

ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017
COMMITTEE STATEMENT
LB68

Hearing Date: Friday February 10, 2017
Committee On: Government, Military and Veterans Affairs
Introducer: Hilgers
One Liner: Prohibit certain regulation of firearms, ammunition, and firearm accessories by counties, cities, and villages as prescribed

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Brewer, Briese, Craighead, Hilgers, Lowe, Murante
Nay:		
Absent:		
Present Not Voting:	2	Senators Blood, Wayne

Verbal Testimony:

Proponents:

Senator Mike Hilgers
Dr. Chris Kopacki
Patrick McPherson
Terry Wagner
Patricia Harrold
Dick Clark
Charles Cox

Representing:

Introducer
National Rifle Association
Self
Lancaster County/Nebraska Sheriff's Association
Nebraska Firearms Owners Association
Nebraska Firearms Owners Association
Nebraska Gun Owners

Opponents:

Amanda Gailey
Mo Neal

Vincent Litwinowicz
Anne DeVries
Garry Gernandt
Aaron Hanson
Hunter Shellhase
Lynn Rex
Chelsea Lemburg
Kristine Genovese
Danielle Savington
Jean Durgin-Clinchard
Thomas Lange
Courtney Lawton
April Jorgensen
Paula Moon Bohaty
Lois Todd-Meyer
Sara Dodder Furr

Representing:

Nebraskans Against Gun Violence
Nebraskans Against Gun Violence and University of
Nebraska-Lincoln
Self
Moms Demand Action for Gun Sense
Omaha City Council
Omaha Police Officers Association
Self
League of Nebraska Municipalities
Nebraskans Against Gun Violence
Nebraskans Against Gun Violence
Nebraskans for Peace
Self
Self
Self
Self
Self
Self

Nicole Hulstein	Nebraskans Against Gun Violence
Mary Stillwell	Self
JoAnn Emerson	Self
Rebecca Smith	Nebraskans Against Gun Violence
Lydia Presley	Self
Carrie Schaffart	Self
David DeMarco	Self
Carmen Smith	Self
Benjamin Kroeze	Self
Rebecca Jewell	Self
Jay Grabow	Self
Melody Vaccaro	Self

Neutral:

Representing:

Summary of purpose and/or changes:

LB 68 has five functions.

First, it eliminates the authority of political subdivisions to regulate the carrying of concealed weapons.

Second, it expressly denies political subdivisions the authority to regulate the transportation, carrying, registration, transfer, or storage of firearms, ammunition, or firearm accessories except in instances expressly not prohibited by the bill.

Third, it makes clear that it does not prohibit:

- Law enforcement agencies from enacting and enforcing regulations pertaining to firearms, ammunition, or firearm accessories issued to or used by a peace officer in the course of his or her official duties.
- Zoning ordinances that encompass or may encompass firearms businesses, so long as the ordinances are not designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms, ammunition, or firearm accessories as a method of regulating those items.
- Cities and villages from regulating or prohibiting their employees from carrying firearms or ammunition during and in the course of the employee's official duties, except as provided in section 69-2441.
- Courts or hearing officers from hearing and resolving any case or controversy or issuing any opinion or order on a matter within the jurisdiction of that court or agency.

Fourth, it creates a cause of action for a person adversely affected by an action taken by a city or village that violates the prohibition against political subdivision regulation of firearms. The bill defines being a person adversely affected as being:

- An individual who may legally possess a firearm under the law of Nebraska and is or was subject to the action of the city or village. The bill defines being subject to the action as being or having been physically present within the boundaries of the city or village for any reason at any time after the adoption of such action.
- A membership organization that includes two or more individuals described in the first category and is dedicated in whole or in part to protecting the rights of persons to possess, own, or use firearms for competitive, sporting, defensive or other lawful purposes.

The bill provides for declaratory and injunctive relief, and actual and consequential damages attributed to the violation. A prevailing plaintiff is entitled to recover:

- Actual damages, including consequential damages
- Court costs
- Reasonable attorney's fees

Fifth, the bill contains a definitions section that defines:

- Ammunition as ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm
 - Firearm as any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or frame or receiver of any such weapon
 - Firearm accessory as any item intended for use with a firearm
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Explanation of amendments:

The amendment does not alter the original sections of the bill, but adds the following provisions.

Section 9 - Handgun Possession:

- Establishes a prohibition on possession of handguns in public places in a city of the metropolitan class by anyone, including those over the age of 21.
- Creates narrow exceptions to the prohibition, which include safe transport in a vehicle, carrying by CCW permit holders and military members, and possession for instructional purposes.

Section 11 - Transportation of Handguns and Long Guns Outside a Vehicle:

- Codifies Omaha Municipal Code Sec. 20-195, which eliminates open carry of handguns and long guns within cities of metropolitan class.
- Requires firearms (and look-alike products) being transported in the open be unloaded and contained in any enclosed case, or unloaded and broken down.
- Creates the following exceptions to the ban.
 - Transportation of a firearm in compliance with section 12.
 - Transportation of a handgun by a CCW permit holder.
 - Transportation of a handgun by a member of the armed forces.
 - If an individual is a peace officer.
 - Unloaded rifles for parades and ceremonies
 - Bona fide shows and exhibits
 - Any other lawful activity that does not endanger public safety and has received the proper prior legal approval.

Section 12 - Transportation of Handguns and Long Guns in a Vehicle:

- Requires all firearms being transported in a vehicle in a city of the metropolitan class be unloaded and locked up, either in the trunk or, if there is no trunk, in a container other than the glove compartment or console.
- This language is consistent with federal safe transport language.
- Exceptions are only provided for handgun transport by CCW permit holders and military members.

Section 14 - Knowledge Requirement for Stolen Firearms and Prima Facie Evidence for Stolen Handguns:

- Changes knowledge requirement from "knowing that it has been or believing" to "and who knows or should know."
- Establishes that a person's failure to obtain a handgun purchase certificate is prima facie evidence they knew or should have known that the handgun was stolen.
- Exception provided when a handgun purchase certificate was not required, which includes CCW permit holders, antique guns, and transfer from family members.

Section 15-20 - Clarifying that Transfer Includes "Acquiring":

- Clarifies that a handgun purchase certificate is required when "acquiring" a handgun, to make sure "finding" a handgun is included.

Section 17 - Affirmative Defense for Failure to Obtain a Certificate:

- Establishes presenting a handgun purchase certificate that was valid at the time of a transaction as an affirmative defense to prosecution for failure to obtain a handgun purchase certificate before purchasing, leasing, renting, acquiring, or receiving transfer of a handgun.

John Murante, Chairperson