

## LEGISLATIVE BILL 1227

Approved by the Governor April 13, 2006

Introduced by Cornett, 45; Combs, 32; Fischer, 43; Flood, 19

AN ACT relating to handguns; to amend sections 69-2402, 69-2404, 69-2405, 69-2406, 69-2410, 69-2411, 69-2418, and 69-2419, Reissue Revised Statutes of Nebraska; to change provisions relating to issuance of handgun certificates and criminal history record checks; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 69-2402, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(2) Criminal history record check shall include a check of the criminal history records of the Nebraska State Patrol and a check of the Federal Bureau of Investigation's National Instant Criminal Background Check System; and

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

Sec. 2. Section 69-2404, Reissue Revised Statutes of Nebraska, is amended to read:

69-2404 Any person desiring to purchase, lease, rent, or receive transfer of a handgun shall apply with the chief of police or sheriff of the applicant's place of residence for a certificate. The application may be made in person or by mail. The application form and certificate shall be made on forms approved by the Superintendent of Law Enforcement and Public Safety. The application shall ~~state~~ include the applicant's full name, social security number, address, ~~and date of birth, and country of citizenship. If the applicant is not a United States citizen, the application shall include the applicant's place of birth and his or her alien or admission number. If the application is made in person, the applicant shall also present a current Nebraska motor vehicle operator's license, state identification card, or military identification card, or if the application is made by mail, the application form shall describe the license or card used for identification and be notarized by a notary public who has verified the identification of the applicant through such a license or card. An applicant shall receive a certificate if he or she is twenty-one years of age or older and is not prohibited from purchasing or possessing a handgun by 18 U.S.C. 922. A fee of five dollars shall be charged for each application for a certificate to cover the cost of a criminal history record check.~~

Sec. 3. Section 69-2405, Reissue Revised Statutes of Nebraska, is amended to read:

69-2405 Upon the receipt of an application for a certificate, the chief of police or sheriff shall issue a certificate or deny a certificate and furnish the applicant the specific reasons for the denial in writing. The chief of police or sheriff shall be permitted up to ~~two~~ three days in which to conduct an investigation to determine whether the applicant is prohibited by law from purchasing or possessing a handgun. If the certificate or denial is mailed to the applicant, it shall be mailed to the applicant's address by first-class mail within the ~~two-day~~ three-day period. If it is determined that the purchase or possession of a handgun by the applicant would be in violation of applicable federal, state, or local law, the chief of police or sheriff shall deny the certificate. In computing the ~~two-day~~ three-day period, the day of receipt of the application shall not be included and the last day of the ~~two-day~~ three-day period shall be included. The ~~two-day~~ three-day period shall expire at 11:59 p.m. of the ~~second~~ third day unless it is a Saturday, Sunday, or legal holiday in which event the period shall run until 11:59 p.m. of the next day which is not a Saturday, Sunday, or legal holiday. No later than the end of the ~~two-day~~ three-day period the chief of police or sheriff shall

issue or deny such certificate and, if the certificate is denied, furnish the applicant the specific reasons for denial in writing. No civil liability shall arise to any law enforcement agency if such law enforcement agency complies with sections 69-2401, 69-2403 to 69-2408, and 69-2409.01.

Sec. 4. Section 69-2406, Reissue Revised Statutes of Nebraska, is amended to read:

69-2406 Any person who is denied a certificate, whose certificate is revoked, or who has not been issued a certificate upon expiration of the ~~two-day~~ three-day period may appeal within ten days of receipt of the denial or revocation to the county court of the county of the applicant's place of residence. The applicant shall file with the court the specific reasons for the denial or revocation by the chief of police or sheriff and a filing fee of ten dollars in lieu of any other filing fee required by law. The court shall issue its decision within thirty days of the filing of the appeal.

Sec. 5. Section 69-2410, Reissue Revised Statutes of Nebraska, is amended to read:

69-2410 No importer, manufacturer, or dealer licensed pursuant to 18 U.S.C. 923 shall sell or deliver any handgun to another person other than a licensed importer, manufacturer, dealer, or collector until he or she has:

(1) (a) Inspected a valid certificate issued to such person pursuant to sections 69-2401, 69-2403 to 69-2408, and 69-2409.01; and

(b) Inspected a valid identification containing a photograph of such person which appropriately and completely identifies such person; or

(2) (a) Obtained a completed consent form from the potential buyer or transferee, which form shall be established by the Nebraska State Patrol and provided by the licensed importer, manufacturer, or dealer. The form shall include ~~only~~ the name, address, date of birth, gender, race, and social security number or other identification number, and country of citizenship of such potential buyer or transferee. If the potential buyer or transferee is not a United States citizen, the completed consent form shall contain the potential buyer's or transferee's place of birth and his or her alien or admission number;

(b) Inspected a valid identification containing a photograph of the potential buyer or transferee which appropriately and completely identifies such person;

(c) Requested by toll-free telephone call or other electromagnetic communication that the Nebraska State Patrol conduct a criminal history record check; and

(d) Received a unique approval number for such inquiry from the Nebraska State Patrol indicating the date and number on the consent form.

Sec. 6. Section 69-2411, Reissue Revised Statutes of Nebraska, is amended to read:

69-2411 (1) Upon receipt of a request for a criminal history record check, the Nebraska State Patrol shall as soon as possible during the licensee's telephone call or by return telephone call:

(a) Review Check its criminal history records and check the Federal Bureau of Investigation's National Instant Criminal Background Check System to determine if the potential buyer or transferee is prohibited from receipt or possession of a handgun pursuant to state or federal law; and

(b) Either (i) inform the licensee that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a handgun or (ii) provide the licensee with a unique approval number.

(2) In the event of electronic failure or similar emergency beyond the control of the Nebraska State Patrol, the patrol shall immediately notify a requesting licensee of the reason for and estimated length of such delay. In any event, no later than the end of the next business day the Nebraska State Patrol shall either (a) inform the licensee that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a handgun or (b) provide the licensee with a unique approval number. If the licensee is not informed by the end of the next business day that the potential buyer is prohibited from receipt or possession of a handgun, and regardless of whether the unique approval number has been received, the licensee may complete the sale or delivery and shall not be deemed to be in violation of sections 69-2410 to 69-2423 with respect to such sale or delivery.

(3) A fee of three dollars shall be charged for each request of a criminal history record check required pursuant to section 69-2410, which amount shall be transmitted monthly to the Nebraska State Patrol. Such amount shall be for the purpose of covering the costs of the criminal history record check.

Sec. 7. Section 69-2418, Reissue Revised Statutes of Nebraska, is amended to read:

69-2418 Sections 69-2410 to 69-2423 shall not apply to:

(1) Any handgun, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898 antique handgun or pistol; or

(2) Any replica of any firearm described in subdivision (1) of this section if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition and uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(3) (2) Any firearm which is a curio or relic as defined by in 27 C.F.R. 178.11 478.11.

Sec. 8. Section 69-2419, Reissue Revised Statutes of Nebraska, is amended to read:

69-2419 Any licensed importer, manufacturer, or dealer who knowingly and intentionally requests a criminal history record check from the Nebraska State Patrol for any purpose other than compliance with sections 69-2410 to 69-2423 or knowingly and intentionally disseminates any criminal history record check information to any person other than the subject of such information shall be guilty of a Class I misdemeanor.

Sec. 9. Original sections 69-2402, 69-2404, 69-2405, 69-2406, 69-2410, 69-2411, 69-2418, and 69-2419, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.