

ASSEMBLY BILL NO. 404—ASSEMBLYMEN FIORE; AND JONES

MARCH 17, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning 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 firearms; 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:

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

14 Existing law provides that unless a permit to carry a concealed firearm is
15 suspended or revoked by the sheriff who issued the permit, the permit expires 5
16 years after the date on which it was issued. (NRS 202.366) **Section 2** of this bill
17 provides that if a permittee submits an application for the renewal of a permit



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18 before the expiration date, the permit remains valid until the sheriff grants or denies
19 the application for renewal. Evidence that the permittee has paid the application fee
20 for renewal of the permit is sufficient proof that the permittee has submitted an
21 application for renewal.

22 Existing law also authorizes a person who possesses a permit to carry a
23 concealed firearm that was issued by certain other states to carry a concealed
24 firearm in this State unless the person: (1) becomes a resident of this State; and (2)
25 has not been issued a permit from the sheriff of the county in which he or she
26 resides within 60 days after becoming a resident. (NRS 202.3688) **Section 4** of this
27 bill authorizes such a person who becomes a resident of this State and who has not
28 been issued a permit within 60 days after becoming a resident to continue to carry a
29 concealed firearm in this State if, within 60 days after becoming a resident, the
30 person submitted an application to the sheriff for a permit to carry a concealed
31 firearm. The person may continue to carry a concealed firearm pursuant to the
32 permit issued by the other state until the sheriff grants or denies the application.
33 Evidence that the person has paid the application fee for a permit is sufficient proof
34 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:

1 **Section 1.** (Deleted by amendment.)

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

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

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

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

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

14 *(b) Deny certification if:*

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

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

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

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

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



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

3 4. As part of making a determination as to whether to provide
4 or deny certification pursuant to subsection 1, a chief law
5 enforcement officer may conduct a criminal background check. A
6 chief law enforcement officer shall not require an applicant to
7 provide any information other than that which is necessary to
8 identify the applicant for purposes of the background check or to
9 determine the disposition of an arrest or proceeding that is
10 relevant to the eligibility of the applicant to lawfully possess or
11 receive a firearm. A chief law enforcement officer shall not
12 require, as a condition of providing certification, obtaining access
13 to or consent for any inspection of any private premises.

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

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

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

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

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

35 7. As used in this section:

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

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



1 (c) "Firearm" has the meaning ascribed to it in 26 U.S.C. §
2 5845(a).

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

4 202.366 1. Upon receipt by a sheriff of an application for a
5 permit, including an application for the renewal of a permit pursuant
6 to NRS 202.3677, the sheriff shall conduct an investigation of the
7 applicant to determine if the applicant is eligible for a permit. In
8 conducting the investigation, the sheriff shall forward a complete set
9 of the applicant's fingerprints to the Central Repository for Nevada
10 Records of Criminal History for submission to the Federal Bureau
11 of Investigation for its report concerning the criminal history of the
12 applicant. The investigation also must include a report from the
13 National Instant Criminal Background Check System. The sheriff
14 shall issue a permit to the applicant unless the applicant is not
15 qualified to possess a handgun pursuant to state or federal law or is
16 not otherwise qualified to obtain a permit pursuant to NRS 202.3653
17 to 202.369, inclusive, or the regulations adopted pursuant thereto.

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

22 3. Within 120 days after a complete application for a permit is
23 submitted, the sheriff to whom the application is submitted shall
24 grant or deny the application. If the application is denied, the sheriff
25 shall send the applicant written notification setting forth the reasons
26 for the denial. If the application is granted, the sheriff shall provide
27 the applicant with a permit containing a colored photograph of the
28 applicant and containing such other information as may be
29 prescribed by the Department. The permit must be in substantially
30 the following form:

31
32 NEVADA CONCEALED FIREARM PERMIT

33
34 County Permit Number.....
35 Expires..... Date of Birth
36 Height..... Weight.....
37 Name Address
38 City..... Zip.....
39 Photograph
40 Signature.....
41 Issued by.....
42 Date of Issue.....



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

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

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

13 5. As used in this section, "National Instant Criminal
14 Background Check System" means the national system created by
15 the federal Brady Handgun Violence Prevention Act, Public Law
16 103-159.

17 **Sec. 3.** (Deleted by amendment.)

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

19 202.3688 1. Except as otherwise provided in subsection 2, a
20 person who possesses a permit to carry a concealed firearm that was
21 issued by a state included in the list prepared pursuant to NRS
22 202.3689 may carry a concealed firearm in this State in accordance
23 with the requirements set forth in NRS 202.3653 to 202.369,
24 inclusive.

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

29 (a) Becomes a resident of this State; and

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

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

44 4. A person who carries a concealed firearm pursuant to this
45 section is subject to the same legal restrictions and requirements



- 1 imposed upon a person who has been issued a permit by a sheriff in
- 2 this State.

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