



Concealed Weapons and Gun Restrictions

BY STEPHEN F. SMITH, ESQ.

Nevada is one of the 25 states that restrict citizens from carrying firearms, mainly handguns, outside of the home for self defense. Currently, there are 25 states that permit "constitutional carry" or permit-less carry. See www.usconcealedcarry.com. Nevada requires a permit to carry a concealed firearm. Nevada is a "shall issue" state, but has strict guidelines for obtaining a permit. (There are 10 grounds for denying a concealed weapons permit. See NRS 202.3657.)

Other "constitutional carry" states include Alaska, Arizona, and Vermont. States with firearm limitations include New York, New Jersey, and California.

In Nevada, "open carry" of firearms – e.g., without concealment – is not prohibited. Nevada has a long and interesting history regarding the regulation of handguns carried by a person. There have been several attempts to eliminate the requirement for a permit to carry a concealed firearm, most notably during the 2015 legislative session, but those attempts have failed.

In 1959, it became a "Class D" felony to carry a concealed weapon without a permit. In 2003, the penalty was raised to a "Class C" felony. Previously in 1955, the Nevada Legislature made it a criminal offense, albeit a misdemeanor, to carry a concealed weapon. NRS 202.350. The history of concealed weapons before 1955 is difficult to research; however, it appears that a prohibition against

concealed weapons dates as far back as 1903 in Nevada. There are even cases regarding the prohibition. See *Ex Parte Davis*, 33 Nev. 309, 110 P. 1131 (1910). The original 1903 law was repealed and replaced by a law prohibiting concealed weapons on trains subject to confiscation. In any event, the modern versions of Nevada's concealed weapon laws were enacted in 1955, 1959, 1995, and 2003.

The following is a general list of prohibitions and permissions regarding firearms:

1. Don't carry a gun concealed unless you have a valid concealed weapons permit. It is a Class C felony. NRS 202.350.

Make sure that, if you are carrying openly, that your handgun is readily discernable and not covered by clothing. A handgun inside a duffel bag or briefcase carried by a person is considered a concealed weapon under an

Attorney General's Opinion, No. 93-14. There are no exceptions for carrying a handgun concealed, even in one's home, without a permit. However, carrying a handgun in a car in a duffle bag, glove box, or under the seat is permissible so long as it is not on your person. Open carry in the car on the person is also permissible, as long as the weapon is readily discernable.

2. Convicted felons and people with misdemeanor domestic violence convictions cannot possess firearms. NRS 202.360. See *Pohlbel v. State*, 268 P.3d 1264 (Nev.2012). A stalking order may also prohibit firearms possession. NRS 33.03 and 33.100. Firearms are prohibited for fugitives from justice. Persons who are adjudicated mentally ill or committed to a mental health facility are considered prohibited persons. NRS 202.360. Minors under 18 cannot possess firearms, subject to certain restrictions.
3. Don't carry firearms if your blood alcohol is greater than 0.08 percent, although it is permissible to be in possession of firearms in a bar or restaurant where alcohol is consumed or served, so long as you are not over the 0.08 limit. See NRS 202.257. This requirement was lowered from 0.10 to 0.08 in 2019.
4. Don't carry a firearm in schools—whether in public, private, or higher education facilities. NRS 202.265. Don't carry firearms in child-care facilities and child-care property NRS 202.265. Carrying firearms on school grounds is a gross misdemeanor. Don't carry firearms in airports or buildings on the property of a public airport. NRS 202.3673.
5. Don't carry firearms into courthouses or into buildings used by state or local governments with no-weapons signs posted at the entrances (NRS 202.3673 and NRS 202.265) or buildings with metal detectors at the entrances. Don't carry firearms into federal buildings, post offices, or Veterans Affairs (VA) facilities.

6. Firearms are permitted in bars, restaurants, or casinos even if the patron is drinking alcohol. However, the owner/operator of the establishment may ask the person to leave, and failure to do so could result in a trespass. The owner of the establishment may post signs that firearms are prohibited, but it is not a crime to possess firearms on such premises.
7. Don't draw or aim a firearm in a threatening manner. Brandishing a firearm in a threatening manner with two or more people (not in self-defense) is a misdemeanor and aiming a gun at another person is a gross misdemeanor. NRS 202.320. Assaulting a person with a firearm is a class B felony. NRS 202.290
8. Discharging a firearm, such as firing a rifle into the air outside of a firing range, is a misdemeanor within city or county limits. NRS 202.280 and NRS 268.418. County and local laws prohibiting discharge of a firearm were grandfathered in after the preemption bills but shooting a gun inside a vehicle in a wanton or malicious way is a category B felony. In an abandoned vehicle or structure, is a misdemeanor. NRS 202.287, NRS 202.285.
9. Don't carry a loaded rifle in a vehicle, particularly on a public highway. NRS 503.165. Don't discharge a rifle near a public highway, including for target practice.
10. BB guns or air guns are not considered firearms (NRS 202.253 (2)) per se but discharging a BB gun or pellet gun near where a person might

be endangered is a gross misdemeanor. NRS 202.290. Air guns are prohibited at schools and treated as a deadly weapon and a firearm (NRS 202.265).

State laws with respect to firearms can be found generally at NRS 202.253 to NRS 202.369. Before undertaking any activity involving guns, it is important to carefully research and determine whether the activity is permissible or prohibited. Please note that this article does not constitute specific legal advice.

In 1982, the Nevada Constitution was amended to state its own Second Amendment, which provides that "Every citizen has the right to keep and bear arms for security and defense, for lawful recreational use and for other lawful purposes." It will be interesting to see how Nevada's firearm laws change over time. For example, in the 2021 session of the Nevada Legislature, a bill to criminalize firearms prohibition on private property was defeated. Previously, in the 2015 session of the legislature, campus carry did not pass, nor did a proposed repeal of the requirement to have a permit in order to carry a concealed firearm. One thing is certain, future legislative sessions will feature additional firearm bills.

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