

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 17**

Introduced by Dungan, 26.

Read first time January 05, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to firearms; to amend section 28-1204.04,
- 2 Revised Statutes Cumulative Supplement, 2022; to authorize
- 3 possession of firearms on school grounds by full-time, off-duty
- 4 peace officers; 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 Cumulative  
2 Supplement, 2022, is amended to read:

3 28-1204.04 (1) Any person who possesses a firearm in a school, on  
4 school grounds, in a school-owned vehicle, or at a school-sponsored  
5 activity or athletic event is guilty of the offense of unlawful  
6 possession of a firearm at a school. Unlawful possession of a firearm at  
7 a school is a Class IV felony. This subsection shall not apply to (a) the  
8 issuance of firearms to or possession by members of the armed forces of  
9 the United States, active or reserve, National Guard of this state, or  
10 Reserve ~~Officers'~~ Officers Training Corps or peace officers or other duly  
11 authorized law enforcement officers when on duty or training, (b) the  
12 possession of firearms by peace officers or other duly authorized law  
13 enforcement officers when contracted by a school to provide school  
14 security or school event control services, (c) the possession of firearms  
15 by full-time, off-duty peace officers, (d) firearms which may lawfully be  
16 possessed by the person receiving instruction, for instruction under the  
17 immediate supervision of an adult instructor, (e) ~~(d)~~ firearms which may  
18 lawfully be possessed by a member of a college or university firearm  
19 team, to include rifle, pistol, and shotgun disciplines, within the scope  
20 of such person's duties as a member of the team, (f) ~~(e)~~ firearms which  
21 may lawfully be possessed by a person employed by a college or university  
22 in this state as part of an agriculture or a natural resources program of  
23 such college or university, within the scope of such person's employment,  
24 (g) ~~(f)~~ firearms contained within a private vehicle operated by a  
25 nonstudent adult which are not loaded and (i) are encased or (ii) are in  
26 a locked firearm rack that is on a motor vehicle, (h) ~~(g)~~ firearms which  
27 may lawfully be possessed by a person for the purpose of using them, with  
28 the approval of the school, in a historical reenactment, in a hunter  
29 education program, or as part of an honor guard, or (i) ~~(h)~~ a handgun  
30 carried as a concealed handgun by a valid holder of a permit issued under  
31 the Concealed Handgun Permit Act in a vehicle or on his or her person

1 while riding in or on a vehicle into or onto any parking area, which is  
2 open to the public and used by a school if, prior to exiting the vehicle,  
3 the handgun is locked inside the glove box, trunk, or other compartment  
4 of the vehicle, a storage box securely attached to the vehicle, or, if  
5 the vehicle is a motorcycle, other than an autocycle, a hardened  
6 compartment securely attached to the motorcycle while the vehicle is in  
7 or on such parking area, except as prohibited by federal law. For  
8 purposes of this subsection, encased means enclosed in a case that is  
9 expressly made for the purpose of containing a firearm and that is  
10 completely zipped, snapped, buckled, tied, or otherwise fastened with no  
11 part of the firearm exposed.

12 (2) Any firearm possessed in violation of subsection (1) of this  
13 section shall be confiscated without warrant by a peace officer or may be  
14 confiscated without warrant by school administrative or teaching  
15 personnel. Any firearm confiscated by school administrative or teaching  
16 personnel shall be delivered to a peace officer as soon as practicable.

17 (3) Any firearm confiscated by or given to a peace officer pursuant  
18 to subsection (2) of this section shall be declared a common nuisance and  
19 shall be held by the peace officer prior to his or her delivery of the  
20 firearm to the property division of the law enforcement agency which  
21 employs the peace officer. The property division of such law enforcement  
22 agency shall hold such firearm for as long as the firearm is needed as  
23 evidence. After the firearm is no longer needed as evidence, it shall be  
24 destroyed in such manner as the court may direct.

25 (4) Whenever a firearm is confiscated and held pursuant to this  
26 section or section 28-1204.02, the peace officer who received such  
27 firearm shall cause to be filed within ten days after the confiscation a  
28 petition for destruction of such firearm. The petition shall be filed in  
29 the district court of the county in which the confiscation is made. The  
30 petition shall describe the firearm held, state the name of the owner, if  
31 known, allege the essential elements of the violation which caused the

1 confiscation, and conclude with a prayer for disposition and destruction  
2 in such manner as the court may direct. At any time after the  
3 confiscation of the firearm and prior to court disposition, the owner of  
4 the firearm seized may petition the district court of the county in which  
5 the confiscation was made for possession of the firearm. The court shall  
6 release the firearm to such owner only if the claim of ownership can  
7 reasonably be shown to be true and either (a) the owner of the firearm  
8 can show that the firearm was taken from his or her property or place of  
9 business unlawfully or without the knowledge and consent of the owner and  
10 that such property or place of business is different from that of the  
11 person from whom the firearm was confiscated or (b) the owner of the  
12 firearm is acquitted of the charge of unlawful possession of a handgun in  
13 violation of section 28-1204, unlawful transfer of a firearm to a  
14 juvenile, or unlawful possession of a firearm at a school. No firearm  
15 having significant antique value or historical significance as determined  
16 by the Nebraska State Historical Society shall be destroyed. If a firearm  
17 has significant antique value or historical significance, it shall be  
18 sold at auction and the proceeds shall be remitted to the State Treasurer  
19 for distribution in accordance with Article VII, section 5, of the  
20 Constitution of Nebraska.

21       Sec. 2. Original section 28-1204.04, Revised Statutes Cumulative  
22 Supplement, 2022, is repealed.