

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED SECOND LEGISLATURE  
 SECOND SESSION  
**LEGISLATIVE BILL 807**

Final Reading

Introduced by Lautenbaugh, 18.

Read first time January 05, 2012

Committee: Judiciary

A BILL

1 FOR AN ACT relating to firearms; to amend sections 29-820, 69-2435,  
 2 69-2436, 69-2439, and 69-2443, Reissue Revised Statutes  
 3 of Nebraska, and section 69-2433, Revised Statutes  
 4 Supplement, 2011; to change provisions relating to the  
 5 disposition of firearms seized or held by a law  
 6 enforcement agency; to change application requirements  
 7 for concealed handgun permits as prescribed; to change  
 8 provisions relating to revocation of concealed handgun  
 9 permits for certain violations; to harmonize provisions;  
 10 to repeal the original sections; and to declare an  
 11 emergency.

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

1           Section 1. Section 29-820, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           29-820 (1) Unless other disposition is specifically  
4 provided by law, when property seized or held is no longer required  
5 as evidence, it shall be disposed of by the law enforcement agency on  
6 such showing as the law enforcement agency may deem adequate, as  
7 follows:

8           (a) Property stolen, embezzled, obtained by false  
9 pretenses, or otherwise obtained unlawfully from the rightful owner  
10 thereof shall be restored to the owner;

11           (b) Money shall be restored to the owner unless it was  
12 used in unlawful gambling or lotteries or it was used or intended to  
13 be used to facilitate a violation of Chapter 28, article 4, in which  
14 case the money shall be forfeited and disposed of as required by  
15 Article VII, section 7, of the Constitution of Nebraska;

16           (c) Property which is unclaimed or the ownership of which  
17 is unknown shall be sold at a public auction held by the officer  
18 having custody thereof and the net proceeds disposed of as provided  
19 in subdivision (b) of this subsection, as shall any money which is  
20 unclaimed or the ownership of which is unknown;

21           (d) Except as provided in ~~subdivision (2)(b)~~ subsection  
22 (2) of this section, articles of contraband shall be destroyed; ~~and~~

23           (e) ~~Except as provided in subdivision (2)(a) of this~~  
24 ~~section, firearms, Firearms, ammunition, explosives, bombs, and like~~  
25 devices which have been used in the commission of crime shall be

1 destroyed; and -

2 (f) Firearms which have come into the law enforcement  
3 agency's possession through a seizure or otherwise and (i) have not  
4 been used in the commission of crime, (ii) have not been defaced or  
5 altered in any manner that violates any state or federal law, (iii)  
6 may have a lawful use and be lawfully possessed, and (iv) are not  
7 subject to section 29-440 shall be restored to the owner.

8 (2) When the following property is seized or held and is  
9 no longer required as evidence, such property shall be disposed of on  
10 order of the court as the court may deem adequate:

11 ~~(a) Firearms which may have a lawful use; and~~

12 ~~(b)~~ Goods which are declared to be contraband but may  
13 reasonably be returned to a condition or state in which such goods  
14 may be lawfully used, possessed, or distributed by the public.

15 (3) When any animal as defined by section 28-1008 is  
16 seized or held and is no longer required as evidence, such animal may  
17 be disposed of in such manner as the court may direct. The court may  
18 consider adoption alternatives through humane societies or comparable  
19 institutions and the protection of such animal's welfare. For a  
20 humane society or comparable institution to be considered as an  
21 adoption alternative under this subsection, it must first be licensed  
22 by the Department of Agriculture as having passed the inspection  
23 requirements in the Commercial Dog and Cat Operator Inspection Act  
24 and paid the fee for inspection under the act. The court may prohibit  
25 an adopting or purchasing party from selling such animal for a period

1 not to exceed one year.

2 (4) Unless otherwise provided by law, all other property  
3 shall be disposed of in such manner as the court in its sound  
4 discretion shall direct.

5 Sec. 2. Section 69-2433, Revised Statutes Supplement,  
6 2011, is amended to read:

7 69-2433 An applicant shall:

8 (1) Be at least twenty-one years of age;

9 (2) Not be prohibited from purchasing or possessing a  
10 handgun by 18 U.S.C. 922, as such section existed on January 1, 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 license,  
14 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 O  
18 operator's license, the vision requirements of this subdivision shall  
19 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 under the laws~~  
22 ~~of this state or under the laws of any other jurisdiction;~~

23 (5) ~~Not have pled guilty to, not have pled nolo~~  
24 ~~contendere to, or not have been convicted of a misdemeanor crime of~~  
25 ~~violence under the laws of this state or under the laws of any other~~

1 jurisdiction within the ten years immediately preceding the date of  
2 application;

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

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

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

18 (c) If an applicant is a new Nebraska resident and  
19 possesses a valid permit to carry a concealed handgun issued by his  
20 or her previous state of residence that is recognized by this state  
21 pursuant to section 69-2448, such applicant shall be considered a  
22 resident of this state for purposes of this section;

23 (8) ~~Have~~ Not have had no violations a conviction of any  
24 law of this state relating to firearms, unlawful use of a weapon, or  
25 controlled substances or of any similar laws of another jurisdiction

1 ~~in within~~ the ten years preceding the date of application. This  
2 subdivision does not apply to any conviction under Chapter 37 or  
3 under any similar law of another jurisdiction, except for a  
4 conviction under section 37-509, 37-513, or 37-522 or under any  
5 similar law of another jurisdiction;

6 (9) Not be on parole, probation, house arrest, or work  
7 release;

8 (10) Be a citizen of the United States; and

9 (11) Provide proof of training.

10 Sec. 3. Section 69-2435, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 69-2435 A permitholder shall continue to meet the  
13 requirements of section 69-2433 during the time he or she holds the  
14 permit, except as provided in subsection (4) of section 69-2443. If,  
15 during such time, a permitholder does not continue to meet one or  
16 more of the requirements, the permitholder shall return his or her  
17 permit to the Nebraska State Patrol for revocation. If a permitholder  
18 does not return his or her permit, the permitholder is subject to  
19 having his or her permit revoked under section 69-2439.

20 Sec. 4. Section 69-2436, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 69-2436 (1) A permit to carry a concealed handgun is  
23 valid throughout the state for a period of five years after the date  
24 of issuance. The fee for issuing a permit is one hundred dollars.

25 (2) The Nebraska State Patrol shall renew a person's

1 permit to carry a concealed handgun for a renewal period of five  
2 years, subject to continuing compliance with the requirements of  
3 section 69-2433, except as provided in subsection (4) of section  
4 69-2443. The renewal fee is fifty dollars, and renewal may be applied  
5 for up to four months before expiration of a permit to carry a  
6 concealed handgun.

7 (3) The applicant shall submit the fee with the  
8 application to the Nebraska State Patrol. The fee shall be remitted  
9 to the State Treasurer for credit to the Nebraska State Patrol Cash  
10 Fund.

11 (4) On or before June 30, 2007, the Nebraska State Patrol  
12 shall journal entry, as necessary, all current fiscal year expenses  
13 and revenue, including investment income, from the Public Safety Cash  
14 Fund under the Concealed Handgun Permit Act and recode them against  
15 the Nebraska State Patrol Cash Fund and its program appropriation.

16 Sec. 5. Section 69-2439, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 69-2439 (1) Any peace officer having probable cause to  
19 believe that a permitholder is no longer in compliance with one or  
20 more requirements of section 69-2433, except as provided in  
21 subsection (4) of section 69-2443, shall bring an application for  
22 revocation of the permit to be prosecuted as provided in subsection  
23 (2) of this section.

24 (2) It is the duty of the county attorney or his or her  
25 deputy of the county in which such permitholder resides to prosecute

1 a case for the revocation of a permit to carry a concealed handgun  
2 brought pursuant to subsection (1) of this section. In case the  
3 county attorney refuses or is unable to prosecute the case, the duty  
4 to prosecute shall be upon the Attorney General or his or her  
5 assistant.

6 (3) The case shall be prosecuted as a civil case, and the  
7 permit shall be revoked upon a showing by a preponderance of the  
8 evidence that the permitholder does not meet one or more of the  
9 requirements of section 69-2433, except as provided in subsection (4)  
10 of section 69-2443.

11 (4) A person who has his or her permit revoked under this  
12 section may be fined up to one thousand dollars and shall be charged  
13 with the costs of the prosecution. The money collected under this  
14 subsection as an administrative fine shall be remitted to the State  
15 Treasurer for distribution in accordance with Article VII, section 5,  
16 of the Constitution of Nebraska.

17 Sec. 6. Section 69-2443, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 69-2443 (1) A permitholder who violates subsection (1) or  
20 (2) of section 69-2440 or section 69-2441 or 69-2442 is guilty of a  
21 Class III misdemeanor for the first violation and a Class I  
22 misdemeanor for any second or subsequent violation.

23 (2) A permitholder who violates subsection (3) of section  
24 69-2440 is guilty of a Class I misdemeanor.

25 (3) A permitholder convicted of a violation ~~described in~~

1 ~~subsection (1) or (2) of this section of section 69-2440 or 69-2442~~  
2 may also have his or her permit revoked.

3 (4) A permitholder convicted of a violation of section  
4 69-2441 that occurred on property owned by the state or any political  
5 subdivision of the state may also have his or her permit revoked. A  
6 permitholder convicted of a violation of section 69-2441 that did not  
7 occur on property owned by the state or any political subdivision of  
8 the state shall not have his or her permit revoked for a first  
9 offense but may have his or her permit revoked for any second or  
10 subsequent offense.

11 Sec. 7. Original sections 29-820, 69-2435, 69-2436,  
12 69-2439, and 69-2443, Reissue Revised Statutes of Nebraska, and  
13 section 69-2433, Revised Statutes Supplement, 2011, are repealed.

14 Sec. 8. Since an emergency exists, this act takes effect  
15 when passed and approved according to law.