

AMENDMENTS TO LB 145

Introduced by Judiciary.

1 1. Strike original section 2 and insert the following new
2 section:

3 Sec. 2. Section 28-1204.04, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-1204.04 (1) Any person who possesses a firearm in a
6 school, on school grounds, in a school-owned vehicle, or at a
7 school-sponsored activity or athletic event ~~shall be~~ is guilty of
8 the offense of unlawful possession of a firearm ~~on~~ at a school.
9 ~~grounds.~~ Unlawful possession of a firearm on at a school grounds
10 is a Class II misdemeanor. This subsection shall not apply to (a)
11 the issuance of firearms to or possession by members of the armed
12 forces of the United States, active or reserve, National Guard of
13 this state, or Reserve Officers Training Corps or peace officers
14 or other duly authorized law enforcement officers when on duty
15 or training, (b) firearms which may lawfully be possessed by the
16 person receiving instruction, for instruction under the immediate
17 supervision of an adult instructor, (c) firearms which may lawfully
18 be possessed by a member of a college or university rifle team,
19 within the scope of such person's duties as a member of the team,
20 (d) firearms which may lawfully be possessed by a person employed
21 by a college or university in this state as part of an agriculture
22 or a natural resources program of such college or university,
23 within the scope of such person's employment, or ~~(e)~~ (e) firearms

1 contained within a private vehicle operated by a nonstudent adult
2 which are not loaded and (i) are encased or (ii) are in a locked
3 firearm rack that is on a motor vehicle. For purposes of this
4 subsection, encased ~~shall mean~~ means enclosed in a case that is
5 expressly made for the purpose of containing a firearm and that
6 is completely zipped, snapped, buckled, tied, or otherwise fastened
7 with no part of the firearm exposed.

8 (2) Any firearm possessed in violation of subsection (1)
9 of this section ~~in a school, on school grounds, in a school-owned~~
10 ~~vehicle, or at a school-sponsored activity or athletic event~~ shall
11 be confiscated without warrant by a peace officer or may be
12 confiscated without warrant by school administrative or teaching
13 personnel. Any firearm confiscated by school administrative or
14 teaching personnel shall be delivered to a peace officer as soon as
15 practicable.

16 (3) Any firearm confiscated by or given to a peace
17 officer pursuant to subsection (2) of this section shall be
18 declared a common nuisance and shall be held by the peace officer
19 prior to his or her delivery of the firearm to the property
20 division of the law enforcement agency which employs the peace
21 officer. The property division of such law enforcement agency shall
22 hold such firearm for as long as the firearm is needed as evidence.
23 After the firearm is no longer needed as evidence it shall be
24 destroyed in such manner as the court may direct.

25 (4) Whenever a firearm is confiscated and held pursuant
26 to this section or section 28-1204.02, the peace officer who
27 received such firearm shall cause to be filed within ten days after

1 the confiscation a petition for destruction of such firearm. The
2 petition shall be filed in the district court of the county in
3 which the confiscation is made. The petition shall describe the
4 firearm held, state the name of the owner, if known, allege the
5 essential elements of the violation which caused the confiscation,
6 and conclude with a prayer for disposition and destruction in such
7 manner as the court may direct. At any time after the confiscation
8 of the firearm and prior to court disposition, the owner of the
9 firearm seized may petition the district court of the county in
10 which the confiscation was made for possession of the firearm. The
11 court shall release the firearm to such owner only if the claim
12 of ownership can reasonably be shown to be true and either (a)
13 the owner of the firearm can show that the firearm was taken from
14 his or her property or place of business unlawfully or without
15 the knowledge and consent of the owner and that such property or
16 place of business is different from that of the person from whom
17 the firearm was confiscated or (b) the owner of the firearm is
18 acquitted of the charge of unlawful possession of a revolver in
19 violation of section 28-1204, unlawful transfer of a firearm to
20 a juvenile, or unlawful possession of a firearm ~~on~~ at a school.
21 ~~grounds.~~ No firearm having significant antique value or historical
22 significance as determined by the Nebraska State Historical Society
23 shall be destroyed. If a firearm has significant antique value
24 or historical significance, it shall be sold at auction and the
25 ~~proceeds deposited in the permanent school fund.~~ shall be remitted
26 to the State Treasurer for distribution in accordance with Article
27 VII, section 5, of the Constitution of Nebraska.