

AMENDMENTS TO LB390

(Amendments to Standing Committee amendments, AM507)

Introduced by Seiler

1           1. Insert the following new section:

2           Section 1. Section 28-1204.04, Revised Statutes  
3 Cumulative Supplement, 2012, is amended to read:

4           28-1204.04 (1) Any person who possesses a firearm in  
5 a school, on school grounds, in a school-owned vehicle, or at  
6 a school-sponsored activity or athletic event is guilty of the  
7 offense of unlawful possession of a firearm at a school. Unlawful  
8 possession of a firearm at a school is a Class IV felony. This  
9 subsection shall not apply to (a) the issuance of firearms to  
10 or possession by members of the armed forces of the United  
11 States, active or reserve, National Guard of this state, or  
12 Reserve Officers Training Corps or peace officers or other duly  
13 authorized law enforcement officers when on duty or training,  
14 (b) the possession of firearms by peace officers or other duly  
15 authorized law enforcement officers when contracted by a school  
16 to provide school security or school event control services, (c)  
17 firearms which may lawfully be possessed by the person receiving  
18 instruction, for instruction under the immediate supervision of an  
19 adult instructor, (d) firearms which may lawfully be possessed by  
20 a member of a college or university rifle team, within the scope  
21 of such person's duties as a member of the team, (e) firearms  
22 which may lawfully be possessed by a person employed by a college

1 or university in this state as part of an agriculture or a  
2 natural resources program of such college or university, within the  
3 scope of such person's employment, (f) firearms contained within  
4 a private vehicle operated by a nonstudent adult which are not  
5 loaded and (i) are encased or (ii) are in a locked firearm rack  
6 that is on a motor vehicle, (g) firearms which may lawfully be  
7 possessed by a person for the purpose of using them, with the  
8 approval of the school, in a historical reenactment, in a hunter  
9 education program, or as part of an honor guard, or ~~(g)~~ (h) a  
10 handgun carried as a concealed handgun by a valid holder of a  
11 permit issued under the Concealed Handgun Permit Act in a vehicle  
12 or on his or her person while riding in or on a vehicle into or  
13 onto any parking area, which is open to the public and used by  
14 a school if, prior to exiting the vehicle, the handgun is locked  
15 inside the glove box, trunk, or other compartment of the vehicle,  
16 a storage box securely attached to the vehicle, or, if the vehicle  
17 is a motorcycle, a hardened compartment securely attached to the  
18 motorcycle while the vehicle is in or on such parking area, except  
19 as prohibited by federal law. For purposes of this subsection,  
20 encased means enclosed in a case that is expressly made for the  
21 purpose of containing a firearm and that is completely zipped,  
22 snapped, buckled, tied, or otherwise fastened with no part of the  
23 firearm exposed.

24 (2) Any firearm possessed in violation of subsection  
25 (1) of this section shall be confiscated without warrant by a  
26 peace officer or may be confiscated without warrant by school  
27 administrative or teaching personnel. Any firearm confiscated by

1 school administrative or teaching personnel shall be delivered to a  
2 peace officer as soon as practicable.

3 (3) Any firearm confiscated by or given to a peace  
4 officer pursuant to subsection (2) of this section shall be  
5 declared a common nuisance and shall be held by the peace officer  
6 prior to his or her delivery of the firearm to the property  
7 division of the law enforcement agency which employs the peace  
8 officer. The property division of such law enforcement agency shall  
9 hold such firearm for as long as the firearm is needed as evidence.  
10 After the firearm is no longer needed as evidence, it shall be  
11 destroyed in such manner as the court may direct.

12 (4) Whenever a firearm is confiscated and held pursuant  
13 to this section or section 28-1204.02, the peace officer who  
14 received such firearm shall cause to be filed within ten days after  
15 the confiscation a petition for destruction of such firearm. The  
16 petition shall be filed in the district court of the county in  
17 which the confiscation is made. The petition shall describe the  
18 firearm held, state the name of the owner, if known, allege the  
19 essential elements of the violation which caused the confiscation,  
20 and conclude with a prayer for disposition and destruction in such  
21 manner as the court may direct. At any time after the confiscation  
22 of the firearm and prior to court disposition, the owner of the  
23 firearm seized may petition the district court of the county in  
24 which the confiscation was made for possession of the firearm. The  
25 court shall release the firearm to such owner only if the claim  
26 of ownership can reasonably be shown to be true and either (a)  
27 the owner of the firearm can show that the firearm was taken from

1 his or her property or place of business unlawfully or without  
2 the knowledge and consent of the owner and that such property or  
3 place of business is different from that of the person from whom  
4 the firearm was confiscated or (b) the owner of the firearm is  
5 acquitted of the charge of unlawful possession of a handgun in  
6 violation of section 28-1204, unlawful transfer of a firearm to  
7 a juvenile, or unlawful possession of a firearm at a school. No  
8 firearm having significant antique value or historical significance  
9 as determined by the Nebraska State Historical Society shall be  
10 destroyed. If a firearm has significant antique value or historical  
11 significance, it shall be sold at auction and the proceeds shall be  
12 remitted to the State Treasurer for distribution in accordance with  
13 Article VII, section 5, of the Constitution of Nebraska.

14           2. Renumber the remaining sections and correct the  
15 repealer accordingly.