

Nebraska State Law  
Rev. Stat. of NE

**Chapter 28, Article 12: Offenses Against  
Public Health and Safety**

**28-1201. Terms, defined.** For purposes of sections 28-1201 to 28-1212 and sections 3 to 6 of this act, unless the context otherwise requires:

(1) **Firearm** shall mean any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or frame or receiver of any such weapon;

(2) **Fugitive from justice** shall mean any person who has fled or is fleeing from any peace officer to avoid prosecution or incarceration for a felony;

(3) **Juvenile** shall mean any person under the age of eighteen years; \* \* \* \*

(6) **Machinegun** shall mean any firearm, whatever its size and usual designation, that shoots automatically more than one shot, without manual reloading, by a single function of the trigger;

(7) **Short rifle** shall mean a rifle having a barrel less than sixteen inches long or an overall length of less than twenty-six inches; and

(8) **Short shotgun** shall mean a shotgun having a barrel or barrels less than eighteen inches long or an overall length of less than twenty-six inches.

**28-1203. Transportation or possession of machineguns, short rifles, or short shotguns; penalty; exception.**

(1) Any person or persons who shall transport or possess any machinegun, short rifle, or short shotgun commits a Class IV felony.

(2) The provisions of this section shall not be held to prohibit any act by peace officers, members of the United States armed services, or members of the National Guard of this state, in the lawful discharge of their duties, or persons qualified under the provisions of federal law relating to the short rifle, short shotgun, or machinegun.

**Publisher's Note:**

**The Attorney General of Nebraska has issued an opinion that 28-1203 does not prohibit a person who qualifies pursuant to Federal law (26 U.S.C. 5801, et seq.) from possession and transfer of a machinegun.**

**28-1204. Unlawful possession of a revolver; exceptions; penalty.**

(1) Any person under the age of eighteen years who possesses a pistol, revolver, or any other form of short-barreled hand firearm commits the offense of unlawful possession of a revolver.

(2) The provisions of this section shall not apply to the issuance of such firearms to members of the armed forces of the United States, active or reserve, National Guard of this state, or Reserve Officers Training Corps, when on duty or training, or to the temporary loan of pistols, revolvers, or any other form of short-barreled firearms for instruction under the immediate supervision of a parent or guardian or adult instructor. \* \* \* \*

**28-1204.01. Unlawful transfer of a firearm to a juvenile; exceptions; penalty; county attorney; duty.**

(1) Any person who knowingly and intentionally does or attempts to sell, provide, loan, deliver, or in any other way transfer the possession of a firearm to a juvenile commits the offense of unlawful transfer of a firearm to a juvenile. The county attorney shall have a copy of the petition served upon the owner of the firearm, if known, in person or by registered or certified mail at his or her last-known address.

(2) This section shall not apply to the transfer of a firearm other than the types specified in section 28-1204 to a juvenile:

(a) From a person related to such juvenile within the second degree of consanguinity or affinity if the transfer of physical possession of such firearm does not occur until such time as express permission has been obtained from the juvenile's parent or guardian;

(b) For a legitimate and lawful sporting purpose; or

(c) Who is under direct adult supervision in an appropriate educational program.

(3) This section shall apply to the transfer of any firearm described in section 28-1204, except as specifically provided in subsection (2) of section 28-1204.

(4) Unlawful transfer of a firearm to a juvenile is a Class IV felony.

**28-1204.04. Unlawful possession of a firearm on school grounds; penalty; exceptions; confiscation of certain firearms; disposition.**

(1) Any person who possesses a firearm in a school grounds, in a school-owned vehicle, or at a school-sponsored activity or athletic event shall be guilty of the offense of unlawful possession of a firearm on school grounds. Unlawful possession of a firearm on school grounds is a Class IV misdemeanor. This subsection shall not apply to:

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

(b) Firearms which may lawfully be possessed by the person receiving instruction, for instruction under the immediate supervision of an adult instructor, or

(c) Firearms contained within a private vehicle operated by a nonstudent adult which are not loaded and

(i) are encased or

(ii) are in a locked firearm rack that is on a motor vehicle. For purposes of this subsection, encased shall mean enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied, or otherwise fastened with no other part of the firearm exposed. \* \* \* \*

**28-1205.**

(1) Any person who uses a firearm, \* \* \*, or any other deadly weapon to commit any felony which may be prosecuted in a court of this state, or who unlawfully possess a firearm, \* \* \*, or any other deadly weapon during the commission of any felony which may be prosecuted in a court of this state com-

mits the offense of using a deadly weapon to commit a felony.

**(2)(a)** Use of a deadly weapon other than a firearm to commit a felony is a Class III felony.

**(b)** Use of a deadly weapon which is a firearm to commit a felony is a Class II felony.

**(3)** The crimes defined in this section shall be treated as separate and distinct offenses from the felony being committed, and sentences imposed under this section shall be consecutive to any other sentence imposed.

**28-1206. Possession of a deadly weapon by a felon or a fugitive from justice; penalty.**

**(1)** Any person who possesses any firearm, \* \* \*, and who has previously been convicted of a felony or who is a fugitive from justice commits the offense of possession of a deadly weapon by a felon or a fugitive from justice.

**(2)** Such a felony conviction may have been had in any court in the United States, several dates, territories, or possessions, or the District of Columbia.

**(3)(a)** Possession of a deadly weapon other than a firearm by a felon or a fugitive from justice is a Class IV felony.

**(b)** Possession of a deadly weapon which is a firearm by a felon or a fugitive from justice is a Class III felony.

**28-1207. Possession of a defaced firearm; penalty.**

**(1)** Any person who knowingly possesses, receives, sells, or leases, other than delivery to law enforcement officials, any firearm from which the manufacturer's identification mark or serial number has been removed, defaced, altered, or destroyed, commits the offense of possession of a defaced firearm.

**(2)** Possession of a defaced firearm is a Class IV felony.

**28-1211. Firearms; purchase, sell, trade, or convey; conditions.** The State of Nebraska herewith permits its residents, not otherwise precluded by any applicable laws, to purchase, sell, trade, convey, deliver, or transport rifles, shotguns, ammunition, reloading components or firearm accessories in Nebraska and in states contiguous to Nebraska. This authorization is enacted to implement for this state the permissive firearms sales and delivery provisions in section 922(b), (3)(A) of Public Law 90-618 of the 90th Congress, Second Session. In the event that presently enacted federal restrictions on the purchase of rifles, shotguns, ammunition, reloading components, or firearm accessories are repealed by the United States Congress or set aside by courts of competent jurisdiction, this section shall in no way be interpreted to prohibit or restrict the purchase of shotguns, rifles, ammunition, reloading components, or firearm accessories by residents of Nebraska otherwise competent to purchase same in contiguous or other states.

**28-1212.03. Stolen firearm; prohibited acts; violation; penalty.** Any person who possess, receives, retains, or disposes of a stolen firearm knowing that it has been or believing that it has been stolen shall be guilty of a Class IV felony unless the firearm is possessed, received, retained, or disposed of with the intent to restore it to the owner.

**28-1213. Explosives, destructive devices, other terms; defined.** As used in sections 28-1213 to 28-1239, unless the context otherwise requires: \* \* \* \*

(7) Destructive devices shall mean:

(a) Any explosive, incendiary, or poison gas

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine,

(vi) booby trap,

(vii) Molotov cocktail, or

(viii) any similar device, the primary or common purpose of which is to explode and to be used as a weapon against any person or property; or

(b) Any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subdivision (7)(a) of this section from which a destructive device may be readily assembled.

The term **destructive device** shall not include any device which is neither designed nor redesigned for use as a weapon to be used against person or property, any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device, surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of Section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the State Fire Marshal finds is not likely to be used as a weapon, or is an antique; or any other device possessed under circumstances negating an intent that the device be used as a weapon against any person or property. \* \* \* \*

**28-1217. Unlawful sale of explosives; penalty.**

(1) Any person who knowingly and intentionally sells, transfers, issues, or gives any explosive materials to any person who does not display a valid permit issued by the Nebraska State Patrol authorizing the storage or use of such explosive materials or, in the case of a business enterprise, a permit to purchase such explosive materials commits the offense of unlawful sale of explosives.

(2) Unlawful sale of explosives is a Class IV felony.

**28-1220. Possession of a destructive device; penalty; permit or license for explosive materials; no defense.**

(1) Any person who has in his possession a destructive device, as defined in subdivision (7) of section 28-1213, commits the offense of possession of a destructive device.

(2) A permit or license issued under any state or federal law to possess, own, use, distribute, sell, manufacture, store, or handle in any manner explosive materials shall not be a defense to the crime of possession of a destructive device as defined in this section. \* \* \* \*

**28-1243. Unlawful sale of toy revolvers and blank cartridges; penalty; exceptions.**

(1) Any person, except as provided for in subsection (2) of this section, who shall use, sell, offer for sale, or keep for sale in this state any toy re-

volvers for shooting blank cartridges or blank cartridges for toy revolvers, commits the offense of unlawful sale of toy revolvers and blank cartridges. (2) Caps containing dynamite may be used, kept for sale, or sold when needed for mining purposes, or for danger signals or for other necessary uses, and blank cartridges may be sold or used for ceremonial purposes, athletic or sporting events. \* \* \* \*

## Article 24: Handguns

**69-2401. Legislative findings and declarations.** The Legislature hereby finds and declares that the state has a valid interest in the regulation of the purchase, lease, rental, and transfer of handguns and that requiring a certificate prior to the purchase, lease, rental, or transfer of a handgun serves a valid public purpose.

**69-2402. Terms, defined.** 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) **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.

**69-2403. Sale, lease, rental, and transfer; certificate required; exceptions.**

Except as provided in section 69-2409, a person shall not purchase, lease, rent, or receive transfer of a handgun until he or she has obtained a certificate in accordance with section 69-2404. Except as provided in section 69-2409, a person shall not sell, lease, rent, or transfer a handgun to a person who has not obtained a certificate. The certificate shall not be required if:

(1) The person acquiring the handgun is a licensed firearms dealer under federal law;

(2) The handgun is an antique handgun;

(3) The person acquiring the handgun is authorized to do so on behalf of a law enforcement agency;

(4) The transfer is a temporary transfer of a handgun and the transferee remains

(a) in the line of sight of the transferor or

(b) within the premises of an established shooting facility; or

(5) The transfer is between a person and his or her spouse, sibling, parent, child, aunt, uncle, niece, nephew, or grandparent.

**69-2404. Certificate; application; fee.** 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. \*

\* \* 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 \* \* \* \*

**69-2405. Application; chief of police or sheriff; duties; immunity.** [ \* \* \* \*  
**Contact the Nebraska State Patrol.] \* \* \* \***

**69.2410. Importer, manufacturer, or dealer; sale or delivery; duties.** 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 license 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; 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, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee:

(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. \* \* \* \*

**69-2416. Licensed importer, manufacturer, or dealer; compliance not required; when.** A licensed importer, manufacturer, or dealer shall not be required to comply with the provisions of subdivision 92) of section 69-2410 and sections 69-2411 to 69-2423 in the event of:

(1) Unavailability of telephone service at the licensed premises due to (a) The failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises due to the location of such premises or (b) the interruption of telephone service by reason of hurricane, flood, natural disaster, other act of God, war, riot, or other bona fide emergency or reason beyond the control of the licensee; or

(2) Failure of the Nebraska State Patrol to comply reasonably with the requirements of sections 69-2410 to 69-2423.

**69-2418. Instant criminal history record check; requirements; exemptions.** 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;

(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) Any firearm which is a curio or relic as defined by 27 C.F.R. 178.11. \* \*  
\* \*

**69-2419. Criminal history records; prohibited acts; violation; penalty.** 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 information to any person other than the subject of such information shall be guilty of a Class I misdemeanor.

**69-2421. Sale or delivery; violation; penalty.** Any licensed importer, manufacturer, or dealer who knowingly and intentionally sells or delivers a handgun in violation of sections 69-2401 to 69-2425 shall be guilty of a Class IV felony.

**69-2422. Obtaining handgun for prohibited transfer; violation; penalty.** For purposes of sections 69-2401 to 69-2425, any person who knowingly and intentionally obtains a handgun for the purposes of transferring it to a person who is prohibited from receipt or possession of a handgun by state or federal law shall be guilty of a Class IV felony. \* \* \* \*

**69-2424. Rules and regulations.** The Nebraska State Patrol shall adopt and promulgate rules and regulations to carry out sections 69-2401 to 69-2425.

**69-2425. City or village ordinance; not preempted.** Any city or village ordinance existing on September 6, 1991, shall not be preempted by sections 69-2401 to 69-2425.

#### Publisher's Notes:

1. The following jurisdictions prohibit the sale, possession, or receipt of any type of firearm to or by any of a particular class of persons (e.g., convicted felons, fugitives from justice, illegal aliens, mental incompetents, unlawful drug users and addicts) [An asterisk (\*) next to a name indicates another listing]

Hastings\*  
Omaha\*

2. The following jurisdictions require waiting periods or notifications to law enforcement officials before weapons may be delivered to purchasers [An asterisk (\*) next to a name indicates another listing]

Hastings\*

3. A permit to purchase must be obtained before a firearm may be sold or delivered to a purchaser or recipient in the following jurisdictions [An asterisk (\*) next to a name indicates another listing]

Omaha\*

4. The following jurisdictions restrict the age at which it is lawful for a person to purchase or receive a firearm [An asterisk (\*) next to a name indicates another listing]

Hastings\*

Kearney

Lincoln\*

Omaha\*

5. The following jurisdictions restrict the sale of firearms [i.e., (a) requirement for a State or local license to sell firearms, or (b) recordkeeping requirements imposed as a condition of lawful sale of firearms, or (c) other (specified)] [An asterisk (\*) next to a name indicates another listing]

Hastings\*(b)

Lincoln\*