

AMENDMENTS TO LB390

(Amendments to E & R amendments, ER234)

Introduced by Harr

1 1. Insert the following new section:

2 Sec. 2. Section 28-1205, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 28-1205 (1)(a) Any person who uses a firearm, a knife,
5 brass or iron knuckles, ~~or~~ any other deadly weapon, a facsimile
6 firearm, or a nonfunctioning firearm to commit any felony which may
7 be prosecuted in a court of this state commits the offense of use
8 of a deadly weapon to commit a felony.

9 (b) Use of a deadly weapon, other than a firearm, to
10 commit a felony is a Class II felony.

11 (c) Use of a deadly weapon, which is a firearm, to commit
12 a felony is a Class IC felony.

13 (d) Use of a facsimile firearm or nonfunctioning firearm
14 to commit a felony is a Class III felony.

15 (2)(a) Any person who possesses a firearm, a knife, brass
16 or iron knuckles, or a destructive device during the commission of
17 any felony which may be prosecuted in a court of this state commits
18 the offense of possession of a deadly weapon during the commission
19 of a felony.

20 (b) Possession of a deadly weapon, other than a firearm,
21 during the commission of a felony is a Class III felony.

22 (c) Possession of a deadly weapon, which is a firearm,

1 during the commission of a felony is a Class II felony.

2 (3) The crimes defined in this section shall be treated
3 as separate and distinct offenses from the felony being committed,
4 and sentences imposed under this section shall be consecutive to
5 any other sentence imposed.

6 (4) Possession of a deadly weapon may be proved through
7 evidence demonstrating either actual or constructive possession of
8 a firearm, a knife, brass or iron knuckles, or a destructive device
9 during, immediately prior to, or immediately after the commission
10 of a felony.

11 (5) For purposes of this section:

12 (a) Destructive device has the same meaning as in section
13 28-1213; and

14 (b) A facsimile firearm means an instrument which was
15 reasonably perceived by the victim to be a real firearm; and

16 ~~(b)~~ (c) Use of a deadly weapon includes the discharge,
17 employment, or visible display of any part of a firearm, a knife,
18 brass or iron knuckles, a facsimile firearm, a nonfunctioning
19 firearm, any other deadly weapon, or a destructive device during,
20 immediately prior to, or immediately after the commission of a
21 felony or communication to another indicating the presence of a
22 firearm, a knife, brass or iron knuckles, a facsimile firearm, a
23 nonfunctioning firearm, any other deadly weapon, or a destructive
24 device during, immediately prior to, or immediately after the
25 commission of a felony, regardless of whether such firearm, knife,
26 brass or iron knuckles, facsimile firearm, nonfunctioning firearm,
27 deadly weapon, or destructive device was discharged, actively

1 employed, or displayed.

2 2. Renumber the remaining sections and correct the

3 repealer accordingly.