

Amendment No. 625

Assembly Amendment to Assembly Bill No. 95 First Reprint (BDR 36-294)

Proposed by: Assemblywoman Kirkpatrick**Amendment Box:** Replaces Amendment No. 591.**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

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.

MSM



Date: 4/24/2007

A.B. No. 95—Makes various changes concerning the confiscation of firearms during an emergency or a disaster. (BDR 36-294)



ASSEMBLY BILL NO. 95—ASSEMBLYMEN WEBER, ALLEN, MABEY, **ANDERSON, ATKINSON, BEERS, BOBZIEN, CARPENTER, CHRISTENSEN, CLABORN, COBB, CONKLIN, DENIS, GANSERT, GOEDHART, GOICOECHEA, HORNE, KIHUEN, KIRKPATRICK, KOIVISTO, MANENDO, MARVEL, MCCLAIN, OCEGUERA, OHRENSCHALL, PARKS, PARNELL, SETTELMAYER ~~[AND]~~, SMITH, STEWART AND WOMACK**

FEBRUARY 13, 2007

Referred to Committee on Government Affairs

SUMMARY—Makes various changes concerning the confiscation of firearms during an emergency or a disaster. (BDR 36-294)

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 firearms; excluding from the powers granted to certain state officers during an emergency or a disaster the authority to take certain actions concerning firearms; authorizing civil suits against the State of Nevada, its political subdivisions and their officers and employees for the wrongful confiscation of a firearm during an emergency or a disaster; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill excludes from the emergency powers that the Governor and the executive heads or governing bodies of the political subdivisions of this State are authorized to exercise during an emergency or a disaster the authority to: (1) confiscate firearms from persons in lawful possession of the firearms; or (2) impose additional restrictions on certain aspects of the trade, possession or use of firearms, ammunition and components thereof. (Chapter 414 of NRS)

Existing law provides limited civil immunity to the State, its political subdivisions and officers, employees and workers for certain injuries they cause to persons and property during an emergency or a disaster. (NRS 414.110) **Section 8** of this bill authorizes a person from whom a firearm is wrongfully confiscated during an emergency or a disaster to bring legal proceedings against the State, its political subdivisions and the officer, employee or worker who wrongfully confiscated or authorized the confiscation of the firearm.

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

1 **Section 1.** Chapter 414 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *"Firearm" means any weapon from which a projectile is discharged*
4 *by means of an explosive, spring, gas, air or other force. The term includes*
5 *ammunition for a firearm.*

6 **Sec. 3.** *Pursuant to Amendment II of the Constitution of the United States*
7 *and Section 11 of Article 1 of the Constitution of the State of Nevada, and*
8 *notwithstanding any other provision of law, the emergency powers conferred*
9 *upon the Governor and upon the executive heads or governing bodies of the*
10 *political subdivisions of this State must not be construed to allow:*

11 1. *The confiscation of a firearm from a person unless the person is:*

12 (a) *In unlawful possession of the firearm; or*

13 (b) *Unlawfully carrying the firearm; or*

14 2. *The imposition of additional restrictions as to the lawful possession,*
15 *transfer, sale, carrying, storage, display or use of:*

16 (a) *Firearms;*

17 (b) *Ammunition; or*

18 (c) *Components of firearms or ammunition.*

19 **Sec. 4.** NRS 414.030 is hereby amended to read as follows:

20 414.030 As used in this chapter, the words and terms defined in NRS 414.031
21 to 414.038, inclusive, *and section 2 of this act* have the meanings ascribed to them
22 in those sections.

23 **Sec. 5.** NRS 414.070 is hereby amended to read as follows:

24 414.070 The provisions of this section are operative only during the existence
25 of a state of emergency or declaration of disaster. The existence of such an
26 emergency or disaster may be proclaimed by the Governor or by resolution of the
27 Legislature if the Governor in his proclamation, or the Legislature in its resolution,
28 finds that an attack upon the United States has occurred or is anticipated in the
29 immediate future, or that a natural, technological or man-made emergency or
30 disaster of major proportions has actually occurred within this State, and that the
31 safety and welfare of the inhabitants of this State require an invocation of the
32 provisions of this section. Any such emergency or disaster, whether proclaimed by
33 the Governor or by the Legislature, terminates upon the proclamation of the
34 termination thereof by the Governor, or the passage by the Legislature of a
35 resolution terminating the emergency or disaster. During the period when a state of
36 emergency or declaration of disaster exists or continues, the Governor may exercise
37 the following additional powers:

38 1. To enforce all laws and regulations relating to emergency management and
39 to assume direct operational control of any or all forces, including, without
40 limitation, volunteers and auxiliary staff for emergency management in the State.

41 2. To sell, lend, lease, give, transfer or deliver materials or perform services
42 for the purpose of emergency management on such terms and conditions as the
43 Governor prescribes and without regard to the limitations of any existing law, and
44 to account to the State Treasurer for any funds received for such property.

45 3. ~~For~~ *Except as otherwise provided in section 3 of this act, to* procure, by
46 purchase, condemnation, seizure or other means, construct, lease, transport, store,
47 maintain, renovate or distribute materials and facilities for emergency management
48 without regard to the limitations of any existing law. ~~The~~ *The Governor* shall

1 make compensation for the property so seized, taken or condemned on the
2 following basis:

3 (a) If property is taken for temporary use, the Governor, within 90 days after
4 the taking, shall fix the amount of compensation to be paid therefor. If the property
5 is returned to the owner in a damaged condition, or is not returned to the owner, the
6 Governor shall fix within 90 days the amount of compensation to be paid for the
7 damage or failure to return the property. ~~{Whenever}~~ If the Governor deems it
8 advisable for the State to take title to property taken under this section, he shall
9 forthwith cause the owner of ~~{such}~~ the property to be notified thereof in writing by
10 registered or certified mail, postage prepaid, or by the best means available, and
11 forthwith cause to be filed a copy of the notice with the Secretary of State.

12 (b) Within the 90-day period prescribed in paragraph (a), the Governor shall
13 make an offer in writing to the person or persons entitled to receive it of the amount
14 of money proposed to be paid as full compensation. If the offer is accepted, the
15 money must be paid out of such fund, funds or other sources as are available and no
16 further action ~~{either}~~ in law or in equity may ever be maintained in connection
17 therewith. If the offer of payment is refused, the person or persons entitled thereto
18 have the same rights as plaintiffs in actions of eminent domain insofar as the fixing
19 of damages and compensation is concerned, NRS 37.060, 37.070, 37.080 and
20 37.090, so far as applicable, apply, and proceedings must be had in conformity
21 therewith so far as possible. ~~{Such}~~ The action must be commenced within 1 year
22 after the receipt of the offer of settlement from the Governor.

23 4. To provide for and compel the evacuation of all or part of the population
24 from any stricken or threatened area or areas within the State and to take such steps
25 as are necessary for the receipt and care of those persons.

26 5. Subject to the provisions of the State Constitution, to remove from office
27 any public officer having administrative responsibilities under this chapter for
28 willful failure to obey an order or regulation adopted pursuant to this chapter.
29 ~~{Such}~~ The removal must be upon charges after service upon the officer of a copy
30 of the charges and after giving him an opportunity to be heard in his defense.
31 Pending the preparation and disposition of charges, the Governor may suspend the
32 officer for a period not exceeding 30 days. A vacancy resulting from removal or
33 suspension pursuant to this section must be filled as provided by law.

34 6. To perform and exercise such other functions, powers and duties as are
35 necessary to promote and secure the safety and protection of the civilian
36 population.

37 Sec. 6. (Deleted by amendment.)

38 Sec. 7. (Deleted by amendment.)

39 Sec. 8. Chapter 41 of NRS is hereby amended by adding thereto a new
40 section to read as follows:

41 1. *A person from whom a firearm is confiscated in violation of section 3 of*
42 *this act may seek relief in a suit, action or other proceeding at law or in equity,*
43 *including, without limitation, an action for the return of the firearm, against:*

44 (a) *The State of Nevada or a political subdivision thereof; and*

45 (b) *The officer or employee of the State or a political subdivision thereof or*
46 *worker who confiscated or authorized the confiscation of the firearm.*

47 2. *The proceeding may be commenced in a court of competent jurisdiction*
48 *in the county in which:*

49 (a) *The person bringing the proceeding resides; or*

50 (b) *The firearm may be found.*

51 3. *If a person who brings a proceeding pursuant to this section prevails, the*
52 *court shall award him, in addition to any other remedy provided by law,*
53 *reasonable attorney's fees and costs.*

- 1 **4. As used in this section:**
- 2 **(a) “Firearm” has the meaning ascribed to it in section 2 of this act.**
- 3 **(b) “Worker” has the meaning ascribed to it in NRS 414.110.**
- 4 **Sec. 9.** (Deleted by amendment.)
- 5 **Sec. 10.** (Deleted by amendment.)
- 6 **Sec. 11.** This act becomes effective upon passage and approval.