

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 343

Introduced by Halloran, 33.

Read first time January 16, 2019

Committee:

1 A BILL FOR AN ACT relating to firearms; to amend section 69-2441, Reissue
2 Revised Statutes of Nebraska, and section 28-1204.04, Revised
3 Statutes Cumulative Supplement, 2018; to adopt the School Safety
4 Rapid Response Option Act; to authorize schools to allow school
5 employees to carry concealed handguns at school as prescribed; to
6 harmonize provisions; and to repeal the original sections.

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

1 Section 1. Section 28-1204.04, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 28-1204.04 (1) Except as otherwise provided in this section, any Any
4 person who possesses a firearm in a school, on school grounds, in a
5 school-owned vehicle, or at a school-sponsored activity or athletic event
6 is guilty of the offense of unlawful possession of a firearm at a school.
7 Unlawful possession of a firearm at a school is a Class IV felony.

8 (2) Subsection (1) of this section ~~This subsection~~ shall not apply
9 to:

10 (a) The ~~the~~ issuance of firearms to or possession by members of the
11 armed forces of the United States, active or reserve, National Guard of
12 this state, or Reserve Officers Training Corps or peace officers or other
13 duly authorized law enforcement officers when on duty or training; ~~τ~~

14 (b) The ~~the~~ possession of firearms by peace officers or other duly
15 authorized law enforcement officers when contracted by a school to
16 provide school security or school event control services; ~~τ~~

17 (c) Firearms ~~firearms~~ which may lawfully be possessed by the person
18 receiving instruction, for instruction under the immediate supervision of
19 an adult instructor; ~~τ~~

20 (d) Firearms ~~firearms~~ which may lawfully be possessed by a member of
21 a college or university firearm team, to include rifle, pistol, and
22 shotgun disciplines, within the scope of such person's duties as a member
23 of the team; ~~τ~~

24 (e) Firearms ~~firearms~~ which may lawfully be possessed by a person
25 employed by a college or university in this state as part of an
26 agriculture or a natural resources program of such college or university,
27 within the scope of such person's employment; ~~τ~~

28 (f) Firearms ~~firearms~~ contained within a private vehicle operated by
29 a nonstudent adult which are not loaded and are:

30 (i) Encased; ~~are encased~~ or

31 (ii) In ~~in~~ a locked firearm rack that is on a motor vehicle; ~~τ~~

1 (g) ~~Firearms~~ ~~firearms~~ which may lawfully be possessed by a person
2 for the purpose of using them, with the approval of the school, in a
3 historical reenactment, in a hunter education program, or as part of an
4 honor guard; ~~or~~

5 (h) ~~A~~ a handgun carried as a concealed handgun by a ~~valid~~ holder of
6 a valid permit issued under the Concealed Handgun Permit Act in a vehicle
7 or on his or her person while riding in or on a vehicle into or onto any
8 parking area, which is open to the public and used by a school if, prior
9 to exiting the vehicle, the handgun is locked inside the glove box,
10 trunk, or other compartment of the vehicle, a storage box securely
11 attached to the vehicle, or, if the vehicle is a motorcycle, other than
12 an autocycle, a hardened compartment securely attached to the motorcycle
13 while the vehicle is in or on such parking area, except as prohibited by
14 federal law; or -

15 (i) A handgun carried as a concealed handgun by a school employee
16 who is authorized to do so pursuant to a program developed under the
17 School Safety Rapid Response Option Act and who is a holder of a valid
18 permit issued under the Concealed Handgun Permit Act.

19 (3) For purposes of this section ~~subsection~~, encased means enclosed
20 in a case that is expressly made for the purpose of containing a firearm
21 and that is completely zipped, snapped, buckled, tied, or otherwise
22 fastened with no part of the firearm exposed.

23 (4) ~~(2)~~ Any firearm possessed in violation of subsection (1) of this
24 section shall be confiscated without warrant by a peace officer or may be
25 confiscated without warrant by school administrative or teaching
26 personnel. Any firearm confiscated by school administrative or teaching
27 personnel shall be delivered to a peace officer as soon as practicable.

28 (5) ~~(3)~~ Any firearm confiscated by or given to a peace officer
29 pursuant to subsection (4) ~~(2)~~ of this section shall be declared a common
30 nuisance and shall be held by the peace officer prior to his or her
31 delivery of the firearm to the property division of the law enforcement

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

5 ~~(6)~~ (4) Whenever a firearm is confiscated and held pursuant to this
6 section or section 28-1204.02, the peace officer who received such
7 firearm shall cause to be filed within ten days after the confiscation a
8 petition for destruction of such firearm. The petition shall be filed in
9 the district court of the county in which the confiscation is made. The
10 petition shall describe the firearm held, state the name of the owner, if
11 known, allege the essential elements of the violation which caused the
12 confiscation, and conclude with a prayer for disposition and destruction
13 in such manner as the court may direct. At any time after the
14 confiscation of the firearm and prior to court disposition, the owner of
15 the firearm seized may petition the district court of the county in which
16 the confiscation was made for possession of the firearm. The court shall
17 release the firearm to such owner only if the claim of ownership can
18 reasonably be shown to be true and either (a) the owner of the firearm
19 can show that the firearm was taken from his or her property or place of
20 business unlawfully or without the knowledge and consent of the owner and
21 that such property or place of business is different from that of the
22 person from whom the firearm was confiscated or (b) the owner of the
23 firearm is acquitted of the charge of unlawful possession of a handgun in
24 violation of section 28-1204, unlawful transfer of a firearm to a
25 juvenile, or unlawful possession of a firearm at a school. No firearm
26 having significant antique value or historical significance as determined
27 by the Nebraska State Historical Society shall be destroyed. If a firearm
28 has significant antique value or historical significance, it shall be
29 sold at auction and the proceeds shall be remitted to the State Treasurer
30 for distribution in accordance with Article VII, section 5, of the
31 Constitution of Nebraska.

1 Sec. 2. Section 69-2441, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 69-2441 (1)(a) A permitholder may carry a concealed handgun anywhere
4 in Nebraska, except any: Police, sheriff, or Nebraska State Patrol
5 station or office; detention facility, prison, or jail; courtroom or
6 building which contains a courtroom; polling place during a bona fide
7 election; meeting of the governing body of a county, public school
8 district, municipality, or other political subdivision; meeting of the
9 Legislature or a committee of the Legislature; financial institution;
10 professional or semiprofessional athletic event; building, grounds,
11 vehicle, or sponsored activity or athletic event of any school ~~public,~~
12 ~~private, denominational, or parochial elementary, vocational, or~~
13 ~~secondary school, a private postsecondary career school as defined in~~
14 ~~section 85-1603, a community college, or a public or private college,~~
15 ~~junior college, or university;~~ place of worship; hospital, emergency
16 room, or trauma center; political rally or fundraiser; establishment
17 having a license issued under the Nebraska Liquor Control Act that
18 derives over one-half of its total income from the sale of alcoholic
19 liquor; place where the possession or carrying of a firearm is prohibited
20 by state or federal law; a place or premises where the person, persons,
21 entity, or entities in control of the property or employer in control of
22 the property has prohibited permitholders from carrying concealed
23 handguns into or onto the place or premises; or into or onto any other
24 place or premises where handguns are prohibited by state law.

25 (b) A financial institution may authorize its security personnel to
26 carry concealed handguns in the financial institution while on duty so
27 long as each member of the security personnel, as authorized, is in
28 compliance with the Concealed Handgun Permit Act and possesses a permit
29 to carry a concealed handgun issued pursuant to the act.

30 (c) A place of worship may authorize its security personnel to carry
31 concealed handguns on its property so long as each member of the security

1 personnel, as authorized, is in compliance with the Concealed Handgun
2 Permit Act and possesses a permit to carry a concealed handgun issued
3 pursuant to the act and written notice is given to the congregation and,
4 if the property is leased, the carrying of concealed handguns on the
5 property does not violate the terms of any real property lease agreement
6 between the place of worship and the lessor.

7 (d) Pursuant to a program developed under the School Safety Rapid
8 Response Option Act, a school may authorize its employees to carry
9 concealed handguns in or upon the school's building, grounds, vehicle, or
10 school-sponsored activity or athletic event so long as such employees, as
11 authorized, are in compliance with the Concealed Handgun Permit Act and
12 possess permits to carry a concealed handgun issued pursuant to such act.

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

24 (3) A permitholder carrying a concealed handgun in a vehicle or on
25 his or her person while riding in or on a vehicle into or onto any
26 parking area, which is open to the public, used by any location listed in
27 subdivision (1)(a) of this section, does not violate this section if,
28 prior to exiting the vehicle, the handgun is locked inside the glove box,
29 trunk, or other compartment of the vehicle, a storage box securely
30 attached to the vehicle, or, if the vehicle is a motorcycle, other than
31 an autocycle, a hardened compartment securely attached to the motorcycle.

1 This subsection does not apply to any parking area used by such location
2 when the carrying of a concealed handgun into or onto such parking area
3 is prohibited by federal law.

4 (4) An employer may prohibit employees or other persons who are
5 permitholders from carrying concealed handguns in vehicles owned by the
6 employer.

7 (5) A permitholder shall not carry a concealed handgun while he or
8 she is consuming alcohol or while the permitholder has remaining in his
9 or her blood, urine, or breath any previously consumed alcohol or any
10 controlled substance as defined in section 28-401. A permitholder does
11 not violate this subsection if the controlled substance in his or her
12 blood, urine, or breath was lawfully obtained and was taken in
13 therapeutically prescribed amounts.

14 (6) For purposes of this section, school means any public, private,
15 denominational, or parochial elementary, vocational, or secondary school,
16 any private postsecondary career school as defined in section 85-1603, or
17 any postsecondary educational institution.

18 Sec. 3. Sections 3 to 5 of this act shall be known and may be cited
19 as the School Safety Rapid Response Option Act.

20 Sec. 4. For purposes of the School Safety Rapid Response Option
21 Act:

22 (1) Governing authority means:

23 (a) A school board;

24 (b) The governing authority of a private, denominational, or
25 parochial elementary, vocational, or secondary school;

26 (c) The governing authority of a private postsecondary career school
27 as defined in section 85-1603;

28 (d) The Board of Regents of the University of Nebraska;

29 (e) The Board of Trustees of the Nebraska State Colleges;

30 (f) A community college board of governors; or

31 (g) The governing board of a private postsecondary educational

1 institution;

2 (2) Handgun has the same meaning as in section 69-2429; and

3 (3) School means any public, private, denominational, or parochial
4 elementary, vocational, or secondary school, any private postsecondary
5 career school as defined in section 85-1603, or any postsecondary
6 educational institution.

7 Sec. 5. (1) The governing authority of a school may develop a
8 program authorizing school employees who hold valid permits issued under
9 the Concealed Handgun Permit Act to carry concealed handguns in or upon
10 the school's building, grounds, vehicle, or school-sponsored activity or
11 athletic event.

12 (2) A program developed under this section may:

13 (a) Require school employees to undergo additional training;

14 (b) Be limited to specific classes or types of employees;

15 (c) Limit the authority to carry a concealed handgun to specific
16 places, events, or circumstances; or

17 (d) Impose any other additional requirements or conditions as
18 determined by the governing body.

19 Sec. 6. Original section 69-2441, Reissue Revised Statutes of
20 Nebraska, and section 28-1204.04, Revised Statutes Cumulative Supplement,
21 2018, are repealed.