

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 699

Final Reading

(Second)

Introduced by Larson, 40; Davis, 43; Coash, 27.

Read first time January 08, 2014

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to regulated activities; to amend sections 37-404
2 and 37-414, Reissue Revised Statutes of Nebraska, and
3 sections 37-201, 37-413, and 69-2409.01, Revised Statutes
4 Cumulative Supplement, 2012; to authorize hunting permits
5 as prescribed for persons who have a developmental
6 disability; to authorize license-purchase exemption
7 certificates; to change provisions relating to mandatory
8 firearm hunter education programs and bow hunter
9 education programs; to change provisions relating to
10 firearm, air gun, bow and arrow, and crossbow hunting; to
11 require reports from the Nebraska State Patrol and the
12 Department of Health and Human Services regarding the
13 agencies' records of persons unable to purchase or
14 possess firearms because of disqualification or
15 disability; to eliminate certain firearms provisions; to

1 harmonize provisions; to repeal the original sections; to
2 outright repeal section 28-1211, Reissue Revised Statutes
3 of Nebraska; and to declare an emergency.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 37-201, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 37-201 Sections 37-201 to 37-811 and 37-1501 to 37-1510
4 and section 2 of this act shall be known and may be cited as the Game
5 Law.

6 Sec. 2. A hunting permit may be issued to any person who
7 has a developmental disability and who has a license-purchase
8 exemption certificate issued by the commission authorizing such
9 person to purchase a hunting permit. The commission may adopt and
10 promulgate rules and regulations to establish forms and procedures
11 for the issuance of license-purchase exemption certificates. Any
12 license-purchase exemption certificate issued pursuant to this
13 section shall be issued at no cost to the person who has a
14 developmental disability and shall clearly state on its face that the
15 holder must at all times while hunting be accompanied as described in
16 subsection (4) of section 37-413. No license-purchase exemption
17 certificate shall be issued to any person who has been found by any
18 court or mental health board to pose a current danger to himself or
19 herself or others. As part of the application process for a license-
20 purchase exemption certificate, a person who has a developmental
21 disability shall present the commission with a written authorization
22 signed by a physician indicating that the person who has a
23 developmental disability is at all times capable of understanding and
24 following directions given by another person and that the person who
25 has a developmental disability is not a danger to himself or herself

1 or others while engaged in hunting with a firearm. For purposes of
2 this section, developmental disability has the same meaning as in
3 section 83-1205.

4 Sec. 3. Section 37-404, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 37-404 (1) Any resident of the United States who has
7 resided in this state continuously for a period of thirty days before
8 applying for a permit under the Game Law and who has a bona fide
9 intention of becoming a legal resident of this state, supported by
10 documentary proof, shall be deemed to be a resident and may be issued
11 a resident permit under the Game Law.

12 (2) No hunting permit shall be issued to any person who
13 is known to have a significant physical or mental disability and who
14 is unable to safely carry or use a firearm because of such disability
15 except as provided in section 2 of this act.

16 (3) The commission may limit the number of days for which
17 a permit is issued and the number of fish or game birds taken on one
18 permit. The commission may provide for a method of tagging and
19 identification of fish and game birds taken under a nonresident
20 permit.

21 Sec. 4. Section 37-413, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 37-413 (1) For the purpose of establishing and
24 administering a mandatory firearm hunter education program for
25 persons twelve through twenty-nine years of age who hunt with a

1 firearm or ~~crossbow-air gun~~ any species of game, game birds, or game
2 animals, the commission shall provide a program of firearm hunter
3 education training leading to obtaining a certificate of successful
4 completion in the safe handling of firearms and shall locate and
5 train volunteer firearm hunter education instructors. ~~The program~~
6 ~~shall provide a training course having a minimum of (a) ten hours of~~
7 ~~classroom instruction or (b) independent study on the part of the~~
8 ~~student sufficient to pass an examination given by the commission~~
9 ~~followed by such student's participation in a minimum of four hours~~
10 ~~of practical instruction.~~ The program shall provide instruction in
11 the areas of safe firearms use, shooting and sighting techniques,
12 hunter ethics, game identification, and conservation management. The
13 commission shall issue a firearm hunter education certificate of
14 successful completion to persons having satisfactorily completed a
15 firearm hunter education course accredited by the commission and
16 shall print, purchase, or otherwise acquire materials as necessary
17 for effective program operation. The commission shall adopt and
18 promulgate rules and regulations for carrying out and administering
19 such programs.

20 (2) It shall be unlawful for any person twenty-nine years
21 of age or younger to hunt with a firearm or ~~crossbow-air gun~~ any
22 species of game, game birds, or game animals except:

23 (a) A person under the age of twelve years who is
24 accompanied ~~by a person nineteen years of age or older having a valid~~
25 ~~hunting permit;~~ as described in subsection (4) of this section;

1 (b) A person twelve through twenty-nine years of age who
2 has on his or her person proof of successful completion of a hunter
3 education course as described in subsection (1) of this section or a
4 ~~firearm~~-hunter education course issued by the person's state or
5 province of residence or by an accredited program recognized by the
6 commission; ~~or~~

7 (c) A person twelve through twenty-nine years of age who
8 has on his or her person the appropriate hunting permit and an
9 apprentice hunter education exemption certificate issued by the
10 commission pursuant to subsection (3) of this section and who is
11 accompanied as described in subsection (4) of this section; or -

12 (d) A person who has a developmental disability, who
13 holds the appropriate hunting permit and a license-purchase exemption
14 certificate issued pursuant to section 2 of this act, and who is
15 accompanied as described in subsection (4) of this section.

16 (3) An apprentice hunter education exemption certificate
17 may be issued to a person twelve through twenty-nine years of age,
18 once during such person's lifetime with one renewal, upon payment of
19 a fee of five dollars and shall expire at midnight on December 31 of
20 the year for which the apprentice hunter education exemption
21 certificate is issued. The commission may adopt and promulgate rules
22 and regulations allowing for the issuance of apprentice hunter
23 education exemption certificates. All fees collected under this
24 subsection shall be remitted to the State Treasurer for credit to the
25 State Game Fund.

1 (4) For purposes of this section, accompanied means under
2 the direct supervision of a person who is: (a) Nineteen years of age
3 or older having a valid hunting permit. If such person is nineteen
4 years of age or older but not older than twenty-nine years of age, he
5 or she shall have also completed the required course of instruction
6 to receive a certificate of completion for ~~firearm~~-hunter education;
7 ~~if hunting with a firearm or crossbow as described in subdivision (2)~~
8 ~~(b) of this section or for bow hunter education if hunting with a bow~~
9 ~~and arrow as described in section 37-414;~~ and (b) at all times in
10 unaided visual and verbal communication of persons who have a
11 developmental disability and who are authorized under section 2 of
12 this act or no more than two persons having an apprentice hunter
13 education exemption certificate. This subsection does not prohibit
14 the use by such person nineteen years of age or older of ordinary
15 prescription eyeglasses or contact lenses or ordinary hearing
16 instruments.

17 Sec. 5. Section 37-414, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 37-414 (1) The commission shall establish and administer
20 a bow hunter education program ~~consisting of a minimum of (a) ten~~
21 ~~hours of classroom instruction or (b) independent study on the part~~
22 ~~of the student sufficient to pass an examination given by the~~
23 ~~commission followed by such student's participation in a minimum of~~
24 ~~four hours of practical instruction. The program shall provide~~
25 providing instruction in the safe use of bow hunting equipment, the

1 fundamentals of bow hunting, shooting and hunting techniques, game
2 identification, conservation management, and hunter ethics. When
3 establishing such a program, the commission shall locate and train
4 volunteers as bow hunter education instructors. The commission shall
5 issue a certificate of successful completion to any person who
6 satisfactorily completes a bow hunter education program ~~established~~
7 accredited by the commission and shall print, purchase, or otherwise
8 acquire materials necessary for effective program operation. The
9 commission shall adopt and promulgate rules and regulations for
10 carrying out and administering such program.

11 (2) A person twelve through twenty-nine years of age who
12 is hunting antelope, deer, elk, or mountain sheep with a bow and
13 arrow or crossbow pursuant to any provision of sections 37-447 to
14 37-453 shall ~~have on his or her person~~ (a) have on his or her person
15 proof of successful completion of a bow hunter education course
16 issued by his or her state or province of residence or by an
17 accredited program recognized by the commission, ~~or~~ (b) have on his
18 or her person the appropriate hunting permit and an apprentice hunter
19 education exemption certificate issued by the commission pursuant to
20 subsection (3) of section 37-413 and be accompanied as described in
21 subsection (4) of section 37-413, or (c) hold the appropriate hunting
22 permit and a license-purchase exemption certificate issued pursuant
23 to section 2 of this act if required pursuant to such section. and an
24 apprentice hunter education exemption certificate issued and enforced
25 by the commission pursuant to section 37-413.

1 Sec. 6. Section 69-2409.01, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 69-2409.01 (1) For purposes of sections 69-2401 to
4 69-2425, the Nebraska State Patrol shall be furnished with only such
5 information as may be necessary for the sole purpose of determining
6 whether an individual is disqualified from purchasing or possessing a
7 handgun pursuant to state law or is subject to the disability
8 provisions of 18 U.S.C. 922(d)(4) and (g)(4). Such information shall
9 be furnished by the Department of Health and Human Services. The
10 clerks of the various courts shall furnish to the Department of
11 Health and Human Services and Nebraska State Patrol, as soon as
12 practicable but within thirty days after an order of commitment or
13 discharge is issued or after removal of firearm-related disabilities
14 pursuant to section 71-963, all information necessary to set up and
15 maintain the data base required by this section. This information
16 shall include (a) information regarding those persons who are
17 currently receiving mental health treatment pursuant to a commitment
18 order of a mental health board or who have been discharged, (b)
19 information regarding those persons who have been committed to
20 treatment pursuant to section 29-3702, and (c) information regarding
21 those persons who have had firearm-related disabilities removed
22 pursuant to section 71-963. The mental health board shall notify the
23 Department of Health and Human Services and the Nebraska State Patrol
24 when such disabilities have been removed. The Department of Health
25 and Human Services shall also maintain in the data base a listing of

1 persons committed to treatment pursuant to section 29-3702. To ensure
2 the accuracy of the data base, any information maintained or
3 disclosed under this subsection shall be updated, corrected,
4 modified, or removed, as appropriate, and as soon as practicable,
5 from any data base that the state or federal government maintains and
6 makes available to the National Instant Criminal Background Check
7 System. The procedures for furnishing the information shall guarantee
8 that no information is released beyond what is necessary for purposes
9 of this section.

10 (2) In order to comply with sections 69-2401 and 69-2403
11 to 69-2408 and this section, the Nebraska State Patrol shall provide
12 to the chief of police or sheriff of an applicant's place of
13 residence or a licensee in the process of a criminal history record
14 check pursuant to section 69-2411 only the information regarding
15 whether or not the applicant is disqualified from purchasing or
16 possessing a handgun.

17 (3) Any person, agency, or mental health board
18 participating in good faith in the reporting or disclosure of records
19 and communications under this section is immune from any liability,
20 civil, criminal, or otherwise, that might result by reason of the
21 action.

22 (4) Any person who intentionally causes the Nebraska
23 State Patrol to request information pursuant to this section without
24 reasonable belief that the named individual has submitted a written
25 application under section 69-2404 or has completed a consent form

1 under section 69-2410 shall be guilty of a Class II misdemeanor in
2 addition to other civil or criminal liability under state or federal
3 law.

4 (5) The Nebraska State Patrol and the Department of
5 Health and Human Services shall report electronically to the Clerk of
6 the Legislature on a biannual basis the following information about
7 the data base: (a) The number of total records of persons unable to
8 purchase or possess firearms because of disqualification or
9 disability shared with the National Instant Criminal Background Check
10 System; (b) the number of shared records by category of such persons;
11 (c) the change in number of total shared records and change in number
12 of records by category from the previous six months; (d) the number
13 of records existing but not able to be shared with the National
14 Instant Criminal Background Check System because the record was
15 incomplete and unable to be accepted by the National Instant Criminal
16 Background Check System; and (e) the number of hours or days, if any,
17 during which the data base was unable to share records with the
18 National Instant Criminal Background Check System and the reason for
19 such inability. The report shall also be published on the web sites
20 of the Nebraska State Patrol and the Department of Health and Human
21 Services.

22 Sec. 7. Original sections 37-404 and 37-414, Reissue
23 Revised Statutes of Nebraska, and sections 37-201, 37-413, and
24 69-2409.01, Revised Statutes Cumulative Supplement, 2012, are
25 repealed.

1 Sec. 8. The following section is outright repealed:
2 Section 28-1211, Reissue Revised Statutes of Nebraska.

3 Sec. 9. Since an emergency exists, this act takes effect
4 when passed and approved according to law.