

SENATE BILL NO. 351—SENATOR ATKINSON

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Establishes provisions relating to the ability of a person who engages in the medical use of marijuana to possess a firearm or hold a permit to carry a concealed firearm. (BDR 15-946)

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 firearms; providing that the holder of a valid registry identification card is not deemed to be an unlawful user of or addicted to a controlled substance for purposes of the prohibition on the possession, custody or control of a firearm by certain persons; providing that the holder of a valid registry identification card is not deemed to have habitually used a controlled substance to the extent that his or her normal faculties are impaired for purposes of holding a permit to carry a concealed firearm; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law prohibits a person from owning or having in his or her possession
- 2 or under his or her custody or control any firearm if the person is an unlawful user
- 3 of, or addicted to, any controlled substance. (NRS 202.360) **Section 1** of this bill
- 4 provides that a person who holds a valid registry identification card shall not be
- 5 deemed to be an unlawful user of, or addicted to, a controlled substance solely
- 6 because he or she engages in the medical use of marijuana.
- 7 Existing law requires a sheriff to deny an application for a permit to carry a
- 8 concealed firearm or revoke an existing permit in certain circumstances, including
- 9 if the applicant or permittee has habitually used intoxicating liquor or a controlled
- 10 substance to the extent that his or her normal faculties are impaired. (NRS
- 11 202.3657) **Section 2** of this bill provides that a person who holds a valid registry
- 12 identification card shall not be deemed to have habitually used a controlled
- 13 substance to the extent that his or her normal faculties are impaired solely because
- 14 he or she engages in the medical use of marijuana.



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

1 **Section 1.** NRS 202.360 is hereby amended to read as follows:

2 202.360 1. A person shall not own or have in his or her
3 possession or under his or her custody or control any firearm if the
4 person:

5 (a) Has been convicted in this State or any other state of a
6 misdemeanor crime of domestic violence as defined in 18 U.S.C. §
7 921(a)(33);

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

13 (c) Is a fugitive from justice;

14 (d) Is an unlawful user of, or addicted to, any controlled
15 substance; or

16 (e) Is otherwise prohibited by federal law from having a firearm
17 in his or her possession or under his or her custody or control.

18 ➔ A person who violates the provisions of this subsection is guilty
19 of a category B felony and shall be punished by imprisonment in the
20 state prison for a minimum term of not less than 1 year and a
21 maximum term of not more than 6 years, and may be further
22 punished by a fine of not more than \$5,000.

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

25 (a) Has been adjudicated as mentally ill or has been committed
26 to any mental health facility by a court of this State, any other state
27 or the United States;

28 (b) Has entered a plea of guilty but mentally ill in a court of this
29 State, any other state or the United States;

30 (c) Has been found guilty but mentally ill in a court of this State,
31 any other state or the United States;

32 (d) Has been acquitted by reason of insanity in a court of this
33 State, any other state or the United States; or

34 (e) Is illegally or unlawfully in the United States.

35 ➔ A person who violates the provisions of this subsection is guilty
36 of a category D felony and shall be punished as provided in
37 NRS 193.130.

38 3. *For the purposes of paragraph (d) of subsection 1, a*
39 *person who holds a valid registry identification card issued to him*
40 *or her pursuant to NRS 453A.220 or 453A.250 shall not be*
41 *deemed to be an unlawful user of, or addicted to, a controlled*



1 *substance solely because the person engages in the medical use of*
2 *marijuana pursuant to chapter 453A of NRS.*

3 4. As used in this section:

4 (a) "Controlled substance" has the meaning ascribed to it in 21
5 U.S.C. § 802(6).

6 (b) "Firearm" includes any firearm that is loaded or unloaded
7 and operable or inoperable.

8 (c) *"Medical use of marijuana" has the meaning ascribed to it*
9 *in NRS 453A.120.*

10 **Sec. 2.** NRS 202.3657 is hereby amended to read as follows:

11 202.3657 1. Any person who is a resident of this State may
12 apply to the sheriff of the county in which he or she resides for a
13 permit on a form prescribed by regulation of the Department. Any
14 person who is not a resident of this State may apply to the sheriff of
15 any county in this State for a permit on a form prescribed by
16 regulation of the Department. Application forms for permits must be
17 furnished by the sheriff of each county upon request.

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

24 3. Except as otherwise provided in this section, the sheriff shall
25 issue a permit to any person who is qualified to possess a handgun
26 under state and federal law, who submits an application in
27 accordance with the provisions of this section and who:

28 (a) Is 21 years of age or older;

29 (b) Is not prohibited from possessing a firearm pursuant to NRS
30 202.360; and

31 (c) Demonstrates competence with handguns by presenting a
32 certificate or other documentation to the sheriff which shows that
33 the applicant:

34 (1) Successfully completed a course in firearm safety
35 approved by a sheriff in this State; or

36 (2) Successfully completed a course in firearm safety offered
37 by a federal, state or local law enforcement agency, community
38 college, university or national organization that certifies instructors
39 in firearm safety.

40 ➤ Such a course must include instruction in the use of handguns
41 and in the laws of this State relating to the use of a firearm. A sheriff
42 may not approve a course in firearm safety pursuant to subparagraph
43 (1) unless the sheriff determines that the course meets any standards
44 that are established by the Nevada Sheriffs' and Chiefs' Association



1 or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist,
2 its legal successor.

3 4. The sheriff shall deny an application or revoke a permit if
4 the sheriff determines that the applicant or permittee:

5 (a) Has an outstanding warrant for his or her arrest.

6 (b) Has been judicially declared incompetent or insane.

7 (c) Has been voluntarily or involuntarily admitted to a mental
8 health facility during the immediately preceding 5 years.

9 (d) Has habitually used intoxicating liquor or a controlled
10 substance to the extent that his or her normal faculties are impaired.
11 For the purposes of this paragraph, it is presumed that a person has
12 so used intoxicating liquor or a controlled substance if, during the
13 immediately preceding 5 years, the person has been:

14 (1) Convicted of violating the provisions of NRS 484C.110;
15 or

16 (2) Committed for treatment pursuant to NRS 458.290 to
17 458.350, inclusive.

18 (e) Has been convicted of a crime involving the use or
19 threatened use of force or violence punishable as a misdemeanor
20 under the laws of this or any other state, or a territory or possession
21 of the United States at any time during the immediately preceding 3
22 years.

23 (f) Has been convicted of a felony in this State or under the laws
24 of any state, territory or possession of the United States.

25 (g) Has been convicted of a crime involving domestic violence
26 or stalking, or is currently subject to a restraining order, injunction
27 or other order for protection against domestic violence.

28 (h) Is currently on parole or probation from a conviction
29 obtained in this State or in any other state or territory or possession
30 of the United States.

31 (i) Has, within the immediately preceding 5 years, been subject
32 to any requirements imposed by a court of this State or of any other
33 state or territory or possession of the United States, as a condition to
34 the court's:

35 (1) Withholding of the entry of judgment for a conviction of
36 a felony; or

37 (2) Suspension of sentence for the conviction of a felony.

38 (j) Has made a false statement on any application for a permit or
39 for the renewal of a permit.

40 5. *For the purposes of paragraph (d) of subsection 4, a*
41 *person who holds a valid registry identification card issued to him*
42 *or her pursuant to NRS 453A.220 or 453A.250 shall not be*
43 *deemed to have habitually used a controlled substance to the*
44 *extent that his or her normal faculties are impaired solely because*
45 *the person engages in the medical use of marijuana pursuant to*



1 *chapter 453A of NRS. As used in this subsection, “medical use of*
2 *marijuana” has the meaning ascribed to it in NRS 453A.120.*

3 6. The sheriff may deny an application or revoke a permit if the
4 sheriff receives a sworn affidavit stating articulable facts based upon
5 personal knowledge from any natural person who is 18 years of age
6 or older that the applicant or permittee has or may have committed
7 an offense or engaged in any other activity specified in subsection 4
8 which would preclude the issuance of a permit to the applicant or
9 require the revocation of a permit pursuant to this section.

10 ~~6.7~~ 7. If the sheriff receives notification submitted by a court
11 or law enforcement agency of this or any other state, the United
12 States or a territory or possession of the United States that a
13 permittee or an applicant for a permit has been charged with a crime
14 involving the use or threatened use of force or violence, the
15 conviction for which would require the revocation of a permit or
16 preclude the issuance of a permit to the applicant pursuant to this
17 section, the sheriff shall suspend the person’s permit or the
18 processing of the person’s application until the final disposition of
19 the charges against the person. If a permittee is acquitted of the
20 charges, or if the charges are dropped, the sheriff shall restore his or
21 her permit without imposing a fee.

22 ~~7.7~~ 8. An application submitted pursuant to this section must
23 be completed and signed under oath by the applicant. The
24 applicant’s signature must be witnessed by an employee of the
25 sheriff or notarized by a notary public. The application must
26 include:

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

30 (b) A complete set of the applicant’s fingerprints taken by the
31 sheriff or his or her agent;

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

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

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

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

44 (g) A nonrefundable fee set by the sheriff not to exceed \$60.



1 **Sec. 3.** This act becomes effective on July 1, 2017.

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