

AMENDMENTS TO LB 512

(Amendments to E & R amendments, ER68)

Introduced by Christensen

1 1. Insert the following new section:

2 Section 1. Section 28-1204.04, Revised Statutes
3 Cumulative Supplement, 2010, 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, ~~(e)~~ (d) firearms which may lawfully be possessed
20 by a member of a college or university rifle team, within the scope
21 of such person's duties as a member of the team, ~~(d)~~ (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 natural
2 resources program of such college or university, within the scope
3 of such person's employment, ~~(e)~~(f) firearms contained within a
4 private vehicle operated by a nonstudent adult which are not loaded
5 and (i) are encased or (ii) are in a locked firearm rack that is
6 on a motor vehicle, or ~~(f)~~ (g) a handgun carried as a concealed
7 handgun by a valid holder of a permit issued under the Concealed
8 Handgun Permit Act in a vehicle or on his or her person while
9 riding in or on a vehicle into or onto any parking area, which
10 is open to the public and used by a school if, prior to exiting
11 the vehicle, the handgun is locked inside the glove box, trunk, or
12 other compartment of the vehicle, a storage box securely attached
13 to the vehicle, or, if the vehicle is a motorcycle, a hardened
14 compartment securely attached to the motorcycle while the vehicle
15 is in or on such parking area, except as prohibited by federal
16 law. For purposes of this subsection, encased means enclosed in a
17 case that is expressly made for the purpose of containing a firearm
18 and that is completely zipped, snapped, buckled, tied, or otherwise
19 fastened with no part of the firearm exposed.

20 (2) Any firearm possessed in violation of subsection
21 (1) of this section shall be confiscated without warrant by a
22 peace officer or may be confiscated without warrant by school
23 administrative or teaching personnel. Any firearm confiscated by
24 school administrative or teaching personnel shall be delivered to a
25 peace officer as soon as practicable.

26 (3) Any firearm confiscated by or given to a peace
27 officer pursuant to subsection (2) of this section shall be

1 declared a common nuisance and shall be held by the peace officer
2 prior to his or her delivery of the firearm to the property
3 division of the law enforcement agency which employs the peace
4 officer. The property division of such law enforcement agency shall
5 hold such firearm for as long as the firearm is needed as evidence.
6 After the firearm is no longer needed as evidence, it shall be
7 destroyed in such manner as the court may direct.

8 (4) Whenever a firearm is confiscated and held pursuant
9 to this section or section 28-1204.02, the peace officer who
10 received such firearm shall cause to be filed within ten days after
11 the confiscation a petition for destruction of such firearm. The
12 petition shall be filed in the district court of the county in
13 which the confiscation is made. The petition shall describe the
14 firearm held, state the name of the owner, if known, allege the
15 essential elements of the violation which caused the confiscation,
16 and conclude with a prayer for disposition and destruction in such
17 manner as the court may direct. At any time after the confiscation
18 of the firearm and prior to court disposition, the owner of the
19 firearm seized may petition the district court of the county in
20 which the confiscation was made for possession of the firearm. The
21 court shall release the firearm to such owner only if the claim
22 of ownership can reasonably be shown to be true and either (a)
23 the owner of the firearm can show that the firearm was taken from
24 his or her property or place of business unlawfully or without
25 the knowledge and consent of the owner and that such property or
26 place of business is different from that of the person from whom
27 the firearm was confiscated or (b) the owner of the firearm is

1 acquitted of the charge of unlawful possession of a handgun in
2 violation of section 28-1204, unlawful transfer of a firearm to
3 a juvenile, or unlawful possession of a firearm at a school. No
4 firearm having significant antique value or historical significance
5 as determined by the Nebraska State Historical Society shall be
6 destroyed. If a firearm has significant antique value or historical
7 significance, it shall be sold at auction and the proceeds shall be
8 remitted to the State Treasurer for distribution in accordance with
9 Article VII, section 5, of the Constitution of Nebraska.

10 2. Renumber the remaining sections and correct internal
11 references and the repealer section accordingly.