

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 417

Introduced by Halloran, 33; Aguilar, 35; Bostelman, 23; Brewer, 43;
Briese, 41; Clements, 2; Erdman, 47; Gragert, 40; Hansen,
B., 16; Lowe, 37; Murman, 38; Sanders, 45; Slama, 1.

Read first time January 14, 2021

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to firearms; to amend section 28-1204.04,
- 2 Revised Statutes Cumulative Supplement, 2020; to authorize
- 3 possession of a firearm on school grounds by a full-time, off-duty
- 4 law enforcement officer; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1204.04, Revised Statutes Cumulative
2 Supplement, 2020, is amended to read:

3 28-1204.04 (1) Any person who possesses a firearm in a school, on
4 school grounds, in a school-owned vehicle, or at a school-sponsored
5 activity or athletic event is guilty of the offense of unlawful
6 possession of a firearm at a school. Unlawful possession of a firearm at
7 a school is a Class IV felony. This subsection shall not apply to (a) the
8 issuance of firearms to or possession by a member ~~members~~ of the armed
9 forces of the United States, active or reserve, National Guard of this
10 state, or Reserve Officers Training Corps or a peace officer ~~officers~~ or
11 other duly authorized law enforcement officer ~~officers~~ when on duty or
12 training, (b) the possession of firearms by a peace officer ~~officers~~ or
13 other duly authorized law enforcement officer ~~officers~~ when contracted by
14 a school to provide school security or school event control services, (c)
15 the possession of a firearm by a full time, off-duty peace officer or
16 other duly authorized law enforcement officer, (d) firearms which may
17 lawfully be possessed by the person receiving instruction, for
18 instruction under the immediate supervision of an adult instructor, (e)
19 ~~(d)~~ firearms which may lawfully be possessed by a member of a college or
20 university firearm team, to include rifle, pistol, and shotgun
21 disciplines, within the scope of such person's duties as a member of the
22 team, (f) ~~(e)~~ firearms which may lawfully be possessed by a person
23 employed by a college or university in this state as part of an
24 agriculture or a natural resources program of such college or university,
25 within the scope of such person's employment, (g) ~~(f)~~ firearms contained
26 within a private vehicle operated by a nonstudent adult which are not
27 loaded and (i) are encased or (ii) are in a locked firearm rack that is
28 on a motor vehicle, (h) ~~(g)~~ firearms which may lawfully be possessed by a
29 person for the purpose of using them, with the approval of the school, in
30 a historical reenactment, in a hunter education program, or as part of an
31 honor guard, or (i) ~~(h)~~ a handgun carried as a concealed handgun by a

1 valid holder of a permit issued under the Concealed Handgun Permit Act in
2 a vehicle or on his or her person while riding in or on a vehicle into or
3 onto any parking area, which is open to the public and used by a school
4 if, prior to exiting the vehicle, the handgun is locked inside the glove
5 box, trunk, or other compartment of the vehicle, a storage box securely
6 attached to the vehicle, or, if the vehicle is a motorcycle, other than
7 an autocycle, a hardened compartment securely attached to the motorcycle
8 while the vehicle is in or on such parking area, except as prohibited by
9 federal law. For purposes of this subsection, encased means enclosed in a
10 case that is expressly made for the purpose of containing a firearm and
11 that is completely zipped, snapped, buckled, tied, or otherwise fastened
12 with no part of the firearm exposed.

13 (2) Any firearm possessed in violation of subsection (1) of this
14 section shall be confiscated without warrant by a peace officer or may be
15 confiscated without warrant by school administrative or teaching
16 personnel. Any firearm confiscated by school administrative or teaching
17 personnel shall be delivered to a peace officer as soon as practicable.

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

26 (4) Whenever a firearm is confiscated and held pursuant to this
27 section or section 28-1204.02, the peace officer who received such
28 firearm shall cause to be filed within ten days after the confiscation a
29 petition for destruction of such firearm. The petition shall be filed in
30 the district court of the county in which the confiscation is made. The
31 petition shall describe the firearm held, state the name of the owner, if

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

22 Sec. 2. Original section 28-1204.04, Revised Statutes Cumulative
23 Supplement, 2020, is repealed.