

From: **Wilkinson, Brad** bwilkinson@lcb.state.nv.us
Subject: Open Carry of Firearms in Public Buildings
Date: February 26, 2015 at 2:58 PM
To: Fiore, Michele Assemblywoman Michele.Fiore@asm.state.nv.us
Cc: Erdoes, Brenda erdoes@lcb.state.nv.us

You have asked whether the open carry of firearms is prohibited in a public building. To answer your question, we must first discuss the issue of the legality of open carry of firearms in this State.

Section 11 of Article 1 of the Nevada Constitution provides that “[e]very citizen has the right to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes.” However, the constitutional right to keep and bear arms is not an absolute right, and the Nevada Legislature has enacted certain restrictions on the right to keep and bear arms. For example, the Legislature has enacted NRS 202.350, which generally prohibits the carrying of concealed weapons, including firearms. The Legislature has also enacted NRS 202.360, which prohibits certain persons from owning or possessing firearms, including, for example, convicted felons who have not received a pardon restoring their right to bear arms, fugitives from justice and persons who are mentally ill. The Legislature has not, however, enacted any statute that prohibits the open carry of firearms by persons who are otherwise authorized to possess firearms. For that reason, open carry of firearms by a person who is not prohibited from possessing firearms is legal in Nevada, subject only to any specific prohibitions against carrying a firearm in certain locations.

With respect to such specific prohibitions that would apply to the open carry of firearms, NRS 202.265 generally prohibits the carrying or possession of firearms 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. Likewise, NRS 218A.905 specifically prohibits a person from possessing a firearm in the Legislative Building “without legal authority.” Possession of a permit to carry a concealed firearm is one type of legal authority that allows a person to carry a concealed firearm in the Legislative Building.

This office is aware that some persons have argued that NRS 202.3673 prohibits the open carry of firearms in a public building. However, that argument is not legally sound because NRS 202.3673, by its plain language, regulates only the carrying of a concealed firearm by a person who has a permit to carry a concealed firearm. NRS 202.3673 simply does not apply to the open carry of firearms in a public building.

Because there is no general statutory prohibition against the open carry of firearms in a public building, it is the opinion of this office that the open carry of firearms is not prohibited in a public building, unless otherwise prohibited by a specific statute such as NRS 202.265 or 218A.905. We would note, however, that not all portions of a public building are necessarily open to access by the public, and persons who are openly carrying firearms are not, therefore, authorized to carry firearms in all portions of a public building.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Brad

Bradley A. Wilkinson
Chief Deputy Legislative Counsel
Legislative Counsel Bureau