

Amendment No. 528

Assembly Amendment to Assembly Bill No. 282 First Reprint (BDR 15-962)

Proposed by: Assemblyman Ocegüera

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 underlining*** is newly added transitory language.

BAW



Date: 4/25/2011

A.B. No. 282—Revises various provisions concerning firearms. (BDR 15-962)



ASSEMBLY BILL NO. 282—ASSEMBLYMEN OCEGUERA, BOBZIEN, SMITH, CONKLIN, KIRKPATRICK; ANDERSON, BENITEZ-THOMPSON, BROOKS, DALY, DONDERO LOOP, ELLISON, FLORES, FRIERSON, GOIDHART, GOICOECHEA, HAMBRICK, HANSEN, HARDY, HICKEY, HORNE, KIRNER, KITE, LIVERMORE, MCARTHUR, MUNFORD, NEAL, STEWART AND WOODBURY

MARCH 15, 2011

JOINT SPONSORS: SENATORS MANENDO; DENIS AND RHOADS

Referred to Committee on Judiciary

SUMMARY—Revises various provisions concerning firearms. (BDR 15-962)

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 firearms; revising provisions concerning permits to carry concealed semiautomatic firearms; revising provisions governing the renewal of a permit to carry a concealed firearm; revising provisions concerning the confidentiality of information relating to permits to carry concealed firearms; revising provisions governing the possession of firearms in state parks; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who wishes to carry a concealed firearm must obtain a permit to carry the firearm. (NRS 202.3657) As part of the application process to obtain a permit, an applicant must undergo an investigation by a sheriff to determine if the applicant is eligible for a permit. Such an investigation must include a report from the Federal Bureau of Investigation. (NRS 202.366) **Section 2** of this bill additionally requires an applicant for the renewal of a permit to undergo an investigation by the sheriff. **Section 2** also specifies that an investigation conducted by the sheriff for an initial application or a renewal application must include a report from the National Instant Criminal Background Check System. **Section 4** of this bill revises the fee for the renewal of a permit from \$25 to the amount ~~(necessary)~~ ***of the actual cost*** to obtain the reports required as part of the investigation by the sheriff.

Existing law also provides that a qualified applicant for a permit to carry a concealed firearm may obtain a permit for revolvers, for one or more specific semiautomatic firearms, or for revolvers and one or more specific semiautomatic firearms. (NRS 202.3657) If the application for a permit involves semiautomatic firearms, the applicant must state the make, model and caliber of each semiautomatic firearm for which the applicant is seeking to obtain a permit. (NRS 202.366) Additionally, to receive and renew a permit involving semiautomatic firearms, an applicant or permittee must demonstrate competence with each semiautomatic firearm to which the application pertains. (NRS 202.3657, 202.3677) **Section 1** of this bill provides that: (1) a qualified applicant for a permit to carry a concealed firearm may obtain

one permit for all semiautomatic firearms that the applicant seeks to carry instead of being required to obtain a permit for each specific semiautomatic firearm; and (2) an applicant or permittee may demonstrate competence with semiautomatic firearms in general rather than with each specific semiautomatic firearm.

Existing law further provides that information in an application for a permit to carry a concealed firearm and all information relating to the investigation of an applicant for such a permit is confidential. (NRS 202.3662) However, the Nevada Supreme Court recently held in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010), that the identity of a holder of a permit to carry a concealed firearm and any postpermit records of investigation, suspension or revocation are not confidential and are therefore public records. **Section 3** of this bill provides that the identity and any information acquired during the investigation of a holder of a permit to carry a concealed firearm are confidential, as are any records regarding the suspension, restoration or revocation of such a permit.

Existing law also allows the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to adopt regulations, including, without limitation, prohibitions and restrictions on activities within parks or recreational facilities within the jurisdiction of the Division. (NRS 407.0475) Existing administrative regulations allow a person to carry a concealed firearm in a state park if the person complies with existing laws concerning the carrying of concealed weapons but prohibit a person from discharging a firearm in a state park. (NAC 407.105) Any person who violates a regulation adopted by the Administrator is guilty of a misdemeanor. (NRS 407.0475) While existing law prohibits the discharge of a firearm under various circumstances, it also provides certain defenses for violating such provisions by allowing a person to make sufficient resistance to prevent the occurrence of certain offenses. (NRS 202.280-202.290, 193.230-193.250)

Section 5 of this bill prohibits the Administrator from adopting any regulation concerning the possession of firearms in state parks or recreational facilities which is more restrictive than the laws of this State relating to: (1) the possession of firearms; and (2) engaging in lawful resistance to prevent an offense against a person or property. **Section 5** also voids any regulation which conflicts with such laws.

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

Section 1. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, ~~for one or more specific~~ **for** semiautomatic firearms, or for revolvers and ~~for one or more specific~~ semiautomatic firearms, as applicable, to any person who is qualified to possess the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with revolvers, ~~for each specific~~ semiautomatic ~~{firearm to which the application pertains,}~~ **firearms**, or revolvers and ~~for each such~~ semiautomatic ~~{firearm,}~~ **firearms**, as applicable, by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

➤ Such a course must include instruction in the use of revolvers, ~~teach~~ semiautomatic ~~firearm to which the application pertains,~~ **firearms**, or revolvers and ~~teach such~~ semiautomatic ~~firearm~~ **firearms** and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit

1 to the applicant pursuant to this section, the sheriff shall suspend the person's
2 permit or the processing of the person's application until the final disposition of the
3 charges against the person. If a permittee is acquitted of the charges, or if the
4 charges are dropped, the sheriff shall restore his or her permit without imposing a
5 fee.

6 6. An application submitted pursuant to this section must be completed and
7 signed under oath by the applicant. The applicant's signature must be witnessed by
8 an employee of the sheriff or notarized by a notary public. The application must
9 include:

10 (a) The name, address, place and date of birth, social security number,
11 occupation and employer of the applicant and any other names used by the
12 applicant;

13 (b) A complete set of the applicant's fingerprints taken by the sheriff or his or
14 her agent;

15 (c) A front-view colored photograph of the applicant taken by the sheriff or his
16 or her agent;

17 (d) If the applicant is a resident of this State, the driver's license number or
18 identification card number of the applicant issued by the Department of Motor
19 Vehicles;

20 (e) If the applicant is not a resident of this State, the driver's license number or
21 identification card number of the applicant issued by another state or jurisdiction;

22 (f) ~~The make, model and caliber of each semiautomatic firearm to which the~~
23 ~~application pertains, if any;~~

24 ~~(g) Whether the application pertains to semiautomatic firearms;~~

25 (g) Whether the application pertains to revolvers;

26 (h) A nonrefundable fee in the amount ~~necessary~~ *of the actual cost* to obtain
27 the ~~report~~ *reports* required pursuant to subsection 1 of NRS 202.366; and

28 (i) A nonrefundable fee set by the sheriff not to exceed \$60.

29 **Sec. 2.** NRS 202.366 is hereby amended to read as follows:

30 202.366 1. Upon receipt by a sheriff of an application for a permit,
31 *including an application for the renewal of a permit pursuant to NRS 202.367,*
32 the sheriff shall conduct an investigation of the applicant to determine if the
33 applicant is eligible for a permit. In conducting the investigation, the sheriff shall
34 forward a complete set of the applicant's fingerprints to the Central Repository for
35 Nevada Records of Criminal History for submission to the Federal Bureau of
36 Investigation for its report concerning the criminal history of the applicant. *The*
37 *investigation also must include a report from the National Instant Criminal*
38 *Background Check System.* The sheriff shall issue a permit to the applicant unless
39 the applicant is not qualified to possess a handgun pursuant to state or federal law
40 or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to
41 202.369, inclusive, or the regulations adopted pursuant thereto.

42 2. To assist the sheriff in conducting the investigation, any local law
43 enforcement agency, including the sheriff of any county, may voluntarily submit to
44 the sheriff a report or other information concerning the criminal history of an
45 applicant.

46 3. Within 120 days after a complete application for a permit is submitted, the
47 sheriff to whom the application is submitted shall grant or deny the application. If
48 the application is denied, the sheriff shall send the applicant written notification
49 setting forth the reasons for the denial. If the application is granted, the sheriff shall
50 provide the applicant with a permit containing a colored photograph of the
51 applicant and containing such other information as may be prescribed by the
52 Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County Permit Number.....
 Expires..... Date of Birth
 Height..... Weight.....
 Name Address
 City Zip.....
 Photograph
 Signature.....
 Issued by.....
 Date of Issue.....
~~Make, model and caliber of each authorized semiautomatic firearm,~~
~~if any~~
Semiautomatic firearms authorized *Yes* *No*
 Revolvers authorized..... Yes..... No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. *As used in this section, "National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.*

Sec. 3. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:

(a) An application for a permit, and all information contained within that application; ~~and~~

(b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant ~~or~~ *or permittee;*

(c) The identity of the permittee; and

(d) Any records regarding the suspension, restoration or revocation of a permit,

are confidential.

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.3669, inclusive, including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must ~~complete~~ :

(a) Complete and submit to the sheriff who issued the permit an application for renewal of the permit ~~or~~ *and*

(b) Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee ~~of \$25.00~~ *in the amount of the actual cost to obtain the reports required pursuant to subsection 1 of NRS 202.366.*

1 ↪ If a permittee fails to renew his or her permit on or before the date of expiration
2 of the permit, the application for renewal must include an additional nonrefundable
3 late fee of \$15.

4 3. No permit may be renewed pursuant to this section unless the permittee has
5 demonstrated continued competence with revolvers, with ~~each~~ semiautomatic
6 ~~firearm to which the application pertains,~~ **firearms**, or with revolvers and ~~each~~
7 ~~such~~ semiautomatic ~~firearm,~~ **firearms**, as applicable, by successfully completing
8 a course prescribed by the sheriff renewing the permit.

9 **Sec. 5.** NRS 407.0475 is hereby amended to read as follows:

10 407.0475 1. The Administrator shall adopt such regulations as he or she
11 finds necessary for carrying out the provisions of this chapter and other provisions
12 of law governing the operation of the Division. ~~The~~ **Except as otherwise provided**
13 **in subsection 2, the** regulations may include prohibitions and restrictions relating to
14 activities within any of the park or recreational facilities within the jurisdiction of
15 the Division.

16 2. Any regulations relating to the conduct of persons within the park or
17 recreational facilities must:

18 (a) Be directed toward one or both of the following:

19 (1) Prevention of damage to or misuse of the facility.

20 (2) Promotion of the inspiration, use and enjoyment of the people of this
21 State through the preservation and use of the facility.

22 (b) Apply separately to each park, monument or recreational area and be
23 designed to fit the conditions existing at that park, monument or recreational area.

24 **(c) Not establish restrictions on the possession of firearms within the park or**
25 **recreational facility which are more restrictive than the laws of this State relating**
26 **to:**

27 **(1) The possession of firearms; or**

28 **(2) Engaging in lawful resistance to prevent an offense against a person**
29 **or property.**

30 ↪ **Any regulation which violates the provisions of this paragraph is void.**

31 3. Any person whose conduct violates any regulation adopted pursuant to
32 subsection 1, and who refuses to comply with the regulation upon request by any
33 ranger or employee of the Division who has the powers of a peace officer pursuant
34 to NRS 289.260, is guilty of a misdemeanor.