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Crimes; Aliens-Possession of Concealable Weapons

University of the Pacific, McGeorge School of Law

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Chapter 327 provides for an enhanced penalty when a handgun containing metal-penetrating bullets⁴ is used in the commission of a crime.⁵ The penalty imposed is a term equal to and in addition to the imprisonment prescribed for the primary offense.⁶ If more than one enhanced penalty is prescribed,⁷ the terms have been interpreted to run *concurrently*.⁸ Chapter 327 specifically states, however, that the additional penalty for using a handgun containing metal-penetrating bullets will be imposed *consecutively* with any other additional penalty, as well as with the term of imprisonment imposed for the primary offense.⁹

Finally, Chapter 327 prohibits the manufacture and sale of metal-penetrating bullets¹⁰ unless pursuant to a sales agreement with a law enforcement agency.¹¹ A violation of this provision is punishable as a gross misdemeanor.¹²

2. See *State v. McNeil*, 53 Nev. 428, 436, 4 P.2d 889, 890 (1931) (whether a weapon is deadly is a question of law rather than fact).

3. NEV. REV. STAT. §193.165(1) The penalty imposed is a term equal to that of the primary offense, and runs consecutively with the term of the primary offense. *Id.*

4. 1983 Nev. Stat. c. 327, §2(4), at 800-01 (definition of metal-penetrating bullet).

5. *Id.* c. 327, §1, at 800.

6. *Id.* c. 327, §1(1), at 800. See generally *Woofter v. O'Donnell*, 91 Nev. 756, 761-62, 542 P.2d 1396, 1399-1400 (1975) (additional penalty does not place defendant in double jeopardy because statute does not create a separate offense).

7. See, e.g., NEV. REV. STAT. §§193.165, 193.167 (additional penalties must be imposed when a firearm, deadly weapon or tear gas is used in the commission of a crime, and for certain crimes against persons 65 years of age or older).

8. *Carter v. State*, 1982 Nev. Adv. Op. 100, 647 P.2d 374, 377 (1982). The defendant was given two additional penalties of terms equal to and in addition to that of the primary offense for using a firearm in the commission of a crime against a person over 65 years of age. *Id.*

9. 1983 Nev. Stat. c. 327, §1(1), at 800.

10. *Id.* c. 327, §2(1), at 800.

11. *Id.* c. 327, §2(2), at 800.

12. *Id.* c. 327, §2(3), at 800.

Crimes; aliens—possession of concealable weapons

NEV. REV. STAT. §202.360 (amended).

SB 259 (Committee on Judiciary); 1983 STAT. Ch 386

Under existing law, all persons convicted of a felony are prohibited from owning, possessing, or having in their custody or control a pistol, revolver or firearm capable of being concealed upon their person.¹ Prior law also made it illegal for any unnaturalized foreign-born per-

1. NEV. REV. STAT. §202.360(2); see *id.* §202.360(1) ("pistol", "revolver", and "firearm capable of being concealed upon the person" include all firearms with a barrel length less than twelve inches).

son to own, possess or control a concealable weapon.² In 1981, the Nevada Supreme Court held that the prohibition against aliens possessing a concealable weapon was unconstitutional.³ In an apparent response to this decision, Chapter 386 deletes the prohibition against the possession of concealable weapons by aliens.⁴

2. 1979 Nev. Stat. c. 655, §61, at 1435 (amending NEV. REV. STAT. §202.360(2)).

3. *State v. Chumphol*, 97 Nev. 440, 634 P.2d 451 (1981). "State classifications which are based on alienage are subject to strict judicial scrutiny." *Id.* at 441, 634 P.2d at 451. "A person does not exhibit a tendency toward crime merely because he or she is a noncitizen." *Id.* at 442, 634 P.2d at 452. "Even were we to conclude that the state's purpose is constitutionally permissible, which we cannot, the statute is not necessary to safeguard the argued interest. NRS 202.350 adequately forbids the unlawful carrying of concealable firearms." *Id.* at 442, 634 P.2d at 452.

4. Compare NEV. REV. STAT. §202.360(2) (amended by 1983 Nev. Stat. c. 386, §1(2), at 926) with 1979 Nev. Stat. c. 655, §61, at 1435 (amending NEV. REV. STAT. §202.360(2)).

Crimes; issuing checks with insufficient funds

NEV. REV. STAT. §205.130 (amended).
AB 408 (Getto); 1983 STAT. Ch 358

Existing law provides that a person who willfully, with the intent to defraud,¹ issues or passes a check or draft² to obtain money or delivery of other valuable property³ without sufficient money, property or credit⁴ to pay the check or draft in full upon its presentation, is guilty of a misdemeanor.⁵ Chapter 358 broadens the scope of this prohibition⁶ by making illegal⁷ the passing of checks with the intent to defraud and obtain (1) services,⁸ (2) the use of property,⁹ or (3) credit extended by a licensed gaming establishment.¹⁰

Under specified circumstances, existing law imposes severe penalties for a violation of these provisions.¹¹ If a check is passed expressly for

1. *State v. Jarman*, 84 Nev. 187, 190, 438 P.2d 250, 252 (1968) (definition of "to defraud"); see also NEV. REV. STAT. §193.040 (definition of sufficiency of intent to defraud).

2. See generally NEV. REV. STAT. §205.130(1). These provisions apply to a check or draft drawn upon a real or fictitious person, bank, firm, partnership, corporation or depository. *Id.*

3. NEV. REV. STAT. §193.010(22) (definition of property).

4. *Id.* §205.130(4) (definition of credit).

5. *Id.* §205.130(1). The Nevada Legislature has enacted provisions making gaming debts evidenced by a writing, legally enforceable. 1983 Nev. Stat. c. 344, §3(1), at 828; see also 2 PAC. L.J., REVIEW OF SELECTED NEVADA LEGISLATION (analysis of Ch. 344).

6. Compare NEV. REV. STAT. §205.130(1) (amended by 1983 Nev. Stat. c. 358, §1(1), at 856) with 1979 Nev. Stat. c. 523, §(1) at 1011 (amending NEV. REV. STAT. §205.130).

7. *Id.* §205.130(1) (amended by 1983 Nev. Stat. c. 358, §1(1), at 856).

8. NEV. REV. STAT. §205.130(1)(c) (amended by 1983 Nev. Stat. c. 358, §1(1), at 856).

9. *Id.* §205.130(1)(d) (amended by 1983 Nev. Stat. c. 358, §1(1), at 856).

10. *Id.* §§205.130(1)(e) (amended by 1983 Nev. Stat. c. 358, §1(1), at 856), 463.0148 (definition of gaming establishment).

11. *Id.* §205.130(1),(2),(3).