



NEVADA
LEGISLATIVE
COUNSEL BUREAU

NOVEMBER 2017

INSIDE THIS BRIEF

- NEVADA'S CONSTITUTION
- STATE PREEMPTION OF LOCAL FIREARMS LAWS
- PURCHASING OF FIREARMS
- POSSESSION OF FIREARMS
- CARRYING OF FIREARMS (OPEN OR CONCEALED)
- VETOED 2013 BACKGROUND CHECK LEGISLATION
- QUESTION 1: BACKGROUND CHECK ACT OF 2016

PREPARED BY CRAIG HOFFECKER
UPDATED BY DIANE C. THORNTON
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU

RESEARCH BRIEF ON FIREARMS

This research brief gives a short overview of current firearms laws in Nevada, including changes to firearms laws made by the Nevada Legislature at its 2017 Regular Session.

NEVADA'S CONSTITUTION

The right to bear arms is found in the first article of Nevada's constitution: "Every citizen has the right to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes."

STATE PREEMPTION OF LOCAL FIREARMS LAWS

The Nevada Legislature previously reserved to itself the power to regulate firearms. In 2015, the Legislature expanded this preemption to include firearm accessories through passage of [Senate Bill 175](#) and [Senate Bill 240](#). Generally, local jurisdictions may not pass ordinances or regulations concerning firearms except those relating to the unsafe discharge of firearms. The 2015 Legislature removed provisions that had allowed the enforcement of certain firearms-related ordinances or regulations of southern Nevada jurisdictions existing prior to June 13, 1989. Such ordinances or regulations inconsistent with the Legislature's rights and powers must be repealed with declarative and injunctive relief available to persons adversely affected. ([Nevada Revised Statutes \[NRS\] 244.364, 268.418, and 269.222](#))

PURCHASING OF FIREARMS

No permit is required to purchase most firearms in Nevada. Certain firearms, such as fully automatic weapons, may require a federal permit.

- Background checks, as required by federal law, are necessary for purchases from a federal firearms licensee (dealer sales). Nevada’s Department of Public Safety serves as the official “point of sale contact” for Nevada and requires a \$25 fee. ([NRS 179A.140](#))
- A person who is an adverse party to an extended order for protection may not purchase or otherwise acquire a firearm during the effective time of the order by passage of S.B. 175. ([NRS 33.0305](#))

POSSESSION OF FIREARMS

Generally, a person 18 years of age or older who does not fit into any of the following categories may possess a firearm in Nevada: (1) misdemeanor conviction of domestic violence as defined in 18 U.S.C. § 921(a)(33) (2017); (2) felony conviction (without a pardon) from any state or United States jurisdiction; (3) fugitive from justice; (4) unlawful user or addict of a controlled substance; (5) adjudication of mentally ill or commitment to a mental health facility; (6) unlawful presence in the U.S.; (7) a blood alcohol concentration of 0.10 or more; (8) under the influence of certain substances to a degree rendering the person incapable of safely exercising actual physical control of a firearm; or (9) otherwise prohibited by federal law from having a firearm in his or her possession, control, or custody. ([NRS 202.257](#) and [202.360](#))

A court may order a person who is subject to an extended order for protection related to domestic violence to surrender, sell, or transfer any firearms in that person’s possession while the order is in place except in certain circumstances where a firearm is necessary for employment. In addition, the court must inform a person who is convicted of domestic violence or stalking, under certain circumstances, that he or she is

prohibited from owning, possessing, or having a firearm under his or her control and order the person to permanently surrender, sell, or transfer any firearm under his or her control. ([S.B. 124](#) [2017])

A minor may carry a firearm for such activities as hunting or target shooting with permission of his or her legal guardian or parent. ([NRS 202.300](#))

**CARRYING OF FIREARMS
(OPEN OR CONCEALED)**

Generally, *open* carrying of a firearm in public is allowed by a person not otherwise prohibited from possessing a firearm.

- An exception is that a loaded long gun may not be carried in a vehicle on a public road except by a person with a severe walking impediment, a peace officer, or a member of the Armed Forces. ([NRS 503.165](#))
- Possession of a firearm or pneumatic gun (such as BB, pellet, or paintball) on school property, at a facility of the Nevada System of Higher Education, or at a child care facility requires the permission of a principal, president, or designated person of the child care facility, respectively, to give permission to carry a weapon. ([NRS 202.265](#))

Concealed carrying of a firearm requires a permit issued by the resident’s county sheriff or, for a non-Nevada resident, possession of a valid permit from a recognized state requiring permit holders to have completed any training, class, or program prior to that other state issuing the permit. ([NRS 202.3657](#) and [202.3689](#))

- An applicant for a permit must be 21 years of age or older, complete an approved carry concealed weapons course, have fingerprint cards processed, and submit a photograph with the

application form to the appropriate sheriff. The sheriff “shall issue” a permit if all criteria are met.

- An exception is made for applicants between the ages of 18 and 21 who are active members of the military or who have been honorably released or discharged from the military. A sheriff must deny an application for a permit or revoke an existing permit if the sheriff determines that the applicant or permittee has been discharged or released from service under other than honorable conditions and is fewer than 21 years of age. ([A.B. 118](#) [2017])
- Reasons for denial may include: (1) outstanding warrants; (2) judicial declaration of incompetence or involuntary admittance to a mental hospital in the preceding five years; (3) certain habitual use of alcohol or controlled substances; (4) certain convictions for violent or threatened force misdemeanors within the preceding three years; (5) felony convictions from any U.S. jurisdiction; (6) convictions of any crime involving violence or stalking or currently being subject to a restraining order, injunction, or other order for protection against domestic violence; (7) currently serving parole in any U.S. jurisdiction; (8) being the subject of a court requirement imposed as a condition of withholding a judgment of conviction of a felony or suspension of sentence for a felony conviction; or (9) making a false statement on the permit application. ([NRS 202.3657](#))

VETOED 2013 BACKGROUND CHECK LEGISLATION

The 2015 Legislature failed to override Governor Brian Sandoval’s veto of [S.B. 221](#) of 2013 making various changes relating to public safety, ending further consideration

of the legislation. The measure includes certain provisions concerning: (1) a requirement for background checks coordinated with a federal firearms license holder for transfers of firearms in most circumstances when the transferee is not a holder of a permit to carry a concealed firearm; (2) barring possession of firearms by a person entering a plea of guilty, but mentally ill, or an acquittal by reason of insanity; and (3) a mental health professional taking certain steps to report threats by a person under professional care with certain protections from civil or criminal liability provided to the professional.

QUESTION 1: BACKGROUND CHECK ACT OF 2016

An initiative petition on background checks was brought forth to the 2015 Legislature. The Legislature took no action on the initiative, which then automatically placed the question on the 2016 General Election ballot, as mandated by [Article 19, Section 2 of the Nevada Constitution](#).

Voters approved the measure, however an opinion issued by Attorney General Adam Laxalt stated that the measure could not be enforced.

The opinion states the following: “[NRS 202.254](#), as amended by the Background Check Act, makes it a crime to engage in private sales or transfers of firearms (with certain exceptions) unless a federally licensed dealer conducts a federal background check on the potential buyer or transferee. Because the Act specifically directs the dealer to run checks directly through the FBI’s NICS system, the Nevada Department of Public Safety has no authority to perform the private-party background checks required by the Act.”