

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 724

Introduced by Lautenbaugh, 18.

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) actively employed and certified, full or part-time,
9 federal, state, or local law enforcement officers, (b) the issuance
10 of firearms to or possession by members of the armed forces of the
11 United 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, ~~(b)-(c)~~
14 the possession of firearms by peace officers or other duly authorized
15 law enforcement officers when contracted by a school to provide
16 school security or school event control services, ~~(e)-(d)~~ firearms
17 which may lawfully be possessed by the person receiving instruction,
18 for instruction under the immediate supervision of an adult
19 instructor, ~~(d)-(e)~~ firearms which may lawfully be possessed by a
20 member of a college or university rifle team, within the scope of
21 such person's duties as a member of the team, ~~(e)-(f)~~ firearms which
22 may lawfully be possessed by a person employed by a college or
23 university in this state as part of an agriculture or a natural
24 resources program of such college or university, within the scope of
25 such person's employment, ~~(f)-(g)~~ firearms contained within a private

1 vehicle operated by a nonstudent adult which are not loaded and (i)
2 are encased or (ii) are in a locked firearm rack that is on a motor
3 vehicle, or ~~(g)~~(h) a handgun carried as a concealed handgun by a
4 valid holder of a permit issued under the Concealed Handgun Permit
5 Act in a vehicle or on his or her person while riding in or on a
6 vehicle into or onto any parking area, which is open to the public
7 and used by a school if, prior to exiting the vehicle, the handgun is
8 locked inside the glove box, trunk, or other compartment of the
9 vehicle, a storage box securely attached to the vehicle, or, if the
10 vehicle is a motorcycle, a hardened compartment securely attached to
11 the motorcycle while the vehicle is in or on such parking area,
12 except as prohibited by federal law. For purposes of this subsection,
13 encased means enclosed in a case that is expressly made for the
14 purpose of containing a firearm and that is completely zipped,
15 snapped, buckled, tied, or otherwise fastened with no part of the
16 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.