

ASSEMBLY BILL NO. 232—ASSEMBLYMAN PERKINS

MARCH 21, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning concealed weapons and firearms. (BDR 15-301)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 weapons; authorizing certain law enforcement officers and retired law enforcement officers to carry certain concealed weapons and firearms in certain circumstances; clarifying certain terms used in the provisions concerning concealed weapons and firearms; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law uses the term “upon the person” in various statutes relating to concealed weapons and firearms. (NRS 202.253, 202.300, 202.310, 202.350, 202.3653-202.369)

This bill clarifies that the term “upon the person” means actually on the person or in a container carried by the person.

In 2004, Congress passed the Law Enforcement Officers Safety Act to allow certain current law enforcement officers and retired law enforcement officers who meet certain qualifications to carry certain concealed firearms and weapons in other states. (18 U.S.C. §§ 926B, 926C) The federal Act applies notwithstanding any other provision of state law. However, the federal Act does not preempt state laws that regulate the possession of concealed firearms and weapons on an individual's private property and governmental property. (18 U.S.C. § 926C) One of the requirements for a law enforcement officer to qualify under the federal Act to carry a concealed firearm or weapon is that the officer carry certain identification which is obtained from the agency from which the officer is employed or retired. If the officer is retired he may obtain a certification in addition to such identification from the state in which the officer resides indicating that the officer meets certain training and qualifications. (18 U.S.C. § 926C(d)) Existing state law regulates the possession and carrying of concealed weapons in this State. (NRS 202.253-202.369)

This bill amends state law to comply with the Law Enforcement Officers Safety Act. This bill provides that a law enforcement officer or retired law enforcement



officer who is authorized by the federal Act to carry a concealed weapon or firearm is not prohibited by state law from doing so. In addition, this bill authorizes a sheriff to provide the certification to a retired law enforcement officer that is necessary to become a qualified retired law enforcement officer under the federal Act.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A retired law enforcement officer who is a resident of this State may apply, on a form prescribed by regulation of the Department, to the sheriff of the county in which he resides for any certification required pursuant to 18 U.S.C. § 926C(d) to become a qualified retired law enforcement officer. Application forms for certification must be provided by the sheriff of each county upon request.

2. The sheriff shall provide the certification pursuant to subsection 1 to a retired law enforcement officer who submits a completed application and pays any required fee if the sheriff determines that the officer meets the standards for training and qualifications.

3. The sheriff may impose a nonrefundable fee in the amount necessary to pay the expenses in providing the certification.

4. As used in this section, "qualified retired law enforcement officer" has the meaning ascribed to it in 18 U.S.C. § 926C.

Sec. 2. NRS 202.253 is hereby amended to read as follows:

202.253 *1. As used in NRS 202.253 to 202.369, inclusive ~~1~~ —1—, and section 1 of this act, unless the context otherwise requires:*

(a) "Explosive or incendiary device" means any explosive or incendiary material or substance that has been constructed, altered, packaged or arranged in such a manner that its ordinary use would cause destruction or injury to life or property.

~~2~~ (b) "Firearm" means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.

~~3~~ (c) "Firearm capable of being concealed upon the person" applies to and includes all firearms having a barrel less than 12 inches in length.

~~4~~ (d) "Motor vehicle" means every vehicle that is self-propelled.

2. As used in this section, "upon the person" means actually on the person or in a container carried by the person.



1 **Sec. 3.** NRS 202.350 is hereby amended to read as follows:
2 202.350 1. Except as otherwise provided in this section and
3 NRS 202.355 and 202.3653 to 202.369, inclusive, **and section 1 of**
4 **this act**, a person within this State shall not:

5 (a) Manufacture or cause to be manufactured, or import into the
6 State, or keep, offer or expose for sale, or give, lend or possess any
7 knife which is made an integral part of a belt buckle or any
8 instrument or weapon of the kind commonly known as a
9 switchblade knife, blackjack, slungshot, billy, sand-club, sandbag or
10 metal knuckles;

11 (b) Manufacture or cause to be manufactured, or import into the
12 State, or keep, offer or expose for sale, or give, lend, possess or use
13 a machine gun or a silencer, unless authorized by federal law;

14 (c) With the intent to inflict harm upon the person of another,
15 possess or use a nunchaku or trefoil; or

16 (d) Carry concealed upon his person any:

17 (1) Explosive substance, other than ammunition or any
18 components thereof;

19 (2) Dirk, dagger or machete;

20 (3) Pistol, revolver or other firearm, or other dangerous or
21 deadly weapon; or

22 (4) Knife which is made an integral part of a belt buckle.

23 2. Except as otherwise provided in NRS 202.275 and 212.185,
24 a person who violates any of the provisions of:

25 (a) Paragraph (a) or (c) or subparagraph (2) or (4) of paragraph
26 (d) of subsection 1 is guilty:

27 (1) For the first offense, of a gross misdemeanor.

28 (2) For any subsequent offense, of a category D felony and
29 shall be punished as provided in NRS 193.130.

30 (b) Paragraph (b) or subparagraph (1) or (3) of paragraph (d) of
31 subsection 1 is guilty of a category C felony and shall be punished
32 as provided in NRS 193.130.

33 3. Except as otherwise provided in this subsection, the sheriff
34 of any county may, upon written application by a resident of that
35 county showing the reason or the purpose for which a concealed
36 weapon is to be carried, issue a permit authorizing the applicant to
37 carry in this State the concealed weapon described in the permit.
38 The sheriff shall not issue a permit to a person to carry a
39 switchblade knife. This subsection does not authorize the sheriff to
40 issue a permit to a person to carry a pistol, revolver or other firearm.

41 4. Except as otherwise provided in subsection 5, this section
42 does not apply to:

43 (a) Sheriffs, constables, marshals, peace officers, correctional
44 officers employed by the Department of Corrections, special police



1 officers, police officers of this State, whether active or honorably
2 retired, or other appointed officers.

3 (b) Any person summoned by any peace officer to assist in
4 making arrests or preserving the peace while the person so
5 summoned is actually engaged in assisting such an officer.

6 (c) Any full-time paid peace officer of an agency of the United
7 States or another state or political subdivision thereof when carrying
8 out official duties in the State of Nevada.

9 (d) Members of the Armed Forces of the United States when on
10 duty.

11 5. The exemptions provided in subsection 4 do not include a
12 former peace officer who is retired for disability unless his former
13 employer has approved his fitness to carry a concealed weapon.

14 6. The provisions of paragraph (b) of subsection 1 do not apply
15 to any person who is licensed, authorized or permitted to possess or
16 use a machine gun or silencer pursuant to federal law. The **person**
17 **possessing the license, authorization or permission has the** burden
18 of establishing federal licensure, authorization or ~~permission is~~
19 ~~upon the person possessing the license, authorization or~~ permission.

20 7. ***This section shall not be construed to prohibit a qualified***
21 ***law enforcement officer or a qualified retired law enforcement***
22 ***officer from carrying a concealed weapon in this State if he is***
23 ***authorized to do so pursuant to 18 U.S.C. § 926B or 926C.***

24 8. As used in this section:

25 (a) "Concealed weapon" means a weapon described in ~~this~~
26 ~~section~~ **paragraph (a) of subsection 1** that is carried **by a person**
27 upon ~~his~~ person in such a manner as not to be discernible by
28 ordinary observation.

29 (b) "Honorably retired" means retired in Nevada after
30 completion of 10 years of creditable service as a member of the
31 Public Employees' Retirement System. A former peace officer is
32 not "honorably retired" if he was discharged for cause or resigned
33 before the final disposition of allegations of serious misconduct.

34 (c) "Machine gun" means any weapon which shoots, is designed
35 to shoot or can be readily restored to shoot more than one shot,
36 without manual reloading, by a single function of the trigger.

37 (d) "Nunchaku" means an instrument consisting of two or more
38 sticks, clubs, bars or rods connected by a rope, cord, wire or chain
39 used as a weapon in forms of Oriental combat.

40 (e) ***"Qualified law enforcement officer" has the meaning***
41 ***ascribed to it in 18 U.S.C. § 926B(c).***

42 (f) ***"Qualified retired law enforcement officer" has the***
43 ***meaning ascribed to it in 18 U.S.C. § 926C(c).***

44 (g) "Silencer" means any device for silencing, muffling or
45 diminishing the report of a firearm, including any combination of



1 parts, designed or redesigned, and intended for use in assembling or
2 fabricating a silencer or muffler, and any part intended only for use
3 in such assembly or fabrication.

4 ~~[(f)]~~ (h) "Switchblade knife" means a spring-blade knife,
5 snap-blade knife or any other knife having the appearance of a
6 pocket knife, any blade of which is 2 or more inches long and which
7 can be released automatically by a flick of a button, pressure on the
8 handle or other mechanical device, or is released by any type of
9 mechanism. The term does not include a knife which has a blade
10 that is held in place by a spring if the blade does not have any type
11 of automatic release.

12 ~~[(g)]~~ (i) "Trefoil" means an instrument consisting of a metal
13 plate having three or more radiating points with sharp edges,
14 designed in the shape of a star, cross or other geometric figure and
15 used as a weapon for throwing.

16 (j) *"Upon his person" means actually on the person or in a*
17 *container carried by the person.*

18 **Sec. 4.** NRS 202.3653 is hereby amended to read as follows:

19 202.3653 1. As used in NRS 202.3653 to 202.369, inclusive,
20 *and section 1 of this act*, unless the context otherwise requires:

21 ~~[(1)]~~ (a) "Concealed firearm" means a loaded or unloaded pistol,
22 revolver or other firearm which is carried upon a person in such a
23 manner as not to be discernible by ordinary observation.

24 ~~[(2)]~~ (b) "Department" means the Department of Public Safety.

25 ~~[(3)]~~ (c) "Permit" means a permit to carry a concealed firearm
26 issued pursuant to the provisions of NRS 202.3653 to 202.369,
27 inclusive ~~[(1)]~~, *and section 1 of this act*.

28 2. *As used in this section, "upon a person" means actually on*
29 *a person or in a container carried by a person.*

30 **Sec. 5.** NRS 202.368 is hereby amended to read as follows:

31 202.368 All fees collected pursuant to the provisions of NRS
32 202.3653 to 202.369, inclusive, *and section 1 of this act* must be
33 deposited with the county treasurer of the county in which the fees
34 are collected and:

35 1. If the county has a metropolitan police department created
36 pursuant to chapter 280 of NRS, credited to the general fund of that
37 metropolitan police department; or

38 2. If the county does not have a metropolitan police department
39 created pursuant to chapter 280 of NRS, credited to the general fund
40 of that county.

41 **Sec. 6.** NRS 202.3683 is hereby amended to read as follows:

42 202.3683 The State or any political subdivision of the State,
43 the Department, a sheriff, law enforcement agency, firearm safety or
44 training instructor or any other person who, in good faith and
45 without gross negligence, acts pursuant to the provisions of NRS



1 202.3653 to 202.369, inclusive, *and section 1 of this act* is immune
2 from civil liability for those acts. Such acts include, but are not
3 limited to, the receipt, review or investigation of an application for a
4 permit, *the certification of a retired law enforcement officer*, or the
5 issuance, denial, suspension, revocation or renewal of a permit.

6 **Sec. 7.** NRS 202.369 is hereby amended to read as follows:

7 202.369 The Department may adopt such regulations as are
8 necessary to carry out the provisions of NRS 202.3653 to 202.369,
9 inclusive ~~H~~, *and section 1 of this act*.



