

SENATE BILL NO. 396—SENATORS SEGERBLOM AND PARKS

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN PIERCE; AIZLEY,
HOGAN, LIVERMORE, MUNFORD AND SWANK

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to firearms.
(BDR 15-931)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to firearms; prohibiting the purchase, sale or transfer of certain firearms; prohibiting the purchase, possession, sale or transfer of certain magazines for ammunition; requiring certain persons to request a background check before transferring a firearm to another person under certain circumstances; prohibiting the possession of metal-penetrating bullets; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs certain actions relating to the use of firearms. (NRS 202.253-202.369) **Section 2** of this bill prohibits the purchase, sale or transfer of certain firearms defined as assault weapons and makes such a violation a category E felony. **Section 3** of this bill makes it a gross misdemeanor to purchase, possess, sell or transfer any magazine capable of holding more than 10 rounds of ammunition.

Existing law allows, but does not require, a private person to conduct a background check of another person before transferring a firearm to the person. (NRS 202.254) **Section 5** of this bill requires a private person to conduct such a background check before transferring a firearm to another person, unless the person to whom the firearm is transferred holds a permit to carry a concealed firearm. **Section 5** further prohibits a private person from transferring a firearm until the



private person receives notice from the Central Repository for Nevada Records of Criminal History that the transfer of the firearm will not violate state or federal law or, if the Central Repository does not send such notice, 3 business days have elapsed from the date on which a request was made to the Central Repository for the background check.

Existing law makes it a gross misdemeanor to manufacture or sell any metal-penetrating bullet capable of being fired from a handgun. (NRS 202.273) **Section 6** of this bill also makes the purchase or possession of any such metal-penetrating bullets a gross misdemeanor.

Existing law prohibits certain persons from possessing or having custody or control of a firearm. (NRS 202.360) **Section 7** of this bill prohibits a person who has been convicted of a misdemeanor crime of domestic violence from possessing or having custody or control of a firearm.

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A person shall not purchase, sell or transfer any assault weapon.*

2. *A person who violates subsection 1 is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

3. *This section does not apply to:*

(a) *Any member of the Armed Forces of the United States or the Nevada National Guard while such member is on active duty;*

(b) *Any law enforcement officer of this State or the United States; or*

(c) *The possession or use of an assault weapon on land owned or leased by the United States when possessed or used at the direction of an authorized official of the United States.*

4. *As used in this section:*

(a) *“Assault weapon” means any:*

(I) *Semiautomatic or pump-action rifle that has the capacity to accept a detachable magazine and has one or more of the following:*

(I) *A pistol grip;*

(II) *Any feature capable of functioning as a protruding grip that can be held by the nontrigger hand;*

(III) *A folding, telescoping or thumbhole stock;*

(IV) *A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the rifle with the nontrigger hand without being burned, but excluding a slide that encloses the barrel; or*

(V) *A muzzle brake or muzzle compensator.*



(2) *Semiautomatic pistol, or any semiautomatic, centerfire rifle with a fixed magazine, that has the ability to accept more than 10 rounds of ammunition.*

(3) *Semiautomatic pistol that has the capacity to accept a detachable magazine and has one or more of the following:*

(I) *Any feature capable of functioning as a protruding grip that can be held by the nontrigger hand;*

(II) *A folding, telescoping or thumbhole stock;*

(III) *A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the pistol with the nontrigger hand without being burned, but excluding a slide that encloses the barrel;*

(IV) *A muzzle brake or muzzle compensator; or*

(V) *The capacity to accept a detachable magazine at any location outside of the pistol grip.*

(4) *Semiautomatic shotgun that has one or more of the following:*

(I) *A pistol grip;*

(II) *Any feature capable of functioning as a protruding grip that can be held by the nontrigger hand;*

(III) *A folding, telescoping or thumbhole stock;*

(IV) *A fixed magazine capacity in excess of 5 rounds; or*

(V) *An ability to accept a detachable magazine.*

(5) *Shotgun with a revolving cylinder.*

(6) *Conversion kit or part, or combination of parts, from which an assault weapon can be assembled if those parts are in the possession or under the control of the same person.*

➔ *The term does not include any firearm that has been made permanently inoperable.*

(b) *“Detachable magazine” means any ammunition feeding device, the function of which is to deliver one or more ammunition cartridges into the firing chamber, which can be removed from the firearm without the use of any tool, including a bullet or ammunition cartridge.*

(c) *“Muzzle brake” means a device attached to the muzzle of a firearm that utilizes escaping gas to reduce recoil.*

(d) *“Muzzle compensator” means a device attached to the muzzle of a firearm that utilizes escaping gas to control muzzle movement.*

Sec. 3. 1. A person shall not purchase, possess, sell or transfer any large-capacity magazine.

2. A person who violates subsection 1 is guilty of a gross misdemeanor.

3. This section does not apply to:



1 (a) Any member of the Armed Forces of the United States or
2 the Nevada National Guard while such member is on active duty;

3 (b) Any law enforcement officer of this State or the United
4 States; or

5 (c) The possession or use of such magazines on land owned or
6 leased by the United States when possessed or used at the direction
7 of an authorized official of the United States.

8 4. As used in this section, "large-capacity magazine" means
9 any ammunition feeding device with the capacity to accept more
10 than 10 rounds. The term does not include:

11 (a) A feeding device that has been permanently altered so that
12 it cannot accommodate more than 10 rounds.

13 (b) A .22 caliber tube ammunition feeding device.

14 (c) A tubular magazine that is contained in a lever-action
15 firearm.

16 **Sec. 4.** NRS 202.253 is hereby amended to read as follows:

17 202.253 As used in NRS 202.253 to 202.369, inclusive ~~†~~ ,
18 and sections 2 and 3 of this act:

19 1. "Explosive or incendiary device" means any explosive or
20 incendiary material or substance that has been constructed, altered,
21 packaged or arranged in such a manner that its ordinary use would
22 cause destruction or injury to life or property.

23 2. "Firearm" means any device designed to be used as a
24 weapon from which a projectile may be expelled through the barrel
25 by the force of any explosion or other form of combustion.

26 3. "Firearm capable of being concealed upon the person"
27 applies to and includes all firearms having a barrel less than 12
28 inches in length.

29 4. "Motor vehicle" means every vehicle that is self-propelled.

30 **Sec. 5.** NRS 202.254 is hereby amended to read as follows:

31 202.254 1. A private person who wishes to transfer a firearm
32 to another person ~~†may,†~~ *who is not a permittee shall*, before
33 transferring the firearm, request that ~~†the†~~ :

34 (a) *The Central Repository for Nevada Records of Criminal*
35 *History perform a background check on the person who wishes to*
36 *acquire the firearm †† ; or*

37 (b) *A holder of a federal firearms license submit a request to*
38 *perform a background check on the person who wishes to acquire*
39 *the firearm to the Central Repository.*

40 2. The person who requests the information pursuant to
41 subsection 1 ~~†shall†~~ :

42 (a) *Shall* provide the Central Repository with identifying
43 information about the person who wishes to acquire the firearm.

44 (b) *Shall not transfer a firearm to the person who wishes to*
45 *acquire the firearm until:*



1 *(1) The person has received notification pursuant to*
2 *subsection 3 that the information available to the Central*
3 *Repository indicates that the receipt of a firearm by the person*
4 *who wishes to acquire the firearm would not violate a state or*
5 *federal law; or*

6 *(2) The person who requests the information has not*
7 *received notification from the Central Repository regarding the*
8 *request within 3 business days after making the request.*

9 3. Upon receiving a request from a private person pursuant to
10 subsection 1 and the identifying information required pursuant to
11 subsection 2, the Central Repository shall within ~~15~~ 3 business days
12 after receiving the request:

13 (a) Perform a background check on the person who wishes to
14 acquire the firearm; and

15 (b) Notify the person who requests the information whether the
16 information available to the Central Repository indicates that the
17 receipt of a firearm by the person who wishes to acquire the firearm
18 would violate a state or federal law.

19 4. If the person who requests the information does not receive
20 notification from the Central Repository regarding the request
21 within ~~15~~ 3 business days after making the request, the person may
22 presume that the receipt of a firearm by the person who wishes to
23 acquire the firearm would not violate a state or federal law.

24 5. The Central Repository may charge a reasonable fee for
25 performing a background check and notifying a person of the results
26 of the background check pursuant to this section.

27 6. ~~{The failure of a person to request the Central Repository to~~
28 ~~perform a background check pursuant to this section before~~
29 ~~transferring a firearm to another person does not give rise to any~~
30 ~~civil cause of action.}~~ *A person who violates any of the provisions*
31 *of this section is guilty of a gross misdemeanor.*

32 7. *As used in this section:*

33 (a) *“Background check” includes a report from the National*
34 *Instant Criminal Background Check System.*

35 (b) *“National Instant Criminal Background Check System”*
36 *has the meaning ascribed to it in NRS 179A.062.*

37 (c) *“Permittee” means a holder of a permit to carry a*
38 *concealed firearm issued pursuant to the provisions of NRS*
39 *202.3653 to 202.369, inclusive.*

40 **Sec. 6.** NRS 202.273 is hereby amended to read as follows:

41 202.273 1. Except as provided in subsection 2, it is unlawful
42 to *purchase, possess*, manufacture or sell any metal-penetrating
43 bullet capable of being fired from a handgun.



2. A person may manufacture and sell metal-penetrating bullets pursuant to an agreement with a law enforcement agency for the sale of such bullets to that agency.

3. A person who violates the provisions of this section is guilty of a gross misdemeanor.

4. *This section does not apply to:*

(a) *Any member of the Armed Forces of the United States or the Nevada National Guard while such member is on active duty;*

(b) *Any law enforcement officer of this State or the United States; or*

(c) *The possession or use of such bullets on land owned or leased by the United States when possessed or used at the direction of an authorized official of the United States.*

5. As used in this section, "metal-penetrating bullet" means a bullet whose core:

(a) Reduces the normal expansion of the bullet upon impact; and

(b) Is at least as hard as the maximum hardness attainable using solid red metal alloys,

↳ and which can be used in a handgun. The term does not include any bullet with a copper or brass jacket and a core of lead or a lead alloy, or a bullet made of lead or lead alloys.

Sec. 7. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted of a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(b) *Has been convicted of a misdemeanor in this or any other state, or in any political subdivision thereof, that constitutes domestic violence pursuant to NRS 33.018, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;*

(c) Is a fugitive from justice; or

~~(c)~~ (d) Is an unlawful user of, or addicted to, any controlled substance.

↳ A person who violates the provisions of this subsection 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 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:



- 1 (a) Has been adjudicated as mentally ill or has been committed
2 to any mental health facility; or
3 (b) Is illegally or unlawfully in the United States.
4 ➤ A person who violates the provisions of this subsection is guilty
5 of a category D felony and shall be punished as provided in
6 NRS 193.130.
7 3. As used in this section:
8 (a) "Controlled substance" has the meaning ascribed to it in 21
9 U.S.C. § 802(6).
10 (b) "Firearm" includes any firearm that is loaded or unloaded
11 and operable or inoperable.

③⑩



* S B 3 9 6 *