

ASSEMBLY BILL NO. 182—ASSEMBLYMAN OCEGUERA

FEBRUARY 17, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning crimes involving explosives. (BDR 15-195)

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 definition of the term “explosive” for the purposes of certain crimes involving explosives; reorganizing and reenacting various provisions pertaining to crimes involving explosives; making various other changes concerning crimes involving explosives; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 1 of this bill revises the definition of “explosive” contained in NRS 202.750 to include any explosive material in the list of explosive materials published in the Federal Register pursuant to 18 U.S.C. §§ 841 et seq. **Section 2** of this bill moves the provisions currently contained in NRS 202.270, which prohibit the destruction of buildings with human beings inside by means of explosives, into NRS 202.830. (NRS 202.270) **Section 5** of this bill then repeals NRS 202.270.

Section 5 of this bill also repeals certain duplicative crimes in the Nevada Revised Statutes relating to explosives, including: (1) NRS 202.810 and 476.020, prohibiting possession of explosives in certain public places, which may already be prosecuted pursuant to NRS 202.262; and (2) NRS 476.050, which prohibits acts endangering property by explosives that may be prosecuted pursuant to the existing provisions of NRS 202.830. (NRS 202.262, 202.810, 476.020, 476.050)

Sections 3 and 4 of this bill make technical changes only to revise internal references to statutory provisions that are amended or repealed in this bill.



* A B 1 8 2 *

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

Section 1. NRS 202.750 is hereby amended to read as follows:
202.750 As used in NRS 202.750 to 202.840, inclusive, the
term "explosive" means ~~[gunpowders,]~~ :

1. Gunpowders, powders used for blasting, all forms of high
explosives, blasting materials, fuses (other than electric circuit
breakers), detonators and other detonating agents, smokeless
powders, other explosive or incendiary devices and any chemical
compounds, mechanical mixtures or device that contains any
oxidizing and combustible units, or other ingredients, in such
proportions, quantities or packing that ignition by fire, by friction,
by concussion, by percussion, or by detonation of the compound,
mixture or device or any part thereof may cause an explosion ~~[H]~~ ; or

**2. Any explosive material included in the list of explosive
materials published in the Federal Register and revised annually
by the Attorney General of the United States pursuant to 18 U.S.C.
§§ 841 et seq.**

Sec. 2. NRS 202.830 is hereby amended to read as follows:
202.830 ~~[A]~~

**1. Unless a greater penalty is provided pursuant to subsection
2, a** person who maliciously damages or destroys, ~~[or]~~ attempts to
damage or destroy, **or conspires with another person to damage or
destroy**, by means of an explosive, any building, vehicle or real
property in the State:

~~[H]~~ **(a)** If no substantial bodily harm results, is guilty of a
category B felony and shall be punished by imprisonment in the
state prison for a minimum term of not less than 2 years and a
maximum term of not more than 10 years, or by a fine of not less
than \$2,000 nor more than \$10,000, or by both fine and
imprisonment.

~~[H]~~ **(b)** If substantial bodily harm results, is guilty of a category
B felony and shall be punished by imprisonment in the state prison
for a minimum term of not less than 2 years and a maximum term of
not more than 20 years, or by a fine of not less than \$2,000 nor more
than \$20,000, or by both fine and imprisonment.

**2. A person who maliciously damages or destroys, attempts to
damage or destroy, or conspires with another person to damage or
destroy, by means of an explosive, any building, vehicle or real
property in the State, knowing or having reason to believe that a
human being is therein at the time, is guilty of a category A felony
and shall be punished by imprisonment in the state prison:**

(a) For life without the possibility of parole;



1 ***(b) For life with the possibility of parole, with eligibility for***
2 ***parole beginning when a minimum of 10 years has been served; or***
3 ***(c) For a definite term of 25 years, with eligibility for parole***
4 ***beginning when a minimum of 10 years has been served,***
5 ***↪ in the discretion of the jury, or of the court upon a plea of guilty***
6 ***or guilty but mentally ill.***

7 **Sec. 3.** NRS 207.012 is hereby amended to read as follows:

8 207.012 1. A person who:

9 (a) Has been convicted in this State of a felony listed in
10 subsection 2; and

11 (b) Before the commission of that felony, was twice convicted
12 of any crime which under the laws of the situs of the crime or of this
13 State would be a felony listed in subsection 2, whether the prior
14 convictions occurred in this State or elsewhere,

15 ↪ is a habitual felon and shall be punished for a category A felony
16 by imprisonment in the state prison:

17 (1) For life without the possibility of parole;

18 (2) For life with the possibility of parole, with eligibility for
19 parole beginning when a minimum of 10 years has been served; or

20 (3) For a definite term of 25 years, with eligibility for parole
21 beginning when a minimum of 10 years has been served.

22 2. The district attorney shall include a count under this section
23 in any information or shall file a notice of habitual felon if an
24 indictment is found, if each prior conviction and the alleged offense
25 committed by the accused constitutes a violation of subparagraph
26 (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160,
27 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390,
28 subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of
29 NRS 200.450, subsection 5 of NRS 200.460, NRS 200.463,
30 200.464, 200.465, 200.467, 200.468, subsection 1, paragraph (a) of
31 subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of
32 NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170,
33 ~~202.270,~~ subsection 2 of NRS 202.780, paragraph (b) of
34 subsection 2 of NRS 202.820, ***paragraph (b) of subsection 1 or***
35 subsection 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS
36 205.060, subsection 4 of NRS 205.067, NRS 205.075, 207.400,
37 paragraph (a) of subsection 1 of NRS 212.090, NRS 453.3325,
38 453.333, 484.219, 484.3795 or 484.37955.

39 3. The trial judge may not dismiss a count under this section
40 that is included in an indictment or information.

41 **Sec. 4.** NRS 41.0334 is hereby amended to read as follows:

42 41.0334 1. Except as otherwise provided in subsection 2, no
43 action may be brought under NRS 41.031 or against an officer or
44 employee of the State or any of its agencies or political subdivisions
45 for injury, wrongful death or other damage sustained in or on a



1 public building or public vehicle by a person who was engaged in
2 any criminal act proscribed in NRS ~~202.810,~~ 205.005 to 205.080,
3 inclusive, 205.220, 205.226, 205.228, 205.240, 205.271 to
4 205.2741, inclusive, 206.310, 206.330, 206.335, 207.210, 331.200
5 or 393.410 at the time of the injury, wrongful death or damage was
6 caused.

7 2. Subsection 1 does not apply to any action for injury,
8 wrongful death or other damage:

9 (a) Intentionally caused or contributed to by an officer or
10 employee of the State or any of its agencies or political
11 subdivisions; or

12 (b) Resulting from the deprivation of any rights, privileges or
13 immunities secured by the United States Constitution or the
14 Constitution of the State of Nevada.

15 3. As used in this section:

16 (a) "Public building" includes every house, shed, tent or booth,
17 whether or not completed, suitable for affording shelter for any
18 human being or as a place where any property is or will be kept for
19 use, sale or deposit, and the grounds appurtenant thereto; and

20 (b) "Public vehicle" includes every device in, upon or by which
21 any person or property is or may be transported or drawn upon a
22 public highway, waterway or airway,

23 owned, in whole or in part, possessed, used by or leased to the
24 State or any of its agencies or political subdivisions.

25 **Sec. 5.** NRS 202.270, 202.810, 476.020 and 476.050 are
26 hereby repealed.

27 **Sec. 6.** This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

**202.270 Destruction of building by explosives; penalty;
punishment of conspirators.**

**202.810 Unlawful possession of explosives in state buildings;
penalties.**

**476.020 Making or possessing explosive or combustible substance
in city or town: Penalty.**

476.050 Endangering property by explosives: Penalty.

