

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 694

Introduced by Seiler, 33.

Read first time January 08, 2014

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section
2 28-1204.04, Revised Statutes Cumulative Supplement, 2012;
3 to change provisions relating to unlawful possession of a
4 firearm at a school; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1204.04, Revised Statutes
2 Cumulative Supplement, 2012, is amended to read:

3 28-1204.04 (1) Any person who possesses a firearm in a
4 school, on school grounds, in a school-owned vehicle, or at a school-
5 sponsored activity or athletic event is guilty of the offense of
6 unlawful possession of a firearm at a school. Unlawful possession of
7 a firearm at a school is a Class IV felony. This subsection shall not
8 apply to (a) the issuance of firearms to or possession by members of
9 the armed forces of the United States, active or reserve, National
10 Guard of this state, or Reserve Officers Training Corps or peace
11 officers or other duly authorized law enforcement officers when on
12 duty or training, (b) the possession of firearms by peace officers or
13 other duly authorized law enforcement officers when contracted by a
14 school to provide school security or school event control services,
15 (c) firearms which may lawfully be possessed by the person receiving
16 instruction, for instruction under the immediate supervision of an
17 adult instructor, (d) firearms which may lawfully be possessed by a
18 member of a college or university rifle team, within the scope of
19 such person's duties as a member of the team, (e) firearms which may
20 lawfully be possessed by a person employed by a college or university
21 in this state as part of an agriculture or a natural resources
22 program of such college or university, within the scope of such
23 person's employment, (f) firearms contained within a private vehicle
24 operated by a nonstudent adult which are not loaded and (i) are
25 encased or (ii) are in a locked firearm rack that is on a motor

1 vehicle, (g) firearms which may lawfully be possessed by a person for
2 the purpose of using them, with the approval of the school, in an
3 historical reenactment, or ~~(g)~~-(h) a handgun carried as a concealed
4 handgun by a valid holder of a permit issued under the Concealed
5 Handgun Permit Act in a vehicle or on his or her person while riding
6 in or on a vehicle into or onto any parking area, which is open to
7 the public and used by a school if, prior to exiting the vehicle, the
8 handgun is locked inside the glove box, trunk, or other compartment
9 of the vehicle, a storage box securely attached to the vehicle, or,
10 if the vehicle is a motorcycle, a hardened compartment securely
11 attached to the motorcycle while the vehicle is in or on such parking
12 area, except as prohibited by federal law. For purposes of this
13 subsection, encased means enclosed in a case that is expressly made
14 for the purpose of containing a firearm and that is completely
15 zipped, snapped, buckled, tied, or otherwise fastened with no part of
16 the firearm exposed.

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

23 (3) Any firearm confiscated by or given to a peace
24 officer pursuant to subsection (2) of this section shall be declared
25 a common nuisance and shall be held by the peace officer prior to his

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

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

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

11 Sec. 2. Original section 28-1204.04, Revised Statutes
12 Cumulative Supplement, 2012, is repealed.