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Criminal Procedure; motor vehicles-assault with a firearm

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Criminal Procedure; motor vehicles—assault with a firearm

NEV. REV. STAT. § 202.— (new); §§ 179.121, 202.253 202.280, 202.285, 202.290, 202.320, 403.560, 405.010, 503.175 (amended).
AB 329 (Williams); 1989 STAT. Ch. 580
AB 823 (Chowning); 1989 STAT. Ch. 390
(AB 329 Effective June 28, 1989)

Chapter 580 penalizes¹ any person² who maliciously or wantonly discharges³ a pistol, gun or firearm⁴ from a motor vehicle.⁵ The motor vehicle or any other instrumentality used in violation of Chapter 580 may be forfeited to the state.

JMM

1. See 1989 Nev. Stat. ch. 580, sec. 1, at 1239 (enacting NEV. REV. STAT. § 202.—) (a violation of Chapter 580 occurring in a designated unpopulated area is a misdemeanor, while a violation of Chapter 580 in a designated populated area is a felony). Willfully aiming or discharging a firearm at a human being is a gross misdemeanor unless a greater penalty is provided under Chapter 580. See also 1989 Nev. Stat. ch. 390, sec.1, at 820 (amending NEV. REV. STAT. § 202.290).

2. See 1989 Nev. Stat. ch. 580, sec. 1, at 1239 (enacting NEV. REV. STAT. § 202.—) (being under the influence of a controlled substance or alcohol does not affect a person's punishment).

3. See *id.* (or causes to be discharged).

4. See *id.* sec. 2, at 1239 (amending NEV. REV. STAT. § 202.253) (1987) (definition of firearm).

5. *Id.* sec. 1, at 1239 (enacting NEV. REV. STAT. § 202.—) (does not apply to a police officer or a person lawfully shooting at an animal). See *id.* (definition of a motor vehicle). See also *Holland v. State of Nevada*, 82 Nev. 191, 194, 414 P.2d 590, 592 (1966) (the legislature did not intend a violation of Nevada Revised Statutes section 202.290 (aiming or discharging a firearm) to be a lesser included offense of assault with a deadly weapon, but intended to prevent the negligent use of firearms in public places).

6. See 1989 Nev. Stat. ch. 580, sec. 1, at 1241 (amending NEV. REV. STAT. § 179.121) (1987) (a vehicle is not subject to forfeiture if the crime was committed without the owner's knowledge or consent). The standard of proof in a forfeiture proceeding is a preponderance of the evidence and the owner does not have to be charged with or convicted of any criminal offense. NEV. REV. STAT. § 179.1173 (1987). See generally Strasser, *Forfeiture Isn't Only for Drug Kingpins*, National L.J., July 17, 1989, at 1, col. 1.