

Amendment No. 551

Assembly Amendment to Assembly Bill No. 404 (BDR 15-840)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

MNM/BAW



Date: 4/19/2015

A.B. No. 404—Revises provisions concerning the issuance and renewal of permits to carry concealed firearms. (BDR 15-840)



ASSEMBLY BILL NO. 404—ASSEMBLYMEN FIORE; AND JONES

MARCH 17, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning ~~the issuance and renewal of permits to carry concealed~~ firearms. (BDR 15-840)

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 ~~concealed~~ firearms; ~~requiring a sheriff to refund the application fee for the issuance or renewal of a permit to carry a concealed firearm in certain circumstances;~~ establishing a procedure by which a person applying to transfer or make a firearm may request and obtain the required certification from a chief law enforcement officer; temporarily extending the validity of a permit to carry a concealed firearm beyond the expiration date in certain circumstances; authorizing a person who possesses a permit to carry a concealed firearm issued by another state to continue to carry a concealed firearm in this State temporarily after becoming a resident of this State in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law requires an applicant for the issuance or renewal of a permit to carry a concealed firearm to pay a nonrefundable fee of \$60 or \$25, respectively. (NRS 202.2657, 202.2677) Existing law also requires the sheriff to whom an application for the issuance or renewal of a permit is submitted to grant or deny the application within 120 days. (NRS 202.266) Sections 1 and 2 of this bill provide that if the sheriff does not grant or deny an application within 120 days, the sheriff must refund the respective application fee to the applicant or permittee.~~

Section 1.5 of this bill establishes a procedure by which a person who is applying to transfer or make a firearm may request and obtain the required certification from a chief law enforcement officer. Section 1.5 sets forth the criteria for an applicant to be provided or denied certification and requires a chief law enforcement officer to provide an applicant with written notice and an explanation if the chief law enforcement officer denies certification. Section 1.5 also authorizes a chief law enforcement officer to conduct a background check as part of determining whether to provide or deny certification to an applicant. Additionally, section 1.5 provides that a chief law enforcement officer, and any employee of a chief law enforcement officer, who acts in good faith with regard to providing or denying certification is immune from liability. Section 1.5 further establishes an appeals process by which an applicant who is denied certification may appeal the decision of a chief law enforcement officer to the district court.

Existing law ~~furthur~~ provides that unless a permit to carry a concealed firearm is suspended or revoked by the sheriff who issued the permit, the permit expires 5 years after the date on which it was issued. (NRS 202.366) **Section 2** of this bill provides that if a permittee submits an application for the renewal of a permit before the expiration date, the permit remains valid until the sheriff grants or denies the application for renewal. Evidence that the permittee has paid the application fee for renewal of the permit is sufficient proof that the permittee has submitted an application for renewal.

Existing law also authorizes a person who possesses a permit to carry a concealed firearm that was issued by certain other states to carry a concealed firearm in this State unless the person: (1) becomes a resident of this State; and (2) has not been issued a permit from the sheriff of the county in which he or she resides within 60 days after becoming a resident. (NRS 202.3688) Section 4 of this bill authorizes such a person who becomes a resident of this State and who has not been issued a permit within 60 days after becoming a resident to continue to carry a concealed firearm in this State if, within 60 days after becoming a resident, the person submitted an application to the sheriff for a permit to carry a concealed firearm. The person may continue to carry a concealed firearm pursuant to the permit issued by the other state until the sheriff grants or denies the application. Evidence that the person has paid the application fee for a permit is sufficient proof that the person has submitted an application for a permit.

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. A person applying for a permit may submit one application and obtain one permit to carry all handguns owned by the person. The person must not be required to list and identify on the application each handgun owned by the person. A permit is valid for any handgun which is owned or thereafter obtained by the person to whom the permit is issued.~~

~~3. Except as otherwise provided in this section, the sheriff shall issue a permit to any person who is qualified to possess a handgun 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 handguns 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 handguns 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.~~

~~4. 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.~~

~~5. 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 4 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.~~

~~6. 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 to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.~~

~~7. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by~~

an employee of the sheriff or notarized by a notary public. The application must include:

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

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

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

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

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

~~(f) A nonrefundable fee equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain the reports required pursuant to subsection 1 of NRS 202.366; and~~

~~(g) A [nonrefundable] fee set by the sheriff not to exceed \$60 [.] , which, except as otherwise provided in subsection 8, is nonrefundable.~~

~~8. If the sheriff does not grant or deny an application for a permit within 120 days as required pursuant to subsection 3 of NRS 202.366, the sheriff shall refund to the applicant the fee set forth in paragraph (g) of subsection 7.]~~
~~(Deleted by amendment.)~~

Sec. 1.5. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If federal law requires a chief law enforcement officer to provide certification for an application to transfer or make a firearm, a chief law enforcement officer shall, within 15 days of receiving a request for certification from an applicant:

(a) Provide certification to the applicant if the applicant is:

(1) Not prohibited by law from receiving or possessing a firearm; and

(2) Not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing a firearm; or

(b) Deny certification if:

(1) The applicant does not meet the requirements set forth in paragraph (a); or

(2) The chief law enforcement officer determines that he or she cannot truthfully make the certification.

2. If a chief law enforcement officer denies certification pursuant to subsection 1, he or she shall provide to the applicant a written notification of the denial and the reason therefor.

3. A chief law enforcement officer shall not refuse to provide certification based on a generalized objection to:

(a) Any private person or entity that makes, possesses or receives firearms; or

(b) Any certain type of firearm which the possession thereof is not prohibited by law.

4. As part of making a determination as to whether to provide or deny certification pursuant to subsection 1, a chief law enforcement officer may conduct a criminal background check. A chief law enforcement officer shall not require an applicant to provide any information other than that which is necessary to identify the applicant for purposes of the background check or to determine the disposition of an arrest or proceeding that is relevant to the

eligibility of the applicant to lawfully possess or receive a firearm. A chief law enforcement officer shall not require, as a condition of providing certification, obtaining access to or consent for any inspection of any private premises.

5. A chief law enforcement officer, and any employee of a chief law enforcement officer, who acts in good faith in carrying out the provisions of this section is immune from any liability arising from any act or omission in connection with providing or denying certification.

6. An applicant whose request for certification is denied pursuant to this section may appeal the decision of the chief law enforcement officer by petitioning the district court in the county in which the applicant resides or maintains his or her address of record. When such a decision is appealed to the district court, the hearing must be de novo. The court shall order the chief law enforcement officer to provide certification, and shall award reasonable attorney's fees and costs to the applicant, if the court determines that:

(a) The applicant meets the requirements set forth in paragraph (a) of subsection 1;

(b) There is no substantial evidence which supports the chief law enforcement officer's determination that he or she could not truthfully make the certification; or

(c) The chief law enforcement officer refused to provide certification in violation of the provisions of subsection 3.

7. As used in this section:

(a) "Certification" means the participation and assent of a chief law enforcement officer that is necessary pursuant to federal law for the approval of an application to transfer or make a firearm.

(b) "Chief law enforcement officer" means an official or his or her designee whom the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice, or its successor agency, identifies as being eligible to provide the required certification for making or transferring a firearm.

(c) "Firearm" has the meaning ascribed to it in 26 U.S.C. § 5845(a).

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

202.366 1. Upon receipt by a sheriff of an application for a permit, including an application for the renewal of a permit pursuant to NRS 202.3677, the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. The investigation also must include a report from the National Instant Criminal Background Check System. The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

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

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the

applicant and containing such other information as may be prescribed by the 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	

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

(a) *The permit is suspended or revoked by the sheriff who issued the permit before the expiration date; or*

(b) *A permittee submits to the sheriff an application for the renewal of the permit pursuant to NRS 202.3677 before the expiration date, in which case the permit remains valid until the sheriff grants or denies the application for renewal. Evidence that the permittee has paid the fee set forth in paragraph (d) of subsection 2 of NRS 202.3677 is sufficient proof that the permittee has submitted an application for the renewal of the permit.*

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 202.3677 is hereby amended to read as follows:~~

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

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

~~(c) Be accompanied by a nonrefundable fee equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain the reports required pursuant to subsection 1 of NRS 202.366; and~~

~~(d) Be accompanied by a [nonrefundable] fee of \$25 [-], which, except as otherwise provided in subsection 3, is nonrefundable.~~

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

~~3. If the sheriff does not grant or deny an application for the renewal of a permit within 120 days as required pursuant to subsection 3 of NRS 202.366, the sheriff shall refund to the permittee the fee set forth in paragraph (d) of subsection 2.~~

~~4. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with handguns by successfully completing a course prescribed by the sheriff renewing the permit.~~ (Deleted by amendment.)

Sec. 4. NRS 202.3688 is hereby amended to read as follows:

202.3688 1. Except as otherwise provided in subsection 2, a person who possesses a permit to carry a concealed firearm that was issued by a state included in the list prepared pursuant to NRS 202.3689 may carry a concealed firearm in this State in accordance with the requirements set forth in NRS 202.3653 to 202.369, inclusive.

2. A person who possesses a permit to carry a concealed firearm that was issued by a state included in the list prepared pursuant to NRS 202.3689 may not carry a concealed firearm in this State if the person:

(a) Becomes a resident of this State; and

(b) ~~Has~~ Except as otherwise provided in subsection 3, has not been issued a permit from the sheriff of the county in which he or she resides within 60 days after becoming a resident of this State.

3. Notwithstanding the provisions of paragraph (b) of subsection 2, a person may carry a concealed firearm in this State pursuant to a valid permit issued by a state included in the list prepared pursuant to NRS 202.3689 if the person submitted an application for a permit pursuant to NRS 202.3657 within 60 days after becoming a resident of this State. The person may carry a concealed firearm in this State pursuant to the permit issued by the other state until the sheriff grants or denies the application. Evidence that the person has paid the fee set forth in paragraph (g) of subsection 7 of NRS 202.3657 is sufficient proof that the person has submitted an application for a permit.

4. A person who carries a concealed firearm pursuant to this section is subject to the same legal restrictions and requirements imposed upon a person who has been issued a permit by a sheriff in this State.