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2015 NV S 176	Author: Settelmeyer Version: Introduced Version Date: 02/19/2015
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S.B. 176

SENATE BILL NO. 176 - SENATORS SETTELMEYER, GUSTAVSON AND GOICOECHEA

FEBRUARY 19, 2015

Referred to Committee on Judiciary

SUMMARY - Revises provisions governing certain dangerous or deadly weapons. (BDR 15-87)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

AN ACT relating to weapons; revising provisions governing certain dangerous or deadly weapons; revising provisions concerning certain concealed weapons; reserving for the Legislature the rights and powers to regulate certain knives; repealing certain provisions governing the manufacture and sale of switchblade knives; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, with certain exceptions, it is a crime for a person to manufacture, import, sell, give, lend or possess certain dangerous or deadly weapons. (NRS 202.350) **Section 2** of this bill removes knives which are made an integral part of a belt buckle and switchblade knives from the list of such weapons. **Sections 1, 6 and 7** of this bill revise definitions of "switchblade knife" set forth in other provisions of existing law to accommodate the change made by **section 2**. **Section 9** of this bill repeals a provision of existing law that authorizes a sheriff to issue a permit to allow the manufacture or sale of switchblade knives under certain circumstances.

Existing law, with certain exceptions, reserves for the Legislature the rights and powers necessary to regulate firearms and ammunition in this State. (NRS 244.364, 268.418, 269.222) **Sections 3-5** of this bill similarly reserve for the Legislature the rights and powers necessary to regulate the design, manufacture, transfer, sale, purchase, possession, ownership, transportation, registration and licensing of certain knives in this State.

Under existing law, it is a crime for a person to carry certain dangerous or deadly weapons in a concealed manner unless the person has a permit to do so. (NRS 202.350) **Section 2** removes dirks, daggers and knives which are made an integral part of a belt buckle from the list of weapons for which such a permit is required.

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

Section 1. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility:

- (a) An explosive or incendiary device;
- (b) A dirk, dagger or switchblade knife;
- (c) A nunchaku or trefoil;
- (d) A blackjack or billy club or metal knuckles;
- (e) A pistol, revolver or other firearm; or

(f) Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. This section does not prohibit the possession of a weapon listed in subsection 1 on the property of:

(a) A private or public school or child care facility by a:

(1) Peace officer;

(2) School security guard; or

(3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school or the person designated by a child care facility to give permission to carry or possess the weapon.

(b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.

4. The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.

5. For the purposes of this section:

(a) "Child care facility" means any child care facility that is licensed pursuant to chapter 432A of NRS or licensed by a city or county.

(b) "Firearm" includes any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

(c) "Nunchaku" has the meaning ascribed to it in NRS 202.350.

(d) "Switchblade knife" ~~has the meaning ascribed to it in NRS 202.350.~~ means a spring-blade knife, snap-blade knife or any other knife having the appearance of a pocketknife, any blade of which is 2 or more inches long and which can be released automatically by a flick of a button, pressure on the handle or other mechanical device, or is released by any type of mechanism.

The term does not include a knife which has a blade that is held in place by a spring if the blade does not have any type of automatic release.

(e) "Trefoil" has the meaning ascribed to it in NRS 202.350.

(f) "Vehicle" has the meaning ascribed to "school bus" in NRS 484A.230.

Sec. 2. NRS 202.350 is hereby amended to read as follows:

202.350 1. Except as otherwise provided in this section and NRS ~~202.355 and~~ 202.3653 to 202.369, inclusive, a person within this State shall not:

(a) Manufacture or cause to be manufactured, or import into the State, or keep, offer or expose for sale, or give, lend or possess ~~any knife which is made an integral part of a belt buckle or~~ any instrument or weapon of the kind commonly known as a ~~switchblade knife~~, blackjack, slungshot, billy, sand-club, sandbag or metal knuckles;

(b) Manufacture or cause to be manufactured, or import into the State, or keep, offer or expose for sale, or give, lend, possess or use a machine gun or a silencer, unless authorized by federal law;

(c) With the intent to inflict harm upon the person of another, possess or use a nunchaku or trefoil; or

(d) Carry concealed upon his or her person any:

(1) Explosive substance, other than ammunition or any components thereof;

(2) ~~Dirk, dagger or machete;~~ Machete; or

(3) Pistol, revolver or other firearm, or other dangerous or deadly weapon ~~;~~ ;

~~(4) Knife which is made an integral part of a belt buckle.~~ 2. Except as otherwise provided in NRS 202.275 and 212.185, a person who violates any of the provisions of:

(a) Paragraph (a) or (c) or subparagraph (2) ~~or (4)~~ of paragraph (d) of subsection 1 is guilty:

(1) For the first offense, of a gross misdemeanor.

(2) For any subsequent offense, of a category D felony and shall be punished as provided in NRS 193.130.

(b) Paragraph (b) or subparagraph (1) or (3) of paragraph (d) of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. Except as otherwise provided in this subsection, the sheriff of any county may, upon written application by a resident of that county showing the reason or the purpose for which a concealed weapon is to be carried, issue a permit authorizing the applicant to carry in this State the concealed weapon described in the permit.

~~The sheriff shall not issue a permit to a person to carry a switchblade knife.~~ This subsection does not authorize the sheriff to issue a permit to a person to carry a pistol, revolver or other firearm.

4. Except as otherwise provided in subsection 5, this section does not apply to:

(a) Sheriffs, constables, marshals, peace officers, correctional officers employed by the Department of Corrections, special police officers, police officers of this State, whether active or honorably retired, or other appointed officers.

(b) Any person summoned by any peace officer to assist in making arrests or preserving the peace while the person so summoned is actually engaged in assisting such an officer.

(c) Any full-time paid peace officer of an agency of the United States or another state or political subdivision thereof when carrying out official duties in the State of Nevada.

(d) Members of the Armed Forces of the United States when on duty.

5. The exemptions provided in subsection 4 do not include a former peace officer who is retired for disability unless his or her former employer has approved his or her fitness to carry a concealed weapon.

6. The provisions of paragraph (b) of subsection 1 do not apply to any person who is licensed, authorized or permitted to possess or use a machine gun or silencer pursuant to federal law. The burden of establishing federal licensure, authorization or permission is upon the person possessing the license, authorization or permission.

7. This section shall not be construed to prohibit a qualified law enforcement officer or a qualified retired law enforcement officer from carrying a concealed weapon in this State if he or she is authorized to do so pursuant to 18 U.S.C. § 926B or 926C.

8. As used in this section:

(a) "Concealed weapon" means a weapon described in this section that is carried upon a person in such a manner as not to be discernible by ordinary observation.

(b) "Honorably retired" means retired in Nevada after completion of 10 years of creditable service as a member of the Public Employees' Retirement System. A former peace officer is not "honorably retired" if he or she was discharged for cause or resigned before the final disposition of allegations of serious misconduct.

(c) "Machine gun" means any weapon which shoots, is designed to shoot or can be readily restored to shoot more than one shot, without manual reloading, by a single function of the trigger.

(d) "Nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods connected by a rope, cord, wire or chain used as a weapon in forms of Oriental combat.

(e) "Qualified law enforcement officer" has the meaning ascribed to it in 18 U.S.C. § 926B(c).

(f) "Qualified retired law enforcement officer" has the meaning ascribed to it in 18 U.S.C. § 926C(c).

(g) "Silencer" means any device for silencing, muffling or diminishing the report of a firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a silencer or muffler, and any part intended only for use in such assembly or fabrication.

~~(h) "Switchblade knife" means a spring blade knife, snap blade knife or any other knife having the appearance of a pocketknife, any blade of which is 2 or more inches long and which can be released automatically by a flick of a button, pressure on the handle or other mechanical device, or is released by any type of mechanism. The term does not include a knife which has a blade that is held in place by a spring if the blade does not have any type of~~

~~automatic release.~~

(+) "Trefoil" means an instrument consisting of a metal plate having three or more radiating points with sharp edges, designed in the shape of a star, cross or other geometric figure and used as a weapon for throwing.

Sec. 3. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the design, manufacture, transfer, sale, purchase, possession, ownership, transportation, registration and licensing of knives in Nevada, and no county may infringe upon those rights and powers. As used in this section, "knife" means any cutting instrument with a sharpened or pointed blade.

Sec. 4. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the design, manufacture, transfer, sale, purchase, possession, ownership, transportation, registration and licensing of knives in Nevada, and no city may infringe upon those rights and powers. As used in this section, "knife" means any cutting instrument with a sharpened or pointed blade.

Sec. 5. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the design, manufacture, transfer, sale, purchase, possession, ownership, transportation, registration and licensing of knives in Nevada, and no town may infringe upon those rights and powers. As used in this section, "knife" means any cutting instrument with a sharpened or pointed blade.

Sec. 6. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although the pupil may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of the pupil's suspension or expulsion, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the

requirements of the applicable program.

4. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented or who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, ~~switchblade knife~~ or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, a switchblade knife as defined in NRS 202.265, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995. 8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 7. NRS 393.410 is hereby amended to read as follows:

393.410 1. It is unlawful for any person:

(a) Willfully and maliciously to injure, mark or deface any public schoolhouse, its fixtures, books or appurtenances;

(b) To commit any nuisance in any public schoolhouse;

(c) To loiter on or near the school grounds; or

(d) Purposely and maliciously to commit any trespass upon the grounds attached to a public schoolhouse, or any fixtures placed thereon, or any enclosure or sidewalk about the same.

2. Except as otherwise provided in subsection 3, any person violating any of the provisions of this section is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged or destroyed and in no event less than a misdemeanor.

3. Any person who is in possession of a dangerous weapon during his or her commission of a violation of paragraph (b), (c) or (d) of subsection 1 is guilty of a gross misdemeanor.

4. As used in this section:

(a) "Dangerous knife" means a knife having a blade that is 2 inches or more in length when measured from the tip of the knife which is customarily sharpened to the unsharpened extension of the blade which forms the hinge connecting the blade to the handle.

(b) "Dangerous weapon" means:

- (1) An explosive or incendiary device;
 - (2) A dirk, dagger, switchblade knife or dangerous knife;
 - (3) A nunchaku or trefoil;
 - (4) A blackjack or billy club or metal knuckles; or
 - (5) A pistol, revolver or other firearm.
- (c) "Explosive or incendiary device" has the meaning ascribed to it in NRS 202.253.
- (d) "Nunchaku" has the meaning ascribed to it in NRS 202.350.
- (e) "Switchblade knife" has the meaning ascribed to it in NRS ~~202.350~~ 202.265.
- (f) "Trefoil" has the meaning ascribed to it in NRS 202.350.

Sec. 8. Any ordinance or regulation adopted by a board of county commissioners, governing body of a city or town board existing on July 1, 2015, which conflicts with any provision of this act is void and must not be given effect to the extent of the conflict.

Sec. 9. NRS 202.355 is hereby repealed.

Sec. 10. This act becomes effective on July 1, 2015.

TEXT OF REPEALED SECTION

202.355 Manufacture or sale of switchblade knives: Application for permit; eligibility; public hearing; restrictions.

1. Upon written application, the sheriff of any county may issue a permit authorizing a person whose place of business is located in that county to manufacture or to keep, offer or expose for sale switchblade knives if the person demonstrates good cause for such authorization.
2. Before issuing a permit, the sheriff shall request the board of county commissioners to hold a public hearing concerning the issuance of the permit.
3. If the sheriff issues a permit which authorizes a person to sell switchblade knives, the permit must provide that switchblade knives may be sold only to:
 - (a) A person in another state, territory or country;
 - (b) A person who is authorized by law to possess a switchblade knife in this state, including, without limitation, any sheriff, constable, marshal, peace officer and member of the Armed Forces of the United States when on duty; and
 - (c) A distributor who has been issued a permit pursuant to this section.