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Criminal Law; Possession of Stolen Property

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has broken and entered with intent to commit grand or petty larceny or felony—NRS 205.065—does not deny due process). But cf., Carter v. State, 82 Nev. 246, 415 P.2d 325 (1966) (statutory presumption that a person in possession of stolen goods within six months of their taking is guilty of stealing them—NRS 205.280, repealed by 1967 Nev. Stats. ch. 9 §1, at 35—was arbitrary and did not satisfy due process requirements).

18. Turner v. U.S., 396 U.S. 398, 416-418 (1970); Carter v. State, 82 Nev. at 249-250, 415 P.2d at 327.
19. Redeford v. State, 93 Nev. 649, 654, 572 P.2d 219, 221-222 (1977).

CRIMINAL LAW; POSSESSION OF STOLEN PROPERTY

Amends NRS 205.275

SB 228 (Kosinski); STATS 1979, Ch 340

Chapter 340 adds a section to NRS 205.275 providing that possession of three or more similar items from which the manufacturer's serial or identification number has been removed or altered is prima facie evidence that the possessor is guilty of purchasing, receiving, or possessing stolen goods.¹ This provision is aimed at the retail or wholesale outlet selling stolen goods.²

Chapter 340 creates a rebuttable inference of guilt from possession of items without the manufacturer's serial or identification number. The legislature has power to create rules of evidence providing that certain facts are prima facie evidence of other facts,³ but this power is limited by the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution.⁴ Such inferences have been upheld in criminal trials only where there is a rational connection between the facts proved and the facts presumed;⁵ guilt must still be proved beyond a reasonable doubt.⁶ The ultimate burden of persuasion remains with the prosecution.⁷

Noreen M. Evans

FOOTNOTES

1. 1979 Nev. Stats. ch. 340 §1 (amending NRS 205.275(2)).
2. Senate Committee on Judiciary minutes for February 27, 1979 and March 7, 1979.
3. State v. Williams, 46 Nev. 263, 270, 210 P.995, 996-997 (1923). See also State v. Teeter, 65 Nev. 584, 642, 200 P.2d 657, 685 (1948).
4. Tot v. U.S., 319 U.S. 463, 467 (1943); Carter v. State, 82 Nev. 246, 248, 415 P.2d 325, 326 (1966).
5. U.S. v. Gainey, 380 U.S. 63, 66 (1965); Tot v. U.S., 319 U.S. at 467-468; Edwards v. Sheriff, 93 Nev. 13, 15, 558 P.2d 1144, 1145 (1977) (statutory presumption that a person in possession of a car without the owner's consent has stolen car—NRS 205.2715—is valid). See generally, White v. State, 83 Nev. 292, 429 P.2d 55 (1967) and McNeeley v. State, 81 Nev. 663, 409 P.2d 135 (1965) (statutory presumption that defendant who unlawfully enters building or vehicle has broken and entered with intent to commit grand or petty larceny or felony—NRS 205.065—does not deny due process). Cf., Carter v. state, 82 Nev. 246, 415 P.2d 325 (1966) (statutory presumption that a person in possession of stolen goods within six months of their taking is guilty of stealing them—NRS 205.280, repealed by 1967 Nev. Stats. ch. 9 §1, at 35 was arbitrary and did not satisfy due process requirements).
6. Turner v. U.S., 396 U.S. 398, 416-418 (1970); Carter v. State, 82 Nev. at 249-250, 415 P.2d at 327.
7. Redeford v. State, 93 Nev. 649, 654, 572 P.2d 219, 221-222 (1977).

CRIMINAL LAW; NEVADA CRIMINAL HISTORY RECORDS ACT

Adds to NRS Title 14

AB 524 (Committee on Judiciary); STATS 1979, Ch 689

Chapter 689 adds a new chapter to NRS Title 14 enacting the Nevada Criminal History Records Act to be administered by the Commission on Crimes, Delinquency, and Corrections¹ (hereinafter "commission"). Chapter 689 was passed in response to LEAA regulations mandating state controls on the dissemination of certain criminal records.² The purpose of the LEAA regulations is to ensure the accuracy, completeness, and security of criminal record information and to protect individual privacy.³ In order to meet the above objectives, the Nevada law restricts the information that