this section ~~†~~:



1 ~~—(a) “Dispose”~~, *“dispose”* means give, give away, loan, offer, offer
2 for sale, sell or transfer.
3 ~~{(b) “Explosive or incendiary device” means any explosive or~~
4 ~~incendiary material or substance that has been constructed, altered,~~
5 ~~packaged or arranged in such a manner that its intended use would cause~~
6 ~~destruction or injury to life or property.~~
7 ~~3. Subsection 1 does not prohibit the manufacture, use, possession or~~
8 ~~disposal of any material, substance or device by those persons engaged in~~
9 ~~mining or any other lawful activity or who are authorized by governmental~~
10 ~~agencies, which have lawful control over such matters, to use such items in~~
11 ~~the performance of their duties.~~
12 **Sec. 6.** NRS 202.263 is hereby amended to read as follows:
13 202.263 1. ~~{Any person who manufactures, purchases, possesses,~~
14 ~~sells, advertises for sale or transports}~~ *A person shall not manufacture,*
15 *purchase, possess, sell, advertise for sale or transport* a hoax bomb ~~and~~
16 ~~knows or should have known that it}~~ *if the person knows or should know*
17 *that the hoax bomb* is to be used to make a reasonable person believe that
18 ~~{it}~~ *the hoax bomb* is an explosive or incendiary device .
19 2. *A person who violates subsection 1* is guilty of a gross
20 misdemeanor.
21 ~~{2. The provisions of subsection 1 do}~~
22 3. *This section does* not prohibit:
23 (a) The purchase, possession, sale, advertising for sale, transportation or
24 use of a military artifact, if the military artifact is harmless or inert, unless
25 the military artifact is used to make a reasonable person believe that the
26 military artifact is an explosive or incendiary device.
27 (b) The authorized manufacture, purchase, possession, sale,
28 transportation or use of any material, substance or device by a member of
29 the Armed Forces of the United States, a fire department or a law
30 enforcement agency if the person is acting lawfully while in the line of
31 duty.
32 (c) The manufacture, purchase, possession, sale, transportation or use of
33 any material, substance or device that is permitted by a specific statute.
34 ~~{3.}~~ 4. As used in this section ~~{:~~
35 ~~—(a) “Explosive or incendiary device” has the meaning ascribed to it in~~
36 ~~NRS 202.260.~~
37 ~~—(b) “Hoax”~~, *“hoax bomb”* means:
38 ~~{(1)}~~ (a) An inoperative facsimile or imitation of an explosive or
39 incendiary device; or
40 ~~{(2)}~~ (b) A device or object that appears to be or to contain an
41 explosive or incendiary device.
42 **Sec. 7.** NRS 202.265 is hereby amended to read as follows:
43 202.265 1. Except as otherwise provided in this section, a person
44 shall not carry or possess, while on the property of the University and
45 Community College System of Nevada or a private or public school or
46 while in a vehicle of a private or public school:
47 (a) An explosive or incendiary device;
48 (b) A dirk, dagger or switchblade knife;
49 (c) A nunchaku or trefoil;



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1 (d) A blackjack or billy club or metal knuckles; or
2 (e) A pistol, revolver or other firearm.
3 2. Any person who violates subsection 1 is guilty of a gross
4 misdemeanor.
5 3. This section does not prohibit the possession of a weapon listed in
6 subsection 1 on the property of a private or public school by a:
7 (a) Peace officer;
8 (b) School security guard; or
9 (c) Person having written permission from the president of a branch or
10 facility of the University and Community College System of Nevada or the
11 principal of the school to carry or possess the weapon.
12 4. For the purposes of this section:
13 (a) ~~“Explosive or incendiary device” has the meaning ascribed to it in~~
14 ~~NRS 202.260.~~
15 ~~“(b)”~~ “Firearm” includes:
16 (1) Any device used to mark the clothing of a person with paint or
17 any other substance; and
18 (2) Any device from which a metallic projectile, including any ball
19 bearing or pellet, may be expelled by means of spring, gas, air or other
20 force.
21 ~~“(c)”~~ (b) “Nunchaku” has the meaning ascribed to it in NRS 202.350.
22 ~~“(d)”~~ (c) “Switchblade knife” has the meaning ascribed to it in NRS
23 202.350.
24 ~~“(e)”~~ (d) “Trefoil” has the meaning ascribed to it in NRS 202.350.
25 ~~“(f)”~~ (e) “Vehicle” has the meaning ascribed to it in NRS 484.148.
26 **Sec. 8.** NRS 62.172 is hereby amended to read as follows:
27 62.172 1. If a peace officer or probation officer has probable cause to
28 believe that a child is committing or has committed an offense that
29 involves the possession, use or threatened use of a firearm, the officer shall
30 take the child into custody.
31 2. If a child is taken into custody for an offense described in subsection
32 1, the child must not be released before a detention hearing is held pursuant
33 to subsection 8 of NRS 62.170.
34 3. At a detention hearing held pursuant to subsection 8 of NRS 62.170
35 concerning a child who was taken into custody for an offense described in
36 subsection 1, the judge or master shall determine whether to order the child
37 to be evaluated by a qualified professional. If the judge or master orders a
38 child to be evaluated by a qualified professional, the evaluation must be
39 completed within 14 days after the detention hearing. Until the evaluation
40 is completed, the child must be:
41 (a) Detained at a facility for the detention of juveniles; or
42 (b) Placed under a program of supervision in his home that may include
43 electronic surveillance of the child.
44 4. If a child is evaluated by a qualified professional pursuant to
45 subsection 3, the statements made by the child to the qualified professional
46 during the evaluation and any evidence directly or indirectly derived from
47 those statements may not be used for any purpose in a proceeding which is
48 conducted to prove that the child committed a delinquent act or criminal
49 offense. The provisions of this subsection do not prohibit the district



1 attorney from proving that the child committed a delinquent act or criminal
2 offense based upon evidence obtained from sources or by means that are
3 independent of the statements made by the child to the qualified
4 professional during the evaluation conducted pursuant to subsection 3.

5 5. As used in this section:

6 (a) "Firearm" has the meaning ascribed to it in ~~subsection 1 of~~ NRS
7 202.253.

8 (b) "Qualified professional" means:

9 (1) A psychiatrist licensed to practice medicine in this state and
10 certified by the American Board of Psychiatry and Neurology, Inc.;

11 (2) A psychologist licensed to practice in this state;

12 (3) A social worker holding a master's degree in social work and
13 licensed in this state as a clinical social worker;

14 (4) A registered nurse holding a master's degree in the field of
15 psychiatric nursing and licensed to practice professional nursing in this
16 state; or

17 (5) A marriage and family therapist licensed in this state pursuant to
18 chapter 641A of NRS.

19 **Sec. 9.** NRS 393.410 is hereby amended to read as follows:

20 393.410 1. It is unlawful for any person:

21 (a) Willfully and maliciously to injure, mark or deface any public
22 schoolhouse, its fixtures, books or appurtenances;

23 (b) To commit any nuisance in any public schoolhouse;

24 (c) To loiter on or near the school grounds; or

25 (d) Purposely and maliciously to commit any trespass upon the grounds
26 attached to a public schoolhouse, or any fixtures placed thereon, or any
27 enclosure or sidewalk about the same.

28 2. Except as otherwise provided in subsection 3, any person violating
29 any of the provisions of this section ~~shall be~~ **is** guilty of a public offense,
30 as prescribed in NRS 193.155, proportionate to the value of the property
31 damaged or destroyed and in no event less than a misdemeanor.

32 3. Any person who is in possession of a dangerous weapon during his
33 commission of a violation of paragraph (b), (c) or (d) of subsection 1 ~~shall~~
34 ~~be~~ **is** guilty of a gross misdemeanor.

35 4. As used in this section:

36 (a) "Dangerous knife" means a knife having a blade that is 2 inches or
37 more in length when measured from the tip of the knife which is
38 customarily sharpened to the unsharpened extension of the blade which
39 forms the hinge connecting the blade to the handle.

40 (b) "Dangerous weapon" means:

41 (1) An explosive or incendiary device;

42 (2) A dirk, dagger, switchblade knife or dangerous knife;

43 (3) A nunchaku or trefoil;

44 (4) A blackjack or billy club or metal knuckles; or

45 (5) A pistol, revolver or other firearm.

46 (c) "Explosive or incendiary device" has the meaning ascribed to it in
47 NRS ~~202.260.~~ **202.253.**

48 (d) "Nunchaku" has the meaning ascribed to it in NRS 202.350.

49 (e) "Switchblade knife" has the meaning ascribed to it in NRS 202.350.



- 1 (f) “Trefoil” has the meaning ascribed to it in NRS 202.350.
- 2 **Sec. 10.** The amendatory provisions of this act do not apply to
- 3 offenses committed before July 1, 2001.
- 4 **Sec. 11.** This act becomes effective on July 1, 2001.

