

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 225**

Introduced by Schnoor, 15; Bloomfield, 17; Ebke, 32; Garrett, 3; Groene,  
42; Lindstrom, 18.

Read first time January 13, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-1204.04, Revised Statutes Cumulative Supplement, 2014; to change
- 3 provisions relating to unlawful possession of a firearm at a school;
- 4 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, 2014, 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 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) firearms which may  
15 lawfully be possessed by the person receiving instruction, for  
16 instruction under the immediate supervision of an adult instructor, (d)  
17 firearms which may lawfully be possessed by a member of a college or  
18 university rifle team, within the scope of such person's duties as a  
19 member of the team, (e) firearms which may lawfully be possessed by a  
20 person employed by a college or university in this state as part of an  
21 agriculture or a natural resources program of such college or university,  
22 within the scope of such person's employment, (f) firearms contained  
23 within a private vehicle operated by a nonstudent adult which are not  
24 loaded and (i) are encased or (ii) are in a locked firearm rack that is  
25 on a motor vehicle, (g) firearms which may lawfully be possessed by a  
26 person for the purpose of using them, with the approval of the school, in  
27 a historical reenactment, in a hunter education program, or as part of an  
28 honor guard, or (h) a handgun carried as a concealed handgun by a valid  
29 holder of a permit issued under the Concealed Handgun Permit Act in a  
30 vehicle or on his or her person while riding in or on a vehicle into or  
31 onto any parking area, which is open to the public and used by a school

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

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

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

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

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

19       Sec. 2. Original section 28-1204.04, Revised Statutes Cumulative  
20 Supplement, 2014, is repealed.