

AMENDMENTS TO LB 430

(Amendments to E & R amendments, ER8052)

Introduced by Avery, 28.

1 1. Insert the following new sections:

2 Sec. 6. Section 28-1201, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-1201 For purposes of sections 28-1201 to 28-1212,
5 unless the context otherwise requires:

6 (1) Firearm ~~shall mean~~ means any weapon which is designed
7 to or may readily be converted to expel any projectile by the
8 action of an explosive or frame or receiver of any such weapon;

9 (2) Fugitive from justice ~~shall mean~~ means any person who
10 has fled or is fleeing from any peace officer to avoid prosecution
11 or incarceration for a felony;

12 (3) Juvenile ~~shall mean~~ means any person under the age of
13 eighteen years;

14 (4) Knife ~~shall mean~~ means any dagger, dirk, knife, or
15 stiletto with a blade over three and one-half inches in length
16 or any other dangerous instrument capable of inflicting cutting,
17 stabbing, or tearing wounds;

18 (5) Knuckles and brass or iron knuckles ~~shall mean~~ means
19 any instrument that consists of finger rings or guards made of
20 a hard substance and that is designed, made, or adapted for the
21 purpose of inflicting serious bodily injury or death by striking a
22 person with a fist enclosed in the knuckles;

1 (6) Machine gun ~~shall mean~~ means any firearm, whatever
2 its size and usual designation, that shoots automatically more than
3 one shot, without manual reloading, by a single function of the
4 trigger;

5 (7) School means a public, private, denominational, or
6 parochial elementary, vocational, or secondary school, a private
7 postsecondary career school as defined in section 85-1603, a
8 community college, a public or private college, a junior college,
9 or a university;

10 ~~(7)~~ (8) Short rifle ~~shall mean~~ means a rifle having a
11 barrel less than sixteen inches long or an overall length of less
12 than twenty-six inches; and

13 ~~(8)~~ (9) Short shotgun ~~shall mean~~ means a shotgun having
14 a barrel or barrels less than eighteen inches long or an overall
15 length of less than twenty-six inches.

16 Sec. 7. Section 28-1204.03, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 28-1204.03 The Legislature finds that:

19 (1) Increased violence ~~is~~ at schools has become a
20 national, state, and local problem;

21 (2) Increased violence and the threat of violence has a
22 grave and detrimental impact on the educational process in Nebraska
23 schools;

24 (3) Increased violence has caused fear and concern among
25 not only the schools and students but the public at large;

26 (4) Firearms have contributed greatly to the increase of
27 fear and concern among our citizens;

1 (5) Schools have a duty to protect their students and
2 provide an environment which promotes and provides an education in
3 a nonthreatening manner;

4 (6) An additional danger of firearms ~~in~~ at schools is the
5 risk of accidental discharge and harm to students and staff;

6 (7) Firearms are an immediate and inherently dangerous
7 threat to the safety and well-being of an educational setting; and

8 (8) The ability to confiscate and remove firearms quickly
9 from school grounds is a legitimate and necessary tool to protect
10 students and the educational process.

11 Sec. 8. Section 28-1204.04, Reissue Revised Statutes of
12 Nebraska, is amended to read:

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

1 (d) firearms which may lawfully be possessed by a person employed
2 by a college or university in this state as part of an agriculture
3 or a natural resources program of such college or university,
4 within the scope of such person's employment, or ~~(e)~~ (e) firearms
5 contained within a private vehicle operated by a nonstudent adult
6 which are not loaded and (i) are encased or (ii) are in a locked
7 firearm rack that is on a motor vehicle. For purposes of this
8 subsection, encased ~~shall mean~~ means enclosed in a case that is
9 expressly made for the purpose of containing a firearm and that
10 is completely zipped, snapped, buckled, tied, or otherwise fastened
11 with no part of the firearm exposed.

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

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

1 destroyed in such manner as the court may direct.

2 (4) Whenever a firearm is confiscated and held pursuant
3 to this section or section 28-1204.02, the peace officer who
4 received such firearm shall cause to be filed within ten days after
5 the confiscation a petition for destruction of such firearm. The
6 petition shall be filed in the district court of the county in
7 which the confiscation is made. The petition shall describe the
8 firearm held, state the name of the owner, if known, allege the
9 essential elements of the violation which caused the confiscation,
10 and conclude with a prayer for disposition and destruction in such
11 manner as the court may direct. At any time after the confiscation
12 of the firearm and prior to court disposition, the owner of the
13 firearm seized may petition the district court of the county in
14 which the confiscation was made for possession of the firearm. The
15 court shall release the firearm to such owner only if the claim
16 of ownership can reasonably be shown to be true and either (a)
17 the owner of the firearm can show that the firearm was taken from
18 his or her property or place of business unlawfully or without
19 the knowledge and consent of the owner and that such property or
20 place of business is different from that of the person from whom
21 the firearm was confiscated or (b) the owner of the firearm is
22 acquitted of the charge of unlawful possession of a revolver in
23 violation of section 28-1204, unlawful transfer of a firearm to
24 a juvenile, or unlawful possession of a firearm ~~on~~ at a school
25 ~~grounds~~. No firearm having significant antique value or historical
26 significance as determined by the Nebraska State Historical Society
27 shall be destroyed. If a firearm has significant antique value

1 or historical significance, it shall be sold at auction and the
2 proceeds ~~deposited in the permanent school fund.~~ shall be remitted
3 to the State Treasurer for distribution in accordance with Article
4 VII, section 5, of the Constitution of Nebraska.

5 2. On page 17, line 11, strike "10" and insert "13".

6 3. On page 21, strike beginning with "school" in line
7 1 through the first semicolon in line 2, show as stricken, and
8 insert "elementary, vocational, or secondary school, a private
9 postsecondary career school as defined in section 85-1603, a
10 community college, a public or private college, junior college, or
11 university;".

12 4. On page 23, line 11, strike "and" and after the last
13 comma insert "28-1201, 28-1204.03, 28-1204.04,".

14 5. Renumber the remaining sections accordingly.