

## LEGISLATIVE BILL 699

Approved by the Governor April 2, 2014

Introduced by Larson, 40; Davis, 43; Coash, 27.

FOR AN ACT relating to regulated activities; to amend sections 37-404 and 37-414, Reissue Revised Statutes of Nebraska, and sections 37-201, 37-413, and 69-2409.01, Revised Statutes Cumulative Supplement, 2012; to authorize hunting permits as prescribed for persons who have a developmental disability; to authorize license-purchase exemption certificates; to change provisions relating to mandatory firearm hunter education programs and bow hunter education programs; to change provisions relating to firearm, air gun, bow and arrow, and crossbow hunting; to require reports from the Nebraska State Patrol and the Department of Health and Human Services regarding the agencies' records of persons unable to purchase or possess firearms because of disqualification or disability; to eliminate certain firearms provisions; to harmonize provisions; to repeal the original sections; to outright repeal section 28-1211, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 37-201, Revised Statutes Cumulative Supplement, 2012, is amended to read:

37-201 Sections 37-201 to 37-811 and 37-1501 to 37-1510 and section 2 of this act shall be known and may be cited as the Game Law.

Sec. 2. A hunting permit may be issued to any person who has a developmental disability and who has a license-purchase exemption certificate issued by the commission authorizing such person to purchase a hunting permit. The commission may adopt and promulgate rules and regulations to establish forms and procedures for the issuance of license-purchase exemption certificates. Any license-purchase exemption certificate issued pursuant to this section shall be issued at no cost to the person who has a developmental disability and shall clearly state on its face that the holder must at all times while hunting be accompanied as described in subsection (4) of section 37-413. No license-purchase exemption certificate shall be issued to any person who has been found by any court or mental health board to pose a current danger to himself or herself or others. As part of the application process for a license-purchase exemption certificate, a person who has a developmental disability shall present the commission with a written authorization signed by a physician indicating that the person who has a developmental disability is at all times capable of understanding and following directions given by another person and that the person who has a developmental disability is not a danger to himself or herself or others while engaged in hunting with a firearm. For purposes of this section, developmental disability has the same meaning as in section 83-1205.

Sec. 3. Section 37-404, Reissue Revised Statutes of Nebraska, is amended to read:

37-404 (1) Any resident of the United States who has resided in this state continuously for a period of thirty days before applying for a permit under the Game Law and who has a bona fide intention of becoming a legal resident of this state, supported by documentary proof, shall be deemed to be a resident and may be issued a resident permit under the Game Law.

(2) No hunting permit shall be issued to any person who is known to have a significant physical or mental disability and who is unable to safely carry or use a firearm because of such disability except as provided in section 2 of this act.

(3) The commission may limit the number of days for which a permit is issued and the number of fish or game birds taken on one permit. The commission may provide for a method of tagging and identification of fish and game birds taken under a nonresident permit.

Sec. 4. Section 37-413, Revised Statutes Cumulative Supplement, 2012, is amended to read:

37-413 (1) For the purpose of establishing and administering a mandatory firearm hunter education program for persons twelve through twenty-nine years of age who hunt with a firearm or ~~crossbow~~ air gun any species of game, game birds, or game animals, the commission shall provide a program of firearm hunter education training leading to obtaining a certificate of successful completion in the safe handling of firearms and shall locate and train volunteer firearm hunter education instructors. The program shall provide a training course having a minimum of (a) ten

hours of classroom instruction or ~~(b) independent study on the part of the student sufficient to pass an examination given by the commission followed by such student's participation in a minimum of four hours of practical instruction.~~ The program shall provide instruction in the areas of safe firearms use, shooting and sighting techniques, hunter ethics, game identification, and conservation management. The commission shall issue a firearm hunter education certificate of successful completion to persons having satisfactorily completed a firearm hunter education course accredited by the commission and shall print, purchase, or otherwise acquire materials as necessary for effective program operation. The commission shall adopt and promulgate rules and regulations for carrying out and administering such programs.

(2) It shall be unlawful for any person twenty-nine years of age or younger to hunt with a firearm or ~~crossbow~~ air gun any species of game, game birds, or game animals except:

(a) A person under the age of twelve years who is accompanied by a person nineteen years of age or older having a valid hunting permit, as described in subsection (4) of this section;

(b) A person twelve through twenty-nine years of age who has on his or her person proof of successful completion of a hunter education course as described in subsection (1) of this section or a ~~firearm~~ hunter education course issued by the person's state or province of residence or by an accredited program recognized by the commission; ~~or~~

(c) A person twelve through twenty-nine years of age who has on his or her person the appropriate hunting permit and an apprentice hunter education exemption certificate issued by the commission pursuant to subsection (3) of this section and who is accompanied as described in subsection (4) of this section; ~~or-~~

(d) A person who has a developmental disability, who holds the appropriate hunting permit and a license-purchase exemption certificate issued pursuant to section 2 of this act, and who is accompanied as described in subsection (4) of this section.

(3) An apprentice hunter education exemption certificate may be issued to a person twelve through twenty-nine years of age, once during such person's lifetime with one renewal, upon payment of a fee of five dollars and shall expire at midnight on December 31 of the year for which the apprentice hunter education exemption certificate is issued. The commission may adopt and promulgate rules and regulations allowing for the issuance of apprentice hunter education exemption certificates. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the State Game Fund.

(4) For purposes of this section, accompanied means under the direct supervision of a person who is: (a) Nineteen years of age or older having a valid hunting permit. If such person is nineteen years of age or older but not older than twenty-nine years of age, he or she shall have also completed the required course of instruction to receive a certificate of completion for ~~firearm~~ hunter education; ~~if hunting with a firearm or crossbow as described in subdivision (2)(b) of this section or for bow hunter education if hunting with a bow and arrow as described in section 37-414;~~ and (b) at all times in unaided visual and verbal communication of persons who have a developmental disability and who are authorized under section 2 of this act or no more than two persons having an apprentice hunter education exemption certificate. This subsection does not prohibit the use by such person nineteen years of age or older of ordinary prescription eyeglasses or contact lenses or ordinary hearing instruments.

Sec. 5. Section 37-414, Reissue Revised Statutes of Nebraska, is amended to read:

37-414 (1) The commission shall establish and administer a bow hunter education program ~~consisting of a minimum of (a) ten hours of classroom instruction or (b) independent study on the part of the student sufficient to pass an examination given by the commission followed by such student's participation in a minimum of four hours of practical instruction.~~ The program shall ~~provide~~ providing instruction in the safe use of bow hunting equipment, the fundamentals of bow hunting, shooting and hunting techniques, game identification, conservation management, and hunter ethics. When establishing such a program, the commission shall locate and train volunteers as bow hunter education instructors. The commission shall issue a certificate of successful completion to any person who satisfactorily completes a bow hunter education program ~~established~~ accredited by the commission and shall print, purchase, or otherwise acquire materials necessary for effective program operation. The commission shall adopt and promulgate rules and regulations for carrying out and administering such program.

(2) A person twelve through twenty-nine years of age who is hunting antelope, deer, elk, or mountain sheep with a bow and arrow or crossbow pursuant to any provision of sections 37-447 to 37-453 shall ~~have on his or her person~~ (a) have on his or her person proof of successful completion of a bow hunter education course issued by his or her state or province of residence or by an accredited program recognized by the commission, ~~or~~ (b) have on his or her person the appropriate hunting permit and an apprentice hunter education exemption certificate issued by the commission pursuant to subsection (3) of section 37-413 and be accompanied as described in subsection (4) of section 37-413, or (c) hold the appropriate hunting permit and a license-purchase exemption certificate issued pursuant to section 2 of this act if required pursuant to such section. and an apprentice hunter education exemption certificate issued and enforced by the commission pursuant to section 37-413.

Sec. 6. Section 69-2409.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

69-2409.01 (1) For purposes of sections 69-2401 to 69-2425, the Nebraska State Patrol shall be furnished with only such information as may be necessary for the sole purpose of determining whether an individual is disqualified from purchasing or possessing a handgun pursuant to state law or is subject to the disability provisions of 18 U.S.C. 922(d)(4) and (g)(4). Such information shall be furnished by the Department of Health and Human Services. The clerks of the various courts shall furnish to the Department of Health and Human Services and Nebraska State Patrol, as soon as practicable but within thirty days after an order of commitment or discharge is issued or after removal of firearm-related disabilities pursuant to section 71-963, all information necessary to set up and maintain the data base required by this section. This information shall include (a) information regarding those persons who are currently receiving mental health treatment pursuant to a commitment order of a mental health board or who have been discharged, (b) information regarding those persons who have been committed to treatment pursuant to section 29-3702, and (c) information regarding those persons who have had firearm-related disabilities removed pursuant to section 71-963. The mental health board shall notify the Department of Health and Human Services and the Nebraska State Patrol when such disabilities have been removed. The Department of Health and Human Services shall also maintain in the data base a listing of persons committed to treatment pursuant to section 29-3702. To ensure the accuracy of the data base, any information maintained or disclosed under this subsection shall be updated, corrected, modified, or removed, as appropriate, and as soon as practicable, from any data base that the state or federal government maintains and makes available to the National Instant Criminal Background Check System. The procedures for furnishing the information shall guarantee that no information is released beyond what is necessary for purposes of this section.

(2) In order to comply with sections 69-2401 and 69-2403 to 69-2408 and this section, the Nebraska State Patrol shall provide to the chief of police or sheriff of an applicant's place of residence or a licensee in the process of a criminal history record check pursuant to section 69-2411 only the information regarding whether or not the applicant is disqualified from purchasing or possessing a handgun.

(3) Any person, agency, or mental health board participating in good faith in the reporting or disclosure of records and communications under this section is immune from any liability, civil, criminal, or otherwise, that might result by reason of the action.

(4) Any person who intentionally causes the Nebraska State Patrol to request information pursuant to this section without reasonable belief that the named individual has submitted a written application under section 69-2404 or has completed a consent form under section 69-2410 shall be guilty of a Class II misdemeanor in addition to other civil or criminal liability under state or federal law.

(5) The Nebraska State Patrol and the Department of Health and Human Services shall report electronically to the Clerk of the Legislature on a biannual basis the following information about the data base: (a) The number of total records of persons unable to purchase or possess firearms because of disqualification or disability shared with the National Instant Criminal Background Check System; (b) the number of shared records by category of such persons; (c) the change in number of total shared records and change in number of records by category from the previous six months; (d) the number of records existing but not able to be shared with the National Instant Criminal Background Check System because the record was incomplete and unable to be accepted by the National Instant Criminal Background Check System; and (e) the number of hours or days, if any, during which the data base was unable

to share records with the National Instant Criminal Background Check System and the reason for such inability. The report shall also be published on the web sites of the Nebraska State Patrol and the Department of Health and Human Services.

Sec. 7. Original sections 37-404 and 37-414, Reissue Revised Statutes of Nebraska, and sections 37-201, 37-413, and 69-2409.01, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 8. The following section is outright repealed: Section 28-1211, Reissue Revised Statutes of Nebraska.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.