

ASSEMBLY BILL NO. 63—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMISSION’S
SUBCOMMITTEE TO STUDY SENTENCING AND
PARDONS, AND PAROLE AND PROBATION)

PREFILED FEBRUARY 2, 2007

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the additional penalty for the use of certain weapons in the commission of crime. (BDR 15-151)

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 crimes; revising the additional penalty that must be imposed under certain circumstances for using a firearm, other deadly weapon or a weapon containing or capable of emitting tear gas in the commission of a crime; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a person who uses a firearm, other deadly weapon or a
2 weapon containing or capable of emitting tear gas in the commission of a crime
3 must be punished by imprisonment in the state prison for a term equal to and in
4 addition to the term of imprisonment for the underlying crime. (NRS 193.165) This
5 bill revises the term of imprisonment for this additional penalty to require instead
6 that, in addition to the punishment prescribed for the underlying crime, a person
7 who uses a firearm, other deadly weapon or a weapon containing or capable of
8 emitting tear gas in the commission of a crime must be punished by imprisonment
9 in the state prison for a term of not less than 1 year and not more than 20 years,
10 except that the additional term of imprisonment must not exceed the length of the
11 sentence imposed for the underlying crime.



* A B 6 3 R 1 *

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

1 **Section 1.** NRS 193.165 is hereby amended to read as follows:
2 193.165 1. Except as otherwise provided in NRS 193.169,
3 any person who uses a firearm or other deadly weapon or a weapon
4 containing or capable of emitting tear gas, whether or not its
5 possession is permitted by NRS 202.375, in the commission of a
6 crime shall *, in addition to the term of imprisonment prescribed by*
7 *statute for the crime,* be punished by imprisonment in the state
8 prison for ~~{a term equal to and in addition to the}~~ *a minimum* term
9 of ~~{imprisonment prescribed by statute for the crime.}~~ *not less than*
10 *1 year and a maximum term of not more than 20 years.* The
11 sentence prescribed by this section ~~{runs}~~ :

12 *(a) Must not exceed the sentence imposed for the crime; and*
13 *(b) Runs* consecutively with the sentence prescribed by statute
14 for the crime.

15 2. This section does not create any separate offense but
16 provides an additional penalty for the primary offense, whose
17 imposition is contingent upon the finding of the prescribed fact.

18 3. The provisions of subsections 1 and 2 do not apply where
19 the use of a firearm, other deadly weapon or tear gas is a necessary
20 element of such crime.

21 4. The court shall not grant probation to or suspend the
22 sentence of any person who is convicted of using a firearm, other
23 deadly weapon or tear gas in the commission of any of the following
24 crimes:

- 25 (a) Murder;
26 (b) Kidnapping in the first degree;
27 (c) Sexual assault; or
28 (d) Robbery.

29 5. As used in this section, "deadly weapon" means:

30 (a) Any instrument which, if used in the ordinary manner
31 contemplated by its design and construction, will or is likely to
32 cause substantial bodily harm or death;

33 (b) Any weapon, device, instrument, material or substance
34 which, under the circumstances in which it is used, attempted to be
35 used or threatened to be used, is readily capable of causing
36 substantial bodily harm or death; or

37 (c) A dangerous or deadly weapon specifically described in
38 NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

