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Crimes; Issuing Checks with Insufficient Funds

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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).

Crimes

the payment of wages in excess of \$100, the violation is punishable as a gross misdemeanor.¹² Furthermore, felony prosecution is authorized if (1) the instrument passed is in the amount of \$100 or more,¹³ (2) if a series of instruments passed in the state during a period of ninety days totals \$100 or more,¹⁴ or (3) the person charged has three previous convictions for this or a similar offense.¹⁵ Violators of Chapter 358 will be subject to these same penalties.¹⁶

12. *Id.* §205.130(3).

13. *Id.* §205.130(1).

14. *Id.*

15. *Id.* §205.130(2).

16. *Id.* §205.130(1),(2),(3); see *Hoyt v. Hoffman*, 82 Nev. 270, 416 P.2d 232 (1966). The Nevada Supreme Court has stated that this section is not intended to apply to preexisting debt situations where the defendant did not receive any legal benefit as a result of delivering the check and where the legal position of the payee was not detrimentally affected. The legislature did not intend to make it a crime to issue a worthless check absent damage or injury to the payee thereof. *Id.* at 272-73, 416 P.2d at 233; see also *State v. Jarman*, 84 Nev. 187, 438 P.2d 250 (1968).

Crimes; automated teller cards; grand larceny

NEV. REV. STAT. §205.— (new).

AB 429 (Committee on Judiciary); 1983 STAT. Ch 246

Chapter 246 affects existing law regarding the crime of larceny.¹ Under Chapter 246, persons will be guilty of grand larceny if they intentionally use a card or other device to automatically withdraw or transfer money from a financial institution, thereby obtaining money to which they are not entitled.² Violators of this law are punishable by a prison sentence of one to ten years, in addition to a possible fine not to exceed \$10,000.³

1. See NEV. REV. STAT. §§205.220-.2705 (crimes of larceny).

2. 1983 Nev. Stat. c. 246, §1, at 562. Nevada has additionally recognized the taking of personal goods or property valued at or over \$100 as grand larceny. See *Houser v. District Court*, 75 Nev. 465, 469, 345 P.2d 766, 768, (1959).

3. 1983 Nev. Stat. c. 246, §1, at 562.