

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 817

FINAL READING

Introduced by Rogert, 16; Christensen, 44; McCoy, 39; Gloor, 35; Pirsch, 4; Coash, 27.

Read first time January 08, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to law enforcement; to amend sections
2 2-32,101, 69-2403, 69-2427, 69-2431, and 69-2433, Reissue
3 Revised Statutes of Nebraska, and sections 18-1703
4 and 28-1212.04, Revised Statutes Supplement, 2009; to
5 authorize natural resources districts to employ law
6 enforcement personnel or private security services; to
7 change city and village powers regarding registration of
8 handguns; to change prohibitions regarding the discharge
9 of firearms in certain cities, villages, and counties; to
10 exempt permitholders under the Concealed Handgun Permit
11 Act and peace officers from the requirement to obtain
12 a certificate to purchase a handgun; to provide a duty

LB 817

LB 817

1 for the Nebraska State Patrol under the act; to change
2 requirements for a permit to carry a concealed handgun;
3 to harmonize provisions; and to repeal the original
4 sections.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-32,101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-32,101 (1) Any law enforcement officer, including, but
4 not limited to, any Game and Parks Commission conservation officer,
5 local police officer, member of the Nebraska State Patrol, or
6 sheriff or deputy sheriff, is authorized to enforce ~~the provisions~~
7 ~~of~~ sections 2-3292 to 2-32,100 and any rules and regulations
8 adopted and promulgated pursuant to such sections. A district
9 shall not employ law enforcement personnel and shall be prohibited
10 from expending any funds for such purpose except as provided in
11 subsection (2) of this section. Each district shall provide a copy
12 of its rules and regulations to the appropriate law enforcement
13 officer. Any law enforcement officer may arrest and detain any
14 person committing a violation of the rules and regulations in a
15 recreation area or committing any misdemeanor or felony as provided
16 by the laws of this state.

17 (2) A district may expend funds to enter into agreements
18 pursuant to the Interlocal Cooperation Act for the services of
19 certified law enforcement personnel or to contract for the services
20 of private security services to patrol and protect district-owned
21 or district-managed recreation areas and to assist law enforcement
22 officers in enforcing sections 2-3292 to 2-32,100 and any rules and
23 regulations adopted and promulgated pursuant to such sections.

24 Sec. 2. Section 18-1703, Revised Statutes Supplement,
25 2009, is amended to read:

1 18-1703 Cities and villages shall not have the power
2 to regulate the ownership, possession, or transportation of a
3 concealed handgun, as such ownership, possession, or transportation
4 is authorized under the Concealed Handgun Permit Act, except as
5 expressly provided by state law, and shall not have the power
6 to require registration of a concealed handgun owned, possessed,
7 or transported by a permitholder under the act. Any existing
8 city or village ordinance, permit, or regulation regulating the
9 ownership, possession, or transportation of a concealed handgun,
10 as such ownership, possession, or transportation is authorized
11 under the act, except as expressly provided under state law, and
12 any existing city or village ordinance, permit, or regulation
13 requiring the registration of a concealed handgun owned, possessed,
14 or transported by a permitholder under the act, is declared to be
15 null and void as against any permitholder possessing a valid permit
16 under the act.

17 Sec. 3. Section 28-1212.04, Revised Statutes Supplement,
18 2009, is amended to read:

19 28-1212.04 Any person, within the territorial boundaries
20 of any city, ~~incorporated village,~~ of the first class or county
21 containing a city of the metropolitan class or primary class, who
22 unlawfully, knowingly, and intentionally or recklessly discharges
23 a firearm, while in any motor vehicle or in the proximity of
24 any motor vehicle that such person has just exited, at or in the
25 general direction of any person, dwelling, building, structure,

1 occupied motor vehicle, occupied aircraft, inhabited motor home as
 2 defined in section 71-4603, or inhabited camper unit as defined in
 3 section 60-1801, is guilty of a Class IC felony.

4 Sec. 4. Section 69-2403, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 69-2403 (1) Except as provided in this section and
 7 section 69-2409, a person shall not purchase, lease, rent, or
 8 receive transfer of a handgun until he or she has obtained a
 9 certificate in accordance with section 69-2404. Except as provided
 10 in this section and section 69-2409, a person shall not sell,
 11 lease, rent, or transfer a handgun to a person who has not obtained
 12 a certificate.

13 (2) The certificate shall not be required if:

14 ~~(1)~~ (a) The person acquiring the handgun is a licensed
 15 firearms dealer under federal law;

16 ~~(2)~~ (b) The handgun is an antique handgun;

17 ~~(3)~~ (c) The person acquiring the handgun is authorized to
 18 do so on behalf of a law enforcement agency;

19 ~~(4)~~ (d) The transfer is a temporary transfer of a handgun
 20 and the transferee remains ~~(a)~~ (i) in the line of sight of the
 21 transferor or ~~(b)~~ (ii) within the premises of an established
 22 shooting facility; ~~or~~

23 ~~(5)~~ (e) The transfer is between a person and his or
 24 her spouse, sibling, parent, child, aunt, uncle, niece, nephew, or
 25 grandparent;~~;~~

1 (f) The person acquiring the handgun is a holder of a
2 valid permit under the Concealed Handgun Permit Act; or

3 (g) The person acquiring the handgun is a peace officer
4 as defined in section 69-2429.

5 Sec. 5. Section 69-2427, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 69-2427 Sections 69-2427 to 69-2448 and section 6 of this
8 act shall be known and may be cited as the Concealed Handgun Permit
9 Act.

10 Sec. 6. The Nebraska State Patrol shall inform each
11 permitholder, upon the issuance or renewal of a permit to carry a
12 concealed handgun, that if a handgun, or other firearm, owned by
13 such permitholder is lost or stolen, the permitholder should notify
14 his or her county sheriff or local police department of that fact.

15 Sec. 7. Section 69-2431, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 69-2431 In order to insure an applicant's initial
18 compliance with sections 69-2430 and 69-2433, the applicant for
19 a permit to carry a concealed handgun shall be fingerprinted by
20 the Nebraska State Patrol and a check made of his or her criminal
21 history record information maintained by the Federal Bureau of
22 Investigation through the Nebraska State Patrol. ~~The eriminal~~
23 ~~history record information check under the Concealed Handgun Permit~~
24 ~~Act is for initial compliance only.~~ In order to insure continuing
25 compliance with sections 69-2430 and 69-2433 and compliance for

1 renewal pursuant to section 69-2436, a check shall be made of
 2 a permitholder's criminal history record information through the
 3 National Instant Criminal Background Check System.

4 Sec. 8. Section 69-2433, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 69-2433 An applicant shall:

- 7 (1) Be at least twenty-one years of age;
- 8 (2) Not be prohibited from purchasing or possessing a
 9 handgun by 18 U.S.C. 922, as such section existed on January 1,
 10 2005;

11 (3) Possess the same powers of eyesight as required under
 12 section 60-4,118 for a Class O operator's license. If an applicant
 13 does not possess a current Nebraska motor vehicle operator's
 14 license, the applicant may present a current optometrist's or
 15 ophthalmologist's statement certifying the vision reading obtained
 16 when testing the applicant. If such certified vision reading meets
 17 the vision requirements prescribed by section 60-4,118 for a Class
 18 O operator's license, the vision requirements of this subdivision
 19 shall have been met;

20 (4) Not have pled guilty to, not have pled nolo
 21 contendere to, or not have been convicted of a felony ~~or~~ a
 22 ~~crime of violence~~ under the laws of this state or under the laws of
 23 any other jurisdiction;

24 (5) Not have pled guilty to, not have pled nolo
 25 contendere to, or not have been convicted of a misdemeanor crime

1 of violence under the laws of this state or under the laws of any
2 other jurisdiction within the ten years immediately preceding the
3 date of application;

4 ~~(5)~~ (6) Not have been found in the previous ten years to
5 be a mentally ill and dangerous person under the Nebraska Mental
6 Health Commitment Act or a similar law of another jurisdiction or
7 not be currently adjudged mentally incompetent;

8 ~~(6)(a)~~ (7)(a) Have been a resident of this state for
9 at least one hundred eighty days. For purposes of this section,
10 resident does not include an applicant who maintains a residence in
11 another state and claims that residence for voting or tax purposes
12 except as provided in subdivision (b) of this subdivision; or

13 (b) If an applicant is a member of the United States
14 Armed Forces, such applicant shall be considered a resident of
15 this state for purposes of this section after he or she has been
16 stationed at a military installation in this state pursuant to
17 permanent duty station orders even though he or she maintains a
18 residence in another state and claims that residence for voting or
19 tax purposes;

20 ~~(7)~~ (8) Have had no violations of any law of this state
21 relating to firearms, unlawful use of a weapon, or controlled
22 substances or of any similar laws of another jurisdiction in the
23 ten years preceding the date of application;

24 ~~(8)~~ (9) Not be on parole, probation, house arrest, or
25 work release;

1 ~~(9)~~ (10) Be a citizen of the United States; and

2 ~~(10)~~ (11) Provide proof of training.

3 Sec. 9. Original sections 2-32,101, 69-2403, 69-2427,
4 69-2431, and 69-2433, Reissue Revised Statutes of Nebraska, and
5 sections 18-1703 and 28-1212.04, Revised Statutes Supplement, 2009,
6 are repealed.