

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 if the court makes certain specific findings on the record, a person who uses a
7 firearm, other deadly weapon or a weapon containing or capable of emitting tear
8 gas in the commission of a crime must be punished, in addition to the punishment
9 prescribed for the underlying crime, by imprisonment in the state prison for a term
10 of not less than 1 year and not more than 20 years. However, the additional term of
11 imprisonment must not exceed the length of the sentence imposed for the
12 underlying crime.



* A B 6 3 R 2 *

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}~~ *if the*
11 *court makes specific findings on the record that:*
12 (a) *The person deserves additional punishment, considering*
13 *the seriousness of the use of the firearm or weapon in the*
14 *commission of the crime;*
15 (b) *Additional punishment is equitable considering the*
16 *punishment imposed upon other persons for similar offenses*
17 *under similar circumstances; and*
18 (c) *Additional punishment is necessary to protect the public*
19 *from further harm by the person.*
20 2. Any sentence prescribed by this section ~~{runs}~~ :
21 (a) *Must not exceed the sentence imposed for the crime; and*
22 (b) *Runs* consecutively with the sentence prescribed by statute
23 for the crime.
24 ~~{2-}~~ 3. This section does not create any separate offense but
25 provides an additional penalty for the primary offense, whose
26 imposition is contingent upon the finding of the prescribed fact.
27 ~~{3-}~~ 4. The provisions of subsections 1 and 2 do not apply
28 where the use of a firearm, other deadly weapon or tear gas is a
29 necessary element of such crime.
30 ~~{4-}~~ 5. The court shall not grant probation to or suspend the
31 sentence of any person who is convicted of using a firearm, other
32 deadly weapon or tear gas in the commission of any of the following
33 crimes:
34 (a) Murder;
35 (b) Kidnapping in the first degree;
36 (c) Sexual assault; or
37 (d) Robbery.
38 ~~{5-}~~ 6. As used in this section, “deadly weapon” means:
39 (a) Any instrument which, if used in the ordinary manner
40 contemplated by its design and construction, will or is likely to
41 cause substantial bodily harm or death;



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

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

