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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 2015 Regular Session.

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 (Chapter 328, Statutes of Nevada) and Senate Bill 240 (Chapter 329, Statutes of Nevada). 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, to be enforced also through the passage of S.B. 175 and S.B. 240. Such ordinances or regulations inconsistent with the Legislature’s rights and powers must be repealed with declarative and injunctive relief available to persons adversely affected.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 made 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. (Chapter 33 [“Injunctions”] of NRS)

• Clark County jurisdictions may no longer require the 72 hour waiting period for a resident to take physical possession of his or her first purchase of a firearm from a dealer. (Section 11 of S.B. 175 and Section 20 of S.B. 240)

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) (2014); (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 as amended by S.B. 175 and S.B. 240)

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 by 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 a designated person of the child care facility, respectively, to give permission to carry a weapon. (NRS 202.265 as amended by S.B. 176 [Chapter 314, Statutes of Nevada 2015])

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 as amended by S.B. 175)

• 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.

• Denial reasons 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 LEGISLATION AND INITIATIVE PETITION CONSIDERED IN THE 2015 REGULAR SESSION**

**Vetoed measure of the 2013 Regular Session**

- 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.

**Initiative petition to the 2015 Regular Session to appear on the 2016 General Election ballot**

- The Legislature took no action on the Background Check Initiative, which automatically places the question on the 2016 General Election ballot, as mandated by Article 19, Section 2 of the Nevada Constitution. The initiative requires a person not holding a federal firearms dealer license desiring to transfer a firearm to another person not holding a federal firearms dealer license to have a licensed federal firearms dealer use the National Instant Criminal Background Check System (NICS) to check the eligibility of the transferee to purchase or possess a firearm pursuant to Nevada and federal law. Certain exceptions apply for transfers among immediate family members, to executors or administrators of estates by operation of law, or specified temporary transfers of firearms where the transferee is not otherwise prohibited from buying or possessing firearms pursuant to Nevada or federal law. A reasonable fee may be charged by the dealer for conducting the check. The dealer must comply with all requirements of Nevada and federal law as though the dealer were transferring a firearm from his or her own inventory except that NICS must be contacted directly rather than through the Central Repository for Nevada Records of Criminal History.

- The first conviction involving the sale or transfer of one or more firearms in violation of the Background Check Initiative is a gross misdemeanor punishable by imprisonment in the county jail for not more than 364 days, a fine of not more than $2,000, or by both fine and imprisonment.

- The second or subsequent conviction involving the sale or transfer of one or more firearms in violation of the Background Check Initiative is a category C felony punishable by imprisonment in the State prison for a minimum term of not less than one year and a maximum term of not more than five years. The court may additionally impose a fine of not more than $10,000.