

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1227

Introduced by Cornett, 45; Combs, 32; Fischer, 43; Flood, 19

Read first time January 18, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to handguns; to amend sections 69-2402,
2 69-2404, 69-2405, 69-2406, 69-2410, 69-2411, 69-2418, and
3 69-2419, Reissue Revised Statutes of Nebraska; to change
4 provisions relating to issuance of handgun certificates
5 and criminal history record checks; to harmonize
6 provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 69-2402, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 69-2402 For purposes of sections 69-2401 to 69-2425:

4 (1) Antique handgun or pistol shall mean any handgun or
5 pistol, including those with a matchlock, flintlock, percussion
6 cap, or similar type of ignition system, manufactured in or before
7 1898 and any replica of such a handgun or pistol if such replica
8 (a) is not designed or redesigned for using rimfire or conventional
9 centerfire fixed ammunition or (b) uses rimfire or conventional
10 centerfire fixed ammunition which is no longer manufactured in the
11 United States and which is not readily available in the ordinary
12 channels of commercial trade; and

13 (2) Criminal history record check shall include a check
14 of the criminal history records of the Nebraska State Patrol and
15 a check of the Federal Bureau of Investigation's National Instant
16 Criminal Background Check System; and

17 (3) Handgun shall mean any firearm with a barrel less
18 than sixteen inches in length or any firearm designed to be held
19 and fired by the use of a single hand.

20 Sec. 2. Section 69-2404, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 69-2404 Any person desiring to purchase, lease, rent,
23 or receive transfer of a handgun shall apply with the chief of
24 police or sheriff of the applicant's place of residence for a
25 certificate. The application may be made in person or by mail. The

1 application form and certificate shall be made on forms approved
2 by the Superintendent of Law Enforcement and Public Safety. The
3 application shall ~~state~~ include the applicant's full name, social
4 security number, address, ~~and~~ date of birth, and country of
5 citizenship. If the applicant is not a United States citizen, the
6 application shall include the applicant's place of birth and his
7 or her alien or admission number. If the application is made in
8 person, the applicant shall also present a current Nebraska motor
9 vehicle operator's license, state identification card, or military
10 identification card, or if the application is made by mail, the
11 application form shall describe the license or card used for
12 identification and be notarized by a notary public who has verified
13 the identification of the applicant through such a license or card.
14 An applicant shall receive a certificate if he or she is twenty-one
15 years of age or older and is not prohibited from purchasing or
16 possessing a handgun by 18 U.S.C. 922. A fee of five dollars shall
17 be charged for each application for a certificate to cover the cost
18 of a criminal history record check.

19 Sec. 3. Section 69-2405, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 69-2405 Upon the receipt of an application for a
22 certificate, the chief of police or sheriff shall issue a
23 certificate or deny a certificate and furnish the applicant the
24 specific reasons for the denial in writing. The chief of police
25 or sheriff shall be permitted up to ~~two~~ three days in which to

1 conduct an investigation to determine whether the applicant is
2 prohibited by law from purchasing or possessing a handgun. If the
3 certificate or denial is mailed to the applicant, it shall be
4 mailed to the applicant's address by first-class mail within the
5 ~~two-day~~ three-day period. If it is determined that the purchase
6 or possession of a handgun by the applicant would be in violation
7 of applicable federal, state, or local law, the chief of police
8 or sheriff shall deny the certificate. In computing the ~~two-day~~
9 three-day period, the day of receipt of the application shall not
10 be included and the last day of the ~~two-day~~ three-day period shall
11 be included. The ~~two-day~~ three-day period shall expire at 11:59
12 p.m. of the ~~second~~ third day unless it is a Saturday, Sunday, or
13 legal holiday in which event the period shall run until 11:59 p.m.
14 of the next day which is not a Saturday, Sunday, or legal holiday.
15 No later than the end of the ~~two-day~~ three-day period the chief of
16 police or sheriff shall issue or deny such certificate and, if the
17 certificate is denied, furnish the applicant the specific reasons
18 for denial in writing. No civil liability shall arise to any law
19 enforcement agency if such law enforcement agency complies with
20 sections 69-2401, 69-2403 to 69-2408, and 69-2409.01.

21 Sec. 4. Section 69-2406, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 69-2406 Any person who is denied a certificate, whose
24 certificate is revoked, or who has not been issued a certificate
25 upon expiration of the ~~two-day~~ three-day period may appeal within

1 ten days of receipt of the denial or revocation to the county court
2 of the county of the applicant's place of residence. The applicant
3 shall file with the court the specific reasons for the denial or
4 revocation by the chief of police or sheriff and a filing fee of
5 ten dollars in lieu of any other filing fee required by law. The
6 court shall issue its decision within thirty days of the filing of
7 the appeal.

8 Sec. 5. Section 69-2410, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 69-2410 No importer, manufacturer, or dealer licensed
11 pursuant to 18 U.S.C. 923 shall sell or deliver any handgun
12 to another person other than a licensed importer, manufacturer,
13 dealer, or collector until he or she has:

14 (1)(a) Inspected a valid certificate issued to such
15 person pursuant to sections 69-2401, 69-2403 to 69-2408, and
16 69-2409.01; and

17 (b) Inspected a valid identification containing a
18 photograph of such person which appropriately and completely
19 identifies such person; or

20 (2)(a) Obtained a completed consent form from the
21 potential buyer or transferee, which form shall be established by
22 the Nebraska State Patrol and provided by the licensed importer,
23 manufacturer, or dealer. The form shall include ~~only~~ the name,
24 address, date of birth, gender, race, and social security number
25 or other identification number, and country of citizenship of such

1 potential buyer or transferee. If the potential buyer or transferee
2 is not a United States citizen, the completed consent form shall
3 contain the potential buyer's or transferee's place of birth and
4 his or her alien or admission number;

5 (b) Inspected a valid identification containing a
6 photograph of the potential buyer or transferee which appropriately
7 and completely identifies such person;

8 (c) Requested by toll-free telephone call or other
9 electromagnetic communication that the Nebraska State Patrol
10 conduct a criminal history record check; and

11 (d) Received a unique approval number for such inquiry
12 from the Nebraska State Patrol indicating the date and number on
13 the consent form.

14 Sec. 6. Section 69-2411, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 69-2411 (1) Upon receipt of a request for a criminal
17 history record check, the Nebraska State Patrol shall as soon
18 as possible during the licensee's telephone call or by return
19 telephone call:

20 (a) Review Check its criminal history records and check
21 the Federal Bureau of Investigation's National Instant Criminal
22 Background Check System to determine if the potential buyer or
23 transferee is prohibited from receipt or possession of a handgun
24 pursuant to state or federal law; and

25 (b) Either (i) inform the licensee that its records

1 demonstrate that the potential buyer or transferee is prohibited
2 from receipt or possession of a handgun or (ii) provide the
3 licensee with a unique approval number.

4 (2) In the event of electronic failure or similar
5 emergency beyond the control of the Nebraska State Patrol, the
6 patrol shall immediately notify a requesting licensee of the reason
7 for and estimated length of such delay. In any event, no later than
8 the end of the next business day the Nebraska State Patrol shall
9 either (a) inform the licensee that its records demonstrate that
10 the potential buyer or transferee is prohibited from receipt or
11 possession of a handgun or (b) provide the licensee with a unique
12 approval number. If the licensee is not informed by the end of
13 the next business day that the potential buyer is prohibited from
14 receipt or possession of a handgun, and regardless of whether the
15 unique approval number has been received, the licensee may complete
16 the sale or delivery and shall not be deemed to be in violation of
17 sections 69-2410 to 69-2423 with respect to such sale or delivery.

18 (3) A fee of three dollars shall be charged for each
19 request of a criminal history record check required pursuant to
20 section 69-2410, which amount shall be transmitted monthly to the
21 Nebraska State Patrol. Such amount shall be for the purpose of
22 covering the costs of the criminal history record check.

23 Sec. 7. Section 69-2418, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 69-2418 Sections 69-2410 to 69-2423 shall not apply to:

1 (1) Any handgun, including any firearm with a matchlock,
2 flintlock, percussion cap, or similar type of ignition system,
3 manufactured in or before 1898 antique handgun or pistol; or

4 ~~(2)~~ Any replica of any firearm described in subdivision
5 ~~(1)~~ of this section if such replica is not designed or redesigned
6 to use rimfire or conventional centerfire fixed ammunition and uses
7 rimfire or conventional centerfire fixed ammunition which is no
8 longer manufactured in the United States and which is not readily
9 available in the ordinary channels of commercial trade, and

10 ~~(3)~~ (2) Any firearm which is a curio or relic as defined
11 by in 27 C.F.R. ~~178.11~~ 478.11.

12 Sec. 8. Section 69-2419, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 69-2419 Any licensed importer, manufacturer, or dealer
15 who knowingly and intentionally requests a criminal history record
16 check from the Nebraska State Patrol for any purpose other
17 than compliance with sections 69-2410 to 69-2423 or knowingly
18 and intentionally disseminates any criminal history record check
19 information to any person other than the subject of such
20 information shall be guilty of a Class I misdemeanor.

21 Sec. 9. Original sections 69-2402, 69-2404, 69-2405,
22 69-2406, 69-2410, 69-2411, 69-2418, and 69-2419, Reissue Revised
23 Statutes of Nebraska, are repealed.