

Amendment No. 753

Senate Amendment to Assembly Bill No. 63 First Reprint (BDR 15-151)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

BFG/BAW



Date: 5/18/2007

A.B. No. 63—Revises provisions governing the additional penalty for the use of certain weapons in the commission of crime. (BDR 15-151)



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:

Under existing law, a person who uses a firearm, other deadly weapon or a weapon containing or capable of emitting tear gas in the commission of a crime must be punished by imprisonment in the state prison for a term equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.165) This bill revises the term of imprisonment for this additional penalty to require instead that ~~it, in addition to the punishment prescribed for the underlying crime,~~ **if the court makes certain specific findings on the record,** a person who uses a firearm, other deadly weapon or a weapon containing or capable of emitting tear gas in the commission of a crime must be punished **, in addition to the punishment prescribed for the underlying crime,** by imprisonment in the state prison for a term of not less than 1 year and not more than 20 years ~~. It, except that the,~~ **However,** the additional term of imprisonment must not exceed the length of the sentence imposed for the underlying crime.

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

Section 1. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall **, in addition to the term of imprisonment prescribed**

1 ~~by statute for the crime,~~ be punished by imprisonment in the state prison for ~~the~~
2 ~~term equal to and in addition to the~~ a minimum term of ~~imprisonment prescribed~~
3 ~~by statute for the crime.~~ not less than 1 year and a maximum term of not more
4 than 20 years ~~if the court makes specific findings on the record that:~~

5 (a) The person deserves additional punishment, considering the seriousness
6 of the use of the firearm or weapon in the commission of the crime;

7 (b) Additional punishment is equitable considering the punishment imposed
8 upon other persons for similar offenses under similar circumstances; and

9 (c) Additional punishment is necessary to protect the public from further
10 harm by the person.

11 2. Any 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 for the crime.

14 ~~3.~~ 3. This section does not create any separate offense but provides an
15 additional penalty for the primary offense, whose imposition is contingent upon the
16 finding of the prescribed fact.

17 ~~4.~~ 4. The provisions of subsections 1 and 2 do not apply where the use of a
18 firearm, other deadly weapon or tear gas is a necessary element of such crime.

19 ~~5.~~ 5. The court shall not grant probation to or suspend the sentence of any
20 person who is convicted of using a firearm, other deadly weapon or tear gas in the
21 commission of any of the following crimes:

22 (a) Murder;

23 (b) Kidnapping in the first degree;

24 (c) Sexual assault; or

25 (d) Robbery.

26 ~~6.~~ 6. As used in this section, “deadly weapon” means:

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

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

32 (c) A dangerous or deadly weapon specifically described in NRS 202.255,
33 202.265, 202.290, 202.320 or 202.350.