

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 502

Introduced by Brewer, 43.

Read first time January 18, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to firearms; to amend sections 15-255, 17-556,
2 18-1703, 28-1202, 28-1204.04, and 69-2428, Reissue Revised Statutes
3 of Nebraska, and sections 14-102, 16-227, 69-2402, 71-904.01, and
4 71-963, Revised Statutes Cumulative Supplement, 2016; to adopt the
5 Permitless Concealed Carry Act; to prohibit the regulation of
6 concealed handguns by cities and villages as prescribed; to change
7 provisions relating to unlawful carrying of a concealed weapon; to
8 change provisions relating to unlawful possession of a firearm at a
9 school; to change provisions relating to petitions for removal of a
10 person's firearm-related disabilities; to provide penalties; to
11 harmonize provisions; and to repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the Permitless Concealed Carry Act.

3 Sec. 2. For purposes of the Permitless Concealed Carry Act:

4 (1) Concealed handgun means the handgun is totally hidden from view.
5 If any part of the handgun is capable of being seen, it is not a
6 concealed handgun;

7 (2) Handgun means any firearm with a barrel less than sixteen inches
8 in length or any firearm designed to be held and fired by the use of a
9 single hand; and

10 (3) School means a public, private, denominational, or parochial
11 elementary, vocational, or secondary school, a private postsecondary
12 career school as defined in section 85-1603, a community college, a
13 public or private college, a junior college, or a university.

14 Sec. 3. (1) The Permitless Concealed Carry Act does not modify the
15 rights or responsibilities of permitholders under the Concealed Handgun
16 Permit Act.

17 (2) Although an individual may be eligible to carry a concealed
18 handgun without a permit under section 4 of this act, if that individual
19 chooses to obtain a permit under the Concealed Handgun Permit Act, he or
20 she shall be subject to all provisions of the Concealed Handgun Permit
21 Act until such individual returns his or her permit to the Nebraska State
22 Patrol for revocation. Such provisions include, but are not limited to:

23 (a) The duty, pursuant to section 69-2435, to return a permit if the
24 person no longer meets the requirements for issuance of a permit under
25 section 69-2433;

26 (b) The duties and restrictions governing the carrying of a
27 concealed handgun by a permitholder set forth in sections 69-2440 to
28 69-2442; and

29 (c) The penalties set forth in section 69-2443.

30 (3) A permitholder may, at any time, return his or her permit to the
31 Nebraska State Patrol for revocation.

1 Sec. 4. (1) Subject to the provisions of sections 69-2401 to
2 69-2425 regarding the purchase, lease, rental, receipt, or transfer of a
3 handgun, any person who satisfies the requirements of subsection (2) of
4 this section may carry a concealed handgun.

5 (2) To be eligible to carry a concealed handgun under this section,
6 a person shall:

7 (a) Be at least twenty-one years of age;

8 (b) Be a citizen or legal resident of the United States;

9 (c) Not be prohibited from possessing a handgun under section
10 28-1206; and

11 (d) Not be prohibited from purchasing or possessing a handgun under
12 18 U.S.C. 922.

13 (3) A person authorized to carry a concealed handgun under this
14 section may carry a concealed handgun anywhere in Nebraska except as
15 prohibited by section 5 of this act.

16 Sec. 5. (1) A person authorized to carry a concealed handgun under
17 section 4 of this act shall not carry a concealed handgun into or onto
18 the building, grounds, vehicle, or sponsored activity or athletic event
19 of any school. This subsection shall not apply to a handgun contained
20 within a private vehicle operated by a nonstudent adult which is not
21 loaded and is either (a) in a locked container or (b) in a locked firearm
22 rack that is on a motor vehicle.

23 (2) A person authorized to carry a concealed handgun under section 4
24 of this act shall not carry a concealed handgun into or onto any police,
25 sheriff, or Nebraska State Patrol station or office; detention facility,
26 prison, or jail; courtroom or building which contains a courtroom;
27 polling place during a bona fide election; meeting of the governing body
28 of a county, public school district, municipality, or other political
29 subdivision; meeting of the Legislature or a committee of the
30 Legislature; financial institution; professional or semiprofessional
31 athletic event; place of worship; hospital, emergency room, or trauma

1 center; political rally or fundraiser; establishment having a license
2 issued under the Nebraska Liquor Control Act that derives over one-half
3 of its total income from the sale of alcoholic liquor; place where the
4 possession or carrying of a firearm is prohibited by state or federal
5 law; place or premises where the person, persons, entity, or entities in
6 control of the property or employer in control of the property has
7 prohibited the carrying of concealed handguns into or onto the place or
8 premises; or other place or premises where handguns are prohibited by
9 state law.

10 (3) If a person, persons, entity, or entities in control of the
11 property or an employer in control of the property prohibits the carrying
12 of a concealed handgun into or onto the place or premises and such place
13 or premises are open to the public, a person does not violate this
14 section unless the person, persons, entity, or entities in control of the
15 property or employer in control of the property has posted conspicuous
16 notice that carrying a concealed handgun is prohibited in or on the place
17 or premises or has made a request, directly or through an authorized
18 representative or management personnel, that the person remove the
19 concealed handgun from the place or premises.

20 (4) A person carrying a concealed handgun in a vehicle or on his or
21 her person while riding in or on a vehicle into or onto any parking area,
22 which is open to the public, used by any location listed in subsection
23 (2) of this section, does not violate this section if, prior to exiting
24 the vehicle, the handgun is locked inside the glove box, trunk, or other
25 compartment of the vehicle, a storage box securely attached to the
26 vehicle, or, if the vehicle is a motorcycle, a hardened compartment
27 securely attached to the motorcycle. This subsection does not apply to
28 any parking area used by such location when the carrying of a concealed
29 handgun into or onto such parking area is prohibited by federal law.

30 (5) An employer may prohibit employees or other persons from
31 carrying concealed handguns in vehicles owned by the employer.

1 (6) A person who violates this section is guilty of a Class II
2 misdemeanor for the first violation and a Class I misdemeanor for any
3 second or subsequent violation.

4 Sec. 6. Section 14-102, Revised Statutes Cumulative Supplement,
5 2016, is amended to read:

6 14-102 In addition to the powers granted in section 14-101, cities
7 of the metropolitan class shall have power by ordinance:

8 Taxes, special assessments.

9 (1) To levy any tax or special assessment authorized by law;
10 Corporate seal.

11 (2) To provide a corporate seal for the use of the city, and also
12 any official seal for the use of any officer, board, or agent of the
13 city, whose duties require an official seal to be used. Such corporate
14 seal shall be used in the execution of municipal bonds, warrants,
15 conveyances, and other instruments and proceedings as required by law;

16 Regulation of public health.

17 (3) To provide all needful rules and regulations for the protection
18 and preservation of health within the city; and for this purpose they may
19 provide for the enforcement of the use of water from public water
20 supplies when the use of water from other sources shall be deemed unsafe;

21 Appropriations for debts and expenses.

22 (4) To appropriate money and provide for the payment of debts and
23 expenses of the city;

24 Protection of strangers and travelers.

25 (5) To adopt all such measures as they may deem necessary for the
26 accommodation and protection of strangers and the traveling public in
27 person and property;

28 Concealed weapons, firearms, fireworks, explosives.

29 (6) To punish and prevent the carrying of concealed weapons, except
30 the carrying of a concealed handgun in compliance with the Concealed
31 Handgun Permit Act or the Permitless Concealed Carry Act, and the

1 discharge of firearms, fireworks, or explosives of any description within
2 the city, other than the discharge of firearms at a shooting range
3 pursuant to the Nebraska Shooting Range Protection Act;

4 Sale of foodstuffs.

5 (7) To regulate the inspection and sale of meats, flour, poultry,
6 fish, milk, vegetables, and all other provisions or articles of food
7 exposed or offered for sale in the city;

8 Official bonds.

9 (8) To require all officers or servants elected or appointed to give
10 bond and security for the faithful performance of their duties; but no
11 officer shall become security upon the official bond of another or upon
12 any bond executed to the city;

13 Official reports of city officers.

14 (9) To require from any officer of the city at any time a report, in
15 detail, of the transactions of his or her office or any matter connected
16 therewith;

17 Cruelty to children and animals.

18 (10) To provide for the prevention of cruelty to children and
19 animals;

20 Dogs; taxes and restrictions.

21 (11) To regulate, license, or prohibit the running at large of dogs
22 and other animals within the city as well as in areas within three miles
23 of the corporate limits of the city, to guard against injuries or
24 annoyance from such dogs and other animals, and to authorize the
25 destruction of the dogs and other animals when running at large contrary
26 to the provisions of any ordinance. Any licensing provision shall comply
27 with subsection (2) of section 54-603 for service animals;

28 Cleaning sidewalks.

29 (12) To provide for keeping sidewalks clean and free from
30 obstructions and accumulations, to provide for the assessment and
31 collection of taxes on real estate and for the sale and conveyance

1 thereof, and to pay the expenses of keeping the sidewalk adjacent to such
2 real estate clean and free from obstructions and accumulations as herein
3 provided;

4 Planting and trimming of trees; protection of birds.

5 (13) To provide for the planting and protection of shade or
6 ornamental and useful trees upon the streets or boulevards, to assess the
7 cost thereof to the extent of benefits upon the abutting property as a
8 special assessment, and to provide for the protection of birds and
9 animals and their nests; to provide for the trimming of trees located
10 upon the streets and boulevards or when the branches of trees overhang
11 the streets and boulevards when in the judgment of the mayor and council
12 such trimming is made necessary to properly light such street or
13 boulevard or to furnish proper police protection and to assess the cost
14 thereof upon the abutting property as a special assessment;

15 Naming and numbering streets and houses.

16 (14) To provide for, regulate, and require the numbering or
17 renumbering of houses along public streets or avenues; to care for and
18 control and to name and rename streets, avenues, parks, and squares
19 within the city;

20 Weeds.

21 (15) To require weeds and worthless vegetation growing upon any lot
22 or piece of ground within the city or its three-mile zoning jurisdiction
23 to be cut and destroyed so as to abate any nuisance occasioned thereby,
24 to prohibit and control the throwing, depositing, or accumulation of
25 litter on any lot or piece of ground within the city or its three-mile
26 zoning jurisdiction and to require the removal thereof so as to abate any
27 nuisance occasioned thereby, and if the owner fails to cut and destroy
28 weeds and worthless vegetation or remove litter, or both, after notice as
29 required by ordinance, to assess the cost thereof upon the lots or lands
30 as a special assessment. The notice required to be given may be by
31 publication in the official newspaper of the city and may be directed in

1 general terms to the owners of lots and lands affected without naming
2 such owners;

3 Animals running at large.

4 (16) To prohibit and regulate the running at large or the herding or
5 driving of domestic animals, such as hogs, cattle, horses, sheep, goats,
6 fowls, or animals of any kind or description within the corporate limits
7 and provide for the impounding of all animals running at large, herded,
8 or driven contrary to such prohibition; and to provide for the forfeiture
9 and sale of animals impounded to pay the expense of taking up, caring
10 for, and selling such impounded animals, including the cost of
11 advertising and fees of officers;

12 Use of streets.

13 (17) To regulate the transportation of articles through the streets,
14 to prevent injuries to the streets from overloaded vehicles, and to
15 regulate the width of wagon tires and tires of other vehicles;

16 Playing on streets and sidewalks.

17 (18) To prevent or regulate the rolling of hoops, playing of ball,
18 flying of kites, the riding of bicycles or tricycles, or any other
19 amusement or practice having a tendency to annoy persons passing in the
20 streets or on the sidewalks or to frighten teams or horses; to regulate
21 the use of vehicles propelled by steam, gas, electricity, or other motive
22 power, operated on the streets of the city;

23 Combustibles and explosives.

24 (19) To regulate or prohibit the transportation and keeping of
25 gunpowder, oils, and other combustible and explosive articles;

26 Public sale of chattels on streets.

27 (20) To regulate, license, or prohibit the sale of domestic animals
28 or of goods, wares, and merchandise at public auction on the streets,
29 alleys, highways, or any public ground within the city;

30 Signs and obstruction in streets.

31 (21) To regulate and prevent the use of streets, sidewalks, and

1 public grounds for signs, posts, awnings, awning posts, scales, or other
2 like purposes; to regulate and prohibit the exhibition or carrying or
3 conveying of banners, placards, advertisements, or the distribution or
4 posting of advertisements or handbills in the streets or public grounds
5 or upon the sidewalks;

6 Disorderly conduct.

7 (22) To provide for the punishment of persons disturbing the peace
8 and good order of the city by clamor and noise, intoxication,
9 drunkenness, fighting, or using obscene or profane language in the
10 streets or other public places or otherwise violating the public peace by
11 indecent or disorderly conduct or by lewd and lascivious behavior;

12 Vagrants and tramps.

13 (23) To provide for the punishment of vagrants, tramps, common
14 street beggars, common prostitutes, habitual disturbers of the peace,
15 pickpockets, gamblers, burglars, thieves, or persons who practice any
16 game, trick, or device with intent to swindle, persons who abuse their
17 families, and suspicious persons who can give no reasonable account of
18 themselves; and to punish trespassers upon private property;

19 Disorderly houses, gambling, offenses against public morals.

20 (24) To prohibit, restrain, and suppress tippling shops, houses of
21 prostitution, opium joints, gambling houses, prize fighting, dog
22 fighting, cock fighting, and other disorderly houses and practices, all
23 games and gambling and desecration of the Sabbath, commonly called
24 Sunday, and all kinds of indecencies; to regulate and license or prohibit
25 the keeping and use of billiard tables, ten pins or ball alleys, shooting
26 galleries except as provided in the Nebraska Shooting Range Protection
27 Act, and other similar places of amusement; and to prohibit and suppress
28 all lotteries and gift enterprises of all kinds under whatsoever name
29 carried on, except that nothing in this subdivision shall be construed to
30 apply to bingo, lotteries, lotteries by the sale of pickle cards, or
31 raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska

1 Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the
2 Nebraska Small Lottery and Raffle Act, or the State Lottery Act;
3 Police regulation in general.

4 (25) To make and enforce all police regulations for the good
5 government, general welfare, health, safety, and security of the city and
6 the citizens thereof in addition to the police powers expressly granted
7 herein; and in the exercise of the police power, to pass all needful and
8 proper ordinances and impose fines, forfeitures, penalties, and
9 imprisonment at hard labor for the violation of any ordinance, and to
10 provide for the recovery, collection, and enforcement thereof; and in
11 default of payment to provide for confinement in the city or county
12 prison, workhouse, or other place of confinement with or without hard
13 labor as may be provided by ordinance;

14 Fast driving on streets.

15 (26) To prevent horseracing and immoderate driving or riding on the
16 street and to compel persons to fasten their horses or other animals
17 attached to vehicles while standing in the streets;

18 Libraries, art galleries, and museums.

19 (27) To establish and maintain public libraries, reading rooms, art
20 galleries, and museums and to provide the necessary grounds or buildings
21 therefor; to purchase books, papers, maps, manuscripts, works of art, and
22 objects of natural or of scientific curiosity, and instruction therefor;
23 to receive donations and bequests of money or property for the same in
24 trust or otherwise and to pass necessary bylaws and regulations for the
25 protection and government of the same;

26 Hospitals, workhouses, jails, firehouses, etc.; garbage disposal.

27 (28) To erect, designate, establish, maintain, and regulate
28 hospitals or workhouses, houses of correction, jails, station houses,
29 fire engine houses, asphalt repair plants, and other necessary buildings;
30 and to erect, designate, establish, maintain, and regulate plants for the
31 removal, disposal, or recycling of garbage and refuse or to make

1 contracts for garbage and refuse removal, disposal, or recycling, or all
2 of the same, and to charge equitable fees for such removal, disposal, or
3 recycling, or all of the same, except as hereinafter provided. The fees
4 collected pursuant to this subdivision shall be credited to a single fund
5 to be used exclusively by the city for the removal, disposal, or
6 recycling of garbage and refuse, or all of the same, including any costs
7 incurred for collecting the fee. Before any contract for such removal,
8 disposal, or recycling is let, the city council shall make specifications
9 therefor, bids shall be advertised for as now provided by law, and the
10 contract shall be let to the lowest and best bidder, who shall furnish
11 bond to the city conditioned upon his or her carrying out the terms of
12 the contract, the bond to be approved by the city council. Nothing in
13 this section, and no contract or regulation made by the city council,
14 shall be so construed as to prohibit any person, firm, or corporation
15 engaged in any business in which garbage or refuse accumulates as a
16 byproduct from selling, recycling, or otherwise disposing of his, her, or
17 its garbage or refuse or hauling such garbage or refuse through the
18 streets and alleys under such uniform and reasonable regulations as the
19 city council may by ordinance prescribe for the removal and hauling of
20 garbage or refuse;

21 Market places.

22 (29) To erect and establish market houses and market places and to
23 provide for the erection of all other useful and necessary buildings for
24 the use of the city and for the protection and safety of all property
25 owned by the city; and such market houses and market places and buildings
26 aforesaid may be located on any street, alley, or public ground or on
27 land purchased for such purpose;

28 Cemeteries, registers of births and deaths.

29 (30) To prohibit the establishment of additional cemeteries within
30 the limits of the city, to regulate the registration of births and
31 deaths, to direct the keeping and returning of bills of mortality, and to

1 impose penalties on physicians, sextons, and others for any default in
2 the premises;

3 Plumbing, etc., inspection.

4 (31) To provide for the inspection of steam boilers, electric light
5 appliances, pipefittings, and plumbings, to regulate their erection and
6 construction, to appoint inspectors, and to declare their powers and
7 duties, except as herein otherwise provided;

8 Fire limits and fire protection.

9 (32) To prescribe fire limits and regulate the erection of all
10 buildings and other structures within the corporate limits; to provide
11 for the removal of any buildings or structures or additions thereto
12 erected contrary to such regulations, to provide for the removal of
13 dangerous buildings, and to provide that wooden buildings shall not be
14 erected or placed or repaired in the fire limits; but such ordinance
15 shall not be suspended or modified by resolution nor shall exceptions be
16 made by ordinance or resolution in favor of any person, firm, or
17 corporation or concerning any particular lot or building; to direct that
18 all and any building within such fire limits, when the same shall have
19 been damaged by fire, decay, or otherwise, to the extent of fifty percent
20 of the value of a similar new building above the foundation, shall be
21 torn down or removed; and to prescribe the manner of ascertaining such
22 damages and to assess the cost of removal of any building erected or
23 existing contrary to such regulations or provisions, against the lot or
24 real estate upon which such building or structure is located or shall be
25 erected, or to collect such costs from the owner of any such building or
26 structure and enforce such collection by civil action in any court of
27 competent jurisdiction;

28 Building regulations.

29 (33) To regulate the construction, use, and maintenance of party
30 walls, to prescribe and regulate the thickness, strength, and manner of
31 constructing stone, brick, wood, or other buildings and the size and

1 shape of brick and other material placed therein, to prescribe and
2 regulate the construction and arrangement of fire escapes and the placing
3 of iron and metallic shutters and doors therein and thereon, and to
4 provide for the inspection of elevators and hoist-way openings to avoid
5 accidents; to prescribe, regulate, and provide for the inspection of all
6 plumbing, pipefitting, or sewer connections in all houses or buildings
7 now or hereafter erected; to regulate the size, number, and manner of
8 construction of halls, doors, stairways, seats, aisles, and passageways
9 of theaters, tenement houses, audience rooms, and all buildings of a
10 public character, whether now built or hereafter to be built, so that
11 there may be convenient, safe, and speedy exit in case of fire; to
12 prevent the dangerous construction and condition of chimneys, fireplaces,
13 hearths, stoves, stovepipes, ovens, boilers, and heating appliances used
14 in or about any building or a manufactory and to cause the same to be
15 removed or placed in safe condition when they are considered dangerous;
16 to regulate and prevent the carrying on of manufactures dangerous in
17 causing and promoting fires; to prevent the deposit of ashes in unsafe
18 places and to cause such buildings and enclosures as may be in a
19 dangerous state to be put in a safe condition; to prevent the disposing
20 of and delivery or use in any building or other structure, of soft,
21 shelly, or imperfectly burned brick or other unsuitable building material
22 within the city limits and provide for the inspection of the same; to
23 provide for the abatement of dense volumes of smoke; to regulate the
24 construction of areaways, stairways, and vaults and to regulate partition
25 fences; to enforce proper heating and ventilation of buildings used for
26 schools, workhouses, or shops of every class in which labor is employed
27 or large numbers of persons are liable to congregate;

28 Warehouses and street railways.

29 (34) To regulate levees, depots and depot grounds, and places for
30 storing freight and goods and to provide for and regulate the laying of
31 tracks and the passage of steam or other railways through the streets,

1 alleys, and public grounds of the city;

2 Lighting railroad property.

3 (35) To require the lighting of any railway within the city, the
4 cars of which are propelled by steam, and to fix and determine the
5 number, size, and style of lampposts, burners, lamps, and all other
6 fixtures and apparatus necessary for such lighting and the points of
7 location for such lampposts; and in case any company owning or operating
8 such railways shall fail to comply with such requirements, the council
9 may cause the same to be done and may assess the expense thereof against
10 such company, and the same shall constitute a lien upon any real estate
11 belonging to such company and lying within such city and may be collected
12 in the same manner as taxes for general purposes;

13 City publicity.

14 (36) To provide for necessary publicity and to appropriate money for
15 the purpose of advertising the resources and advantages of the city;

16 Offstreet parking.

17 (37) To erect, establish, and maintain offstreet parking areas on
18 publicly owned property located beneath any elevated segment of the
19 National System of Interstate and Defense Highways or portion thereof, or
20 public property title to which is in the city on May 12, 1971, or
21 property owned by the city and used in conjunction with and incidental to
22 city-operated facilities, and to regulate parking thereon by time
23 limitation devises or by lease;

24 Public passenger transportation systems.

25 (38) To acquire, by the exercise of the power of eminent domain or
26 otherwise, lease, purchase, construct, own, maintain, operate, or
27 contract for the operation of public passenger transportation systems,
28 excluding taxicabs and railroad systems, including all property and
29 facilities required therefor, within and without the limits of the city,
30 to redeem such property from prior encumbrance in order to protect or
31 preserve the interest of the city therein, to exercise all powers granted

1 by the Constitution of Nebraska and laws of the State of Nebraska or
2 exercised by or pursuant to a home rule charter adopted pursuant thereto,
3 including, but not limited to, receiving and accepting from the
4 government of the United States or any agency thereof, from the State of
5 Nebraska or any subdivision thereof, and from any person or corporation
6 donations, devises, gifts, bequests, loans, or grants for or in aid of
7 the acquisition, operation, and maintenance of such public passenger
8 transportation systems and to administer, hold, use, and apply the same
9 for the purposes for which such donations, devises, gifts, bequests,
10 loans, or grants may have been made, to negotiate with employees and
11 enter into contracts of employment, to employ by contract or otherwise
12 individuals singularly or collectively, to enter into agreements
13 authorized under the Interlocal Cooperation Act or the Joint Public
14 Agency Act, to contract with an operating and management company for the
15 purpose of operating, servicing, and maintaining any public passenger
16 transportation systems any city of the metropolitan class shall acquire,
17 and to exercise such other and further powers as may be necessary,
18 incident, or appropriate to the powers of such city; and

19 Regulation of air quality.

20 (39) In addition to powers conferred elsewhere in the laws of the
21 state and notwithstanding any other law of the state, to implement and
22 enforce an air pollution control program within the corporate limits of
23 the city under subdivision (23) of section 81-1504 or subsection (1) of
24 section 81-1528, which program shall be consistent with the federal Clean
25 Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall include
26 without limitation those involving injunctive relief, civil penalties,
27 criminal fines, and burden of proof. Nothing in this section shall
28 preclude the control of air pollution by resolution, ordinance, or
29 regulation not in actual conflict with the state air pollution control
30 regulations.

31 Sec. 7. Section 15-255, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 15-255 A city of the primary class may prohibit riots, routs, noise,
3 or disorderly assemblies; prevent use of firearms, rockets, powder,
4 fireworks, or other dangerous and combustible material; prohibit carrying
5 of concealed weapons, except the carrying of a concealed handgun in
6 compliance with the Concealed Handgun Permit Act or the Permitless
7 Concealed Carry Act; arrest, punish, fine, or set at work on streets or
8 elsewhere vagrants and persons found without visible means of support or
9 legitimate business; regulate and prevent the transportation of gunpowder
10 or combustible articles, tar, pitch, resin, coal oil, benzine,
11 turpentine, hemp, cotton, nitroglycerine, dynamite, petroleum or its
12 products, or other explosives or inflammables; regulate the use of lights
13 in stables, shops, or other places and the building of bonfires; and
14 regulate and prohibit the piling of building material or any excavation
15 or obstruction of the streets.

16 Sec. 8. Section 16-227, Revised Statutes Cumulative Supplement,
17 2016, is amended to read:

18 16-227 A city of the first class may (1) prevent and restrain riots,
19 routs, noises, disturbances, breaches ~~breach~~ of the peace, or disorderly
20 assemblies in any street, house, or place in the city, (2) regulate,
21 punish, and prevent the discharge of firearms, rockets, powder,
22 fireworks, or any other dangerous combustible material in the streets,
23 lots, grounds, and alleys or about or in the vicinity of any buildings,
24 (3) regulate, prevent, and punish the carrying of concealed weapons,
25 except the carrying of a concealed handgun in compliance with the
26 Concealed Handgun Permit Act or the Permitless Concealed Carry Act, (4)
27 arrest, regulate, punish, or fine vagabonds, (5) regulate and prevent the
28 transportation or storage of gunpowder or other explosive or combustible
29 articles, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton,
30 nitroglycerine, dynamite, petroleum or any other productions thereof, and
31 other materials of like nature, the use of lights in stables, shops, or

1 other places, and the building of bonfires, and (6) regulate and prohibit
2 the piling of building material or any excavation or obstruction in the
3 street.

4 Sec. 9. Section 17-556, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 17-556 Cities of the second class and villages shall have power to
7 prevent and restrain riots, routs, noises, disturbances, or disorderly
8 assemblages; to regulate, prevent, restrain, or remove nuisances in
9 residential parts of municipalities and to designate what shall be
10 considered a nuisance; to regulate, punish, and prevent the discharge of
11 firearms, rockets, powder, fireworks, or any other dangerous combustible
12 material in the streets, lots, grounds, alleys, or about or in the
13 vicinity of any buildings; to regulate, prevent, and punish the carrying
14 of concealed weapons, except the carrying of a concealed handgun in
15 compliance with the Concealed Handgun Permit Act or the Permitless
16 Concealed Carry Act; and to arrest, regulate, punish, fine, or set at
17 work on the streets or elsewhere all vagrants and persons found without
18 means of support or some legitimate business.

19 Sec. 10. Section 18-1703, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 18-1703 Cities and villages shall not have the power to regulate the
22 ownership, possession, or transportation of a concealed handgun, as such
23 ownership, possession, or transportation is authorized under the
24 Concealed Handgun Permit Act or the Permitless Concealed Carry Act,
25 except as expressly provided by state law, and shall not have the power
26 to require registration of a concealed handgun owned, possessed, or
27 transported pursuant to such acts ~~by a permit holder under the act~~. Any
28 existing city or village ordinance, permit, or regulation regulating the
29 ownership, possession, or transportation of a concealed handgun, as such
30 ownership, possession, or transportation is authorized under such acts
31 ~~the act~~, except as expressly provided under state law, and any existing

1 city or village ordinance, permit, or regulation requiring the
2 registration of a concealed handgun owned, possessed, or transported
3 ~~pursuant to such acts by a permit holder under the act~~, is declared to be
4 null and void as against any ~~person authorized to own, possess, or~~
5 ~~transport a concealed handgun pursuant to such acts~~ ~~permit holder~~
6 ~~possessing a valid permit under the act.~~

7 Sec. 11. Section 28-1202, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 28-1202 (1)(a) Except as otherwise provided in this section, any
10 person who carries a weapon or weapons concealed on or about his or her
11 person, such as a handgun, a knife, brass or iron knuckles, or any other
12 deadly weapon, commits the offense of carrying a concealed weapon.

13 (b) It is an affirmative defense that the defendant was engaged in
14 any lawful business, calling, or employment at the time he or she was
15 carrying any weapon or weapons and the circumstances in which such person
16 was placed at the time were such as to justify a prudent person in
17 carrying the weapon or weapons for the defense of his or her person,
18 property, or family.

19 (2) This section does not apply to ~~the carrying of a concealed~~
20 ~~handgun pursuant to a person who is the holder of a valid permit issued~~
21 ~~under the Concealed Handgun Permit Act or the Permitless Concealed Carry~~
22 ~~Act if the concealed weapon the defendant is carrying is a handgun.~~

23 (3) Carrying a concealed weapon is a Class I misdemeanor.

24 (4) In the case of a second or subsequent conviction under this
25 section, carrying a concealed weapon is a Class IV felony.

26 Sec. 12. Section 28-1204.04, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 28-1204.04 (1) Any person who possesses a firearm in a school, on
29 school grounds, in a school-owned vehicle, or at a school-sponsored
30 activity or athletic event is guilty of the offense of unlawful
31 possession of a firearm at a school. Unlawful possession of a firearm at

1 a school is a Class IV felony. This subsection shall not apply to (a) the
2 issuance of firearms to or possession by members of the armed forces of
3 the United States, active or reserve, National Guard of this state, or
4 Reserve Officers Training Corps or peace officers or other duly
5 authorized law enforcement officers when on duty or training, (b) the
6 possession of firearms by peace officers or other duly authorized law
7 enforcement officers when contracted by a school to provide school
8 security or school event control services, (c) firearms which may
9 lawfully be possessed by the person receiving instruction, for
10 instruction under the immediate supervision of an adult instructor, (d)
11 firearms which may lawfully be possessed by a member of a college or
12 university rifle team, within the scope of such person's duties as a
13 member of the team, (e) firearms which may lawfully be possessed by a
14 person employed by a college or university in this state as part of an
15 agriculture or a natural resources program of such college or university,
16 within the scope of such person's employment, (f) firearms contained
17 within a private vehicle operated by a nonstudent adult which are not
18 loaded and are either (i) in a locked container ~~are encased~~ or (ii) are
19 in a locked firearm rack that is on a motor vehicle, (g) firearms which
20 may lawfully be possessed by a person for the purpose of using them, with
21 the approval of the school, in a historical reenactment, in a hunter
22 education program, or as part of an honor guard, or (h) a handgun carried
23 as a concealed handgun by a valid holder of a permit issued under the
24 Concealed Handgun Permit Act in a vehicle or on his or her person while
25 riding in or on a vehicle into or onto any parking area, which is open to
26 the public and used by a school if, prior to exiting the vehicle, the
27 handgun is locked inside the glove box, trunk, or other compartment of
28 the vehicle, a storage box securely attached to the vehicle, or, if the
29 vehicle is a motorcycle, a hardened compartment securely attached to the
30 motorcycle while the vehicle is in or on such parking area, except as
31 prohibited by federal law. ~~For purposes of this subsection, encased means~~

1 ~~enclosed in a case that is expressly made for the purpose of containing a~~
2 ~~firearm and that is completely zipped, snapped, buckled, tied, or~~
3 ~~otherwise fastened with no part of the firearm exposed.~~

4 (2) Any firearm possessed in violation of subsection (1) of this
5 section shall be confiscated without warrant by a peace officer or may be
6 confiscated without warrant by school administrative or teaching
7 personnel. Any firearm confiscated by school administrative or teaching
8 personnel shall be delivered to a peace officer as soon as practicable.

9 (3) Any firearm confiscated by or given to a peace officer pursuant
10 to subsection (2) of this section shall be declared a common nuisance and
11 shall be held by the peace officer prior to his or her delivery of the
12 firearm to the property division of the law enforcement agency which
13 employs the peace officer. The property division of such law enforcement
14 agency shall hold such firearm for as long as the firearm is needed as
15 evidence. After the firearm is no longer needed as evidence, it shall be
16 destroyed in such manner as the court may direct.

17 (4) Whenever a firearm is confiscated and held pursuant to this
18 section or section 28-1204.02, the peace officer who received such
19 firearm shall cause to be filed within ten days after the confiscation a
20 petition for destruction of such firearm. The petition shall be filed in
21 the district court of the county in which the confiscation is made. The
22 petition shall describe the firearm held, state the name of the owner, if
23 known, allege the essential elements of the violation which caused the
24 confiscation, and conclude with a prayer for disposition and destruction
25 in such manner as the court may direct. At any time after the
26 confiscation of the firearm and prior to court disposition, the owner of
27 the firearm seized may petition the district court of the county in which
28 the confiscation was made for possession of the firearm. The court shall
29 release the firearm to such owner only if the claim of ownership can
30 reasonably be shown to be true and either (a) the owner of the firearm
31 can show that the firearm was taken from his or her property or place of

1 business unlawfully or without the knowledge and consent of the owner and
2 that such property or place of business is different from that of the
3 person from whom the firearm was confiscated or (b) the owner of the
4 firearm is acquitted of the charge of unlawful possession of a handgun in
5 violation of section 28-1204, unlawful transfer of a firearm to a
6 juvenile, or unlawful possession of a firearm at a school. No firearm
7 having significant antique value or historical significance as determined
8 by the Nebraska State Historical Society shall be destroyed. If a firearm
9 has significant antique value or historical significance, it shall be
10 sold at auction and the proceeds shall be remitted to the State Treasurer
11 for distribution in accordance with Article VII, section 5, of the
12 Constitution of Nebraska.

13 Sec. 13. Section 69-2402, Revised Statutes Cumulative Supplement,
14 2016, is amended to read:

15 69-2402 For purposes of sections 69-2401 to 69-2425:

16 (1) Antique handgun or pistol means any handgun or pistol, including
17 those with a matchlock, flintlock, percussion cap, or similar type of
18 ignition system, manufactured in or before 1898 and any replica of such a
19 handgun or pistol if such replica (a) is not designed or redesigned for
20 using rimfire or conventional centerfire fixed ammunition or (b) uses
21 rimfire or conventional centerfire fixed ammunition which is no longer
22 manufactured in the United States and which is not readily available in
23 the ordinary channels of commercial trade;

24 (2) Criminal history record check includes a check of the criminal
25 history records of the Nebraska State Patrol and a check of the Federal
26 Bureau of Investigation's National Instant Criminal Background Check
27 System;

28 (3) Firearm-related disability means a person is not permitted to
29 (a) purchase, possess, ship, transport, or receive a firearm under either
30 state or federal law, (b) obtain a certificate to purchase, lease, rent,
31 or receive transfer of a handgun under section 69-2404, ~~or~~ (c) obtain a

1 permit to carry a concealed handgun under the Concealed Handgun Permit
2 Act, or (d) carry a concealed handgun under the Permitless Concealed
3 Carry Act; and

4 (4) Handgun means any firearm with a barrel less than sixteen inches
5 in length or any firearm designed to be held and fired by the use of a
6 single hand.

7 Sec. 14. Section 69-2428, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 69-2428 (1) An individual may obtain a permit to carry a concealed
10 handgun in accordance with the Concealed Handgun Permit Act or an
11 individual may carry a concealed handgun without a permit pursuant to the
12 Permitless Concealed Carry Act.

13 (2) Although an individual may be eligible to carry a concealed
14 handgun without a permit under the Permitless Concealed Carry Act, if
15 that individual chooses to obtain a permit under the Concealed Handgun
16 Permit Act, he or she shall be subject to all provisions of the Concealed
17 Handgun Permit Act until such individual returns his or her permit to the
18 Nebraska State Patrol for revocation.

19 Sec. 15. Section 71-904.01, Revised Statutes Cumulative Supplement,
20 2016, is amended to read:

21 71-904.01 Firearm-related disability means a person is not permitted
22 to (1) purchase, possess, ship, transport, or receive a firearm under
23 either state or federal law, (2) obtain a certificate to purchase, lease,
24 rent, or receive transfer of a handgun under section 69-2404, ~~or~~ (3)
25 obtain a permit to carry a concealed handgun under the Concealed Handgun
26 Permit Act, or (4) carry a concealed handgun under the Permitless
27 Concealed Carry Act.

28 Sec. 16. Section 71-963, Revised Statutes Cumulative Supplement,
29 2016, is amended to read:

30 71-963 (1) Upon release from commitment or treatment, a person who,
31 because of a mental health-related commitment or adjudication occurring

1 under the laws of this state, is subject to the disability provisions of
2 18 U.S.C. 922(d)(4) and (g)(4), ~~or~~ is disqualified from obtaining a
3 certificate to purchase, lease, rent, or receive transfer of a handgun
4 under section 69-2404 or obtaining a permit to carry a concealed handgun
5 under the Concealed Handgun Permit Act, or is ineligible to carry a
6 concealed handgun under the Permitless Concealed Carry Act may petition
7 the mental health board to remove such firearm-related disabilities.

8 ~~(2)(a)(i) (2)(a)~~ Upon the filing of the petition, the petitioner
9 ~~subject~~ may request and, if the request is made, shall be entitled to, a
10 review hearing by the mental health board. The petitioner shall prove by
11 clear and convincing evidence ~~mental health board shall grant a petition~~
12 ~~filed under subsection (1) of this section if the mental health board~~
13 ~~determines that:~~

14 ~~(A) (i)~~ The petitioner subject will not be likely to act in a manner
15 dangerous to public safety; and

16 ~~(B) (ii)~~ The granting of the relief would not be contrary to the
17 public interest.

18 ~~(ii) (b)~~ In determining whether to remove the petitioner's subject's
19 firearm-related disabilities, the mental health board shall receive and
20 consider evidence upon the following:

21 ~~(A) (i)~~ The circumstances surrounding the petitioner's subject's
22 mental health commitment or adjudication;

23 ~~(B) (ii)~~ The petitioner's subject's record, which shall include, at
24 a minimum, the petitioner's subject's mental health and criminal history
25 records;

26 ~~(C) (iii)~~ The petitioner's subject's reputation, developed, at a
27 minimum, through character witness statements, testimony, or other
28 character evidence; and

29 ~~(D) (iv)~~ Changes in the petitioner's subject's condition, treatment,
30 treatment history, or circumstances relevant to the relief sought.

31 (b) The mental health board shall grant a petition filed under this

1 section if the mental health board determines that the petitioner has
2 proven by clear and convincing evidence that the firearm-related
3 disabilities set forth in subsection (1) of this section should be
4 removed.

5 (3) If a decision is made by the mental health board to remove the
6 petitioner's subject's firearm-related disabilities, the clerks of the
7 various courts shall, ~~immediately send~~ as soon as practicable, but within
8 thirty days, send an order to the Nebraska State Patrol and the
9 Department of Health and Human Services, in a form and in a manner
10 prescribed by the Department of Health and Human Services and the
11 Nebraska State Patrol, stating the mental health board's ~~its~~ findings,
12 which shall include a statement that, in the opinion of the mental health
13 board, (a) the petitioner subject is not likely to act in a manner that
14 is dangerous to public safety and (b) removing the petitioner's subject's
15 firearm-related disabilities will not be contrary to the public interest.

16 (4) The petitioner subject may appeal a denial of the requested
17 relief to the district court, and review on appeal shall be de novo.

18 (5) If a petition is granted under this section, the commitment or
19 adjudication for which relief is granted shall be deemed not to have
20 occurred;

21 (a) For ~~for~~ purposes of section 69-2404, ~~and~~ the Concealed Handgun
22 Permit Act, and the Permitless Concealed Carry Act; and

23 (b) Pursuant ~~pursuant~~ to section 105(b) of Public Law 110-180, for
24 purposes of 18 U.S.C. 922(d)(4) and (g)(4).

25 Sec. 17. Original sections 15-255, 17-556, 18-1703, 28-1202,
26 28-1204.04, and 69-2428, Reissue Revised Statutes of Nebraska, and
27 sections 14-102, 16-227, 69-2402, 71-904.01, and 71-963, Revised Statutes
28 Cumulative Supplement, 2016, are repealed.