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S.B. 452

EMERGENCY REQUEST OF SENATE MAJORITY LEADER

SENATE BILL NO. 452—SENATOR CANNIZZARO

MAY 18, 2021

Referred to Committee on Judiciary

SUMMARY—Prohibits the possession of a firearm on a covered premises in certain circumstances. (BDR 15-1154)

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.

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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; prohibiting a person from possessing a firearm on a covered premises under certain circumstances; revising provisions relating to the confiscation and disposal of dangerous weapons; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a misdemeanor for a person to go upon the land or into any building of another person in certain circumstances, including willfully going or remaining on land or in a building after being warned by the owner or occupant not to trespass. (NRS 207.200) **Section 1** of this bill establishes similar provisions which make it unlawful for a person to possess a firearm on a covered premises if the owner, operator or agent has chosen to prohibit the possession of a firearm on the covered premises. **Section 1** defines “covered premises” as any real property owned or operated by a person who holds a nonrestricted gaming license or any affiliate thereof.

Section 1 requires the owner or operator of a covered premises or an agent thereof who chooses to prohibit the possession of a firearm on the covered premises to: (1) post a sign which provides notice of such a prohibition and meets certain specifications at each public entrance of the covered premises; and (2) notify the applicable law enforcement agency that the owner, operator or agent has chosen to prohibit the possession of a firearm on the covered premises. **Section 1** provides that if the owner, operator or agent satisfies such requirements, the prohibition on the possession of a firearm on the covered premises becomes effective on the



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seventh calendar day after the owner, operator or agent provides such notification to a law enforcement agency.

Section 1 also requires that a person who is carrying a concealed firearm on a covered premises on which the possession of a firearm is prohibited be given a verbal warning before the assistance of a law enforcement agency, if necessary, is requested. If such a person does not voluntarily surrender the firearm or leave the premises or does not have a valid permit to carry a concealed firearm, the person is subject to criminal liability. **Section 1** additionally provides that a person who is openly carrying a firearm on a covered premises on which the possession of a firearm is prohibited is not entitled to a verbal warning before the assistance of a law enforcement agency is requested.

Section 1 provides that any person who possesses a firearm on a covered premises in an unlawful manner: (1) for the first offense, is guilty of a misdemeanor; (2) for the second offense, is guilty of a gross misdemeanor; and (3) for the third or any subsequent offense, is guilty of a category E felony. **Section 1** also provides that having the written consent of the owner or operator of the covered premises or an agent thereof to possess a firearm on the covered premises is a defense to violating the prohibition on possessing a firearm on the covered premises. **Section 3** of this bill adds an exception to the crime of trespass for application of the greater penalties prescribed by **section 1**.

Existing law establishes procedures for the disposal of certain dangerous instruments and weapons taken from the possession of a person charged with the commission of a public offense or crime or a child charged with committing a delinquent act. (NRS 202.340) **Section 2** of this bill requires any firearm taken from the possession of a person charged with a third or subsequent violation of **section 1** to be disposed of in the manner provided for dangerous instruments and weapons.

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 a new section to read as follows:

1. An owner or operator of a covered premises or an agent thereof may prohibit a person from possessing a firearm on the covered premises. If the owner or operator of the covered premises or an agent thereof chooses to prohibit the possession of a firearm on the covered premises, the owner or operator of the covered premises or an agent thereof shall post at each public entrance of the covered premises the following sign, which must be not less than 8 1/2 inches in width by 11 inches in height:





2. Upon the posting of the sign prescribed by subsection 1 at each public entrance of the covered premises, the owner or operator of the covered premises or an agent thereof shall notify a law enforcement agency with jurisdiction over a violation of subsection 3 that the owner or operator of the covered premises or an agent thereof has chosen to prohibit the possession of a firearm on the covered premises.

3. Except as otherwise provided in this section, if the owner or operator of a covered premises or an agent thereof has posted the sign prescribed by subsection 1 in accordance with this section and provided notification to a law enforcement agency pursuant to subsection 2, a person shall not possess a firearm on the covered premises beginning on the seventh calendar day after the owner, operator or agent provided such notification to a law enforcement agency.

4. Any person who engages in the open carry of a firearm in violation of subsection 3 is not entitled to be provided with a verbal warning by an authorized agent of the covered premises regarding the prohibition on the possession of a firearm on the covered premises before the owner or operator of the covered premises, an agent thereof or a security guard or other employee of the covered premises requests the assistance of a law enforcement agency with jurisdiction over a violation of subsection 3.

5. Any person who engages in the concealed carry of a firearm in violation of subsection 3 must be provided with a verbal warning by an authorized agent of the covered premises regarding the prohibition on the possession of a firearm on the covered premises before the owner or operator of the covered premises, an



agent thereof or a security guard or other employee of the covered premises requests the assistance, if necessary, of a law enforcement agency with jurisdiction over a violation of subsection 3. If:

(a) Such a person refuses to voluntarily surrender the firearm or leave the premises, the person shall be punished as provided in subsection 6; or

(b) The assistance of a law enforcement agency with jurisdiction over a violation of subsection 3 is requested and one or more officers respond to the request and discover that the person who is engaging in the concealed carry of a firearm does not hold a valid permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive, in addition to any punishment imposed for unlawfully carrying a concealed firearm in violation of NRS 202.350, the person shall be punished as provided in subsection 6.

6. Except as otherwise provided in this section, a person who violates subsection 3:

(a) For the first offense, is guilty of a misdemeanor;

(b) For the second offense, is guilty of a gross misdemeanor; and

(c) For the third or any subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

7. It is a defense to a violation of subsection 3 that the person had the written consent of the owner or operator of the covered premises or an agent thereof to possess a firearm on the covered premises.

8. This section:

(a) Except as otherwise provided in paragraph (b), applies to any person entering a covered premises, including, without limitation, any person who is the holder of a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive.

(b) Does not apply to:

(1) A security guard of a covered premises or an officer of a law enforcement agency who is required to carry a firearm as part of his or her official duties and who is acting in his or her official capacity at the time of possessing the firearm on the covered premises;

(2) A residential unit owner who:

(I) Carries or stores a firearm in his or her unit;

(II) Carries a firearm directly to his or her unit from a location where he or she is authorized to carry or store a firearm under this subparagraph or from his or her unit to a location



where he or she is authorized to carry or store a firearm under this subparagraph;

(III) Carries or stores a firearm in his or her vehicle located in a parking area designated for the residential unit owner; or

(IV) Carries a firearm directly to his or her vehicle located in a parking area designated for the residential unit owner from a location where he or she is authorized to carry or store a firearm under this subparagraph or from such a vehicle to a location where he or she is authorized to carry or store a firearm under this subparagraph; or

(3) A guest of a public accommodation facility who:

(I) Purchases a firearm at a trade show in this State;

(II) Transports the purchased firearm directly from the trade show to the public accommodation facility in accordance with all applicable laws;

(III) Enters the public accommodation facility with the firearm unloaded and contained within a bag; and

(IV) Notifies the public accommodation facility in writing that his or her bag contains an unloaded firearm.

9. Nothing in this section shall:

(a) Prohibit or restrict a rule, policy or practice of an owner or operator of a covered premises concerning or prohibiting the presence of firearms on the covered premises; or

(b) Require an owner or operator of a covered premises to adopt a rule, policy or practice concerning or prohibiting the presence of firearms on the covered premises.

10. As used in this section:

(a) "Consent" does not include consent that is induced by force, threat or fraud.

(b) "Covered premises" means any real property owned or operated by a person who holds a nonrestricted license, as defined in NRS 463.0177, or any affiliate thereof. The term includes, without limitation, any tenant of the real property or establishment located within the bounds of the real property.

(c) "Law enforcement agency" has the meaning ascribed to it in NRS 289.010.

(d) "Official capacity" includes, without limitation, the observance of a meal or other authorized break.

(e) "Open carry" means possessing a firearm in an open manner or unlawfully carrying a concealed firearm in violation of NRS 202.350.

(f) "Public entrance" includes, without limitation, a parking lot or parking structure.



(g) “Residential unit owner” has the meaning ascribed to it in NRS 116B.205.

(h) “Trade show” means an event of limited duration primarily attended by members of a particular trade or industry for the purpose of exhibiting their merchandise or services or discussing matters of interest to members of that trade or industry.

Sec. 2. NRS 202.340 is hereby amended to read as follows:

202.340 1. Except as otherwise provided for firearms forfeitable pursuant to NRS 453.301, when any instrument or weapon described in NRS 202.350 is taken from the possession of any person charged with the commission of any public offense or crime or any child charged with committing a delinquent act ~~or~~ *when any firearm is taken from the possession of any person charged with a third or subsequent violation of section 1 of this act*, the instrument , ~~or~~ weapon *or firearm* must be surrendered to:

(a) The head of the police force or department of an incorporated city if the possession thereof was detected by any member of the police force of the city; or

(b) The chief administrator of a state law enforcement agency, for disposal pursuant to NRS 333.220, if the possession thereof was detected by any member of the agency.

➤ In all other cases, the instrument , ~~or~~ weapon *or firearm* must be surrendered to the sheriff of the county or the sheriff of the metropolitan police department for the county in which the instrument , ~~or~~ weapon *or firearm* was taken.

2. Except as otherwise provided in subsection 5, the governing body of the county or city or the metropolitan police committee on fiscal affairs shall at least once a year order the local law enforcement officer to whom any instrument , ~~or~~ weapon *or firearm* is surrendered pursuant to subsection 1 to:

(a) Retain the confiscated instrument , ~~or~~ weapon *or firearm* for use by the law enforcement agency headed by the officer;

(b) Sell the confiscated instrument , ~~or~~ weapon *or firearm* to another law enforcement agency;

(c) Destroy or direct the destruction of the confiscated instrument , ~~or~~ weapon *or firearm* if it is not otherwise required to be destroyed pursuant to subsection 5;

(d) Trade the confiscated instrument , ~~or~~ weapon *or firearm* to a properly licensed retailer or wholesaler in exchange for equipment necessary for the performance of the agency’s duties; or

(e) Donate the confiscated instrument , ~~or~~ weapon *or firearm* to a museum, the Nevada National Guard or, if appropriate, to another person for use which furthers a charitable or public interest.

3. All proceeds of a sale ordered pursuant to subsection 2 by:



(a) The governing body of a county or city must be deposited with the county treasurer or the city treasurer and the county treasurer or the city treasurer shall credit the proceeds to the general fund of the county or city.

(b) A metropolitan police committee on fiscal affairs must be deposited in a fund which was created pursuant to NRS 280.220.

4. Any officer receiving an order pursuant to subsection 2 shall comply with the order as soon as practicable.

5. Except as otherwise provided in subsection 6, the officer to whom a confiscated instrument , ~~fire~~ weapon **or firearm** is surrendered pursuant to subsection 1 shall:

(a) Except as otherwise provided in paragraph (c), destroy or direct to be destroyed any instrument , ~~fire~~ weapon **or firearm** which is determined to be dangerous to the safety of the public.

(b) Except as otherwise provided in paragraph (c), return any instrument , ~~fire~~ weapon ~~fire~~ **or firearm** which has not been destroyed pursuant to paragraph (a):

(1) Upon demand, to the person from whom the instrument , ~~fire~~ weapon **or firearm** was confiscated if the person is acquitted of the public offense or crime of which the person was charged; or

(2) To the legal owner of the instrument , ~~fire~~ weapon **or firearm** if the Attorney General or the district attorney determines that the instrument , ~~fire~~ weapon **or firearm** was unlawfully acquired from the legal owner. If retention of the instrument , ~~fire~~ weapon **or firearm** is ordered or directed pursuant to paragraph (c), except as otherwise provided in paragraph (a), the instrument , ~~fire~~ weapon **or firearm** must be returned to the legal owner as soon as practicable after the order or direction is rescinded.

(c) Retain the confiscated instrument , ~~fire~~ weapon **or firearm** held by the officer pursuant to an order of a judge of a court of record or by direction of the Attorney General or district attorney that the retention is necessary for purposes of evidence, until the order or direction is rescinded.

(d) Return any instrument , ~~fire~~ weapon **or firearm** which was stolen to its rightful owner, unless the return is otherwise prohibited by law.

6. Before any disposition pursuant to subsection 5, the officer who is in possession of the confiscated instrument , ~~fire~~ weapon **or firearm** shall submit a full description of the instrument , ~~fire~~ weapon **or firearm** to a laboratory which provides forensic services in this State. The director of the laboratory shall determine whether the instrument , ~~fire~~ weapon ~~fire~~ **or firearm**:

(a) Must be sent to the laboratory for examination as part of a criminal investigation; or



(b) Is a necessary addition to a referential collection maintained by the laboratory for purposes relating to law enforcement.

Sec. 3. NRS 207.200 is hereby amended to read as follows:

207.200 1. Unless a greater penalty is provided pursuant to NRS 200.603 ~~or~~ **or section 1 of this act**, any person who, under circumstances not amounting to a burglary:

(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or

(b) Willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass,

is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections 2 and 4.

2. A sufficient warning against trespassing, within the meaning of this section, is given by any of the following methods:

(a) Painting with fluorescent orange paint:

(1) Not less than 50 square inches of a structure or natural object or the top 12 inches of a post, whether made of wood, metal or other material, at:

(I) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 1,000 feet; and

(II) Each corner of the land, upon or near the boundary; and

(2) Each side of all gates, cattle guards and openings that are designed to allow human ingress to the area;

(b) Fencing the area;

(c) Posting "no trespassing" signs or other notice of like meaning at:

(1) Intervals of such a distance as is necessary to ensure that at least one such sign would be within the direct line of sight of a person standing next to another such sign, but at intervals of not more than 500 feet; and

(2) Each corner of the land, upon or near the boundary;

(d) Using the area as cultivated land; or

(e) By the owner or occupant of the land or building making an oral or written demand to any guest to vacate the land or building.

3. It is prima facie evidence of trespass for any person to be found on private or public property which is posted or fenced as provided in subsection 2 without lawful business with the owner or occupant of the property.



1 4. An entryman on land under the laws of the United States is
2 an owner within the meaning of this section.

3 5. As used in this section:

4 (a) “Cultivated land” means land that has been cleared of its
5 natural vegetation and is presently planted with a crop.

6 (b) “Fence” means a barrier sufficient to indicate an intent to
7 restrict the area to human ingress, including, but not limited to, a
8 wall, hedge or chain link or wire mesh fence. The term does not
9 include a barrier made of barbed wire.

10 (c) “Guest” means any person entertained or to whom
11 hospitality is extended, including, but not limited to, any person
12 who stays overnight. The term does not include a tenant as defined
13 in NRS 118A.170.

14 **Sec. 4.** Notwithstanding the provisions of NRS 218D.430 and
15 218D.435, a committee, other than the Assembly Standing
16 Committee on Ways and Means and the Senate Standing Committee
17 on Finance, may vote on this act before the expiration of the period
18 prescribed for the return of a fiscal note in NRS 218D.475. This
19 section applies retroactively from and after March 22, 2021.

20 **Sec. 5.** This act becomes effective upon passage and approval.



