

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 780

Introduced by Pansing Brooks, 28; Howard, 9; McCollister, 20; Morfeld,
46; Wayne, 13.

Read first time January 03, 2018

Committee:

- 1 A BILL FOR AN ACT relating to firearms; to amend sections 28-1203,
- 2 28-1351, and 28-1354, Reissue Revised Statutes of Nebraska, and
- 3 section 28-1201, Revised Statutes Supplement, 2017; to define terms;
- 4 to prohibit the manufacture, import, transfer, and possession of
- 5 multiburst trigger activators and firearm silencers; to provide a
- 6 penalty; to eliminate an obsolete provision; to harmonize
- 7 provisions; and to repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1201, Revised Statutes Supplement, 2017, is
2 amended to read:

3 28-1201 For purposes of sections 28-1201 to 28-1212.04, unless the
4 context otherwise requires:

5 (1) Firearm means any weapon which is designed to or may readily be
6 converted to expel any projectile by the action of an explosive or frame
7 or receiver of any such weapon;

8 (2) Firearm silencer means any device for silencing, muffling, or
9 diminishing the report of a portable firearm, including any combination
10 of parts, designed or redesigned, and intended for use in assembling or
11 fabricating a firearm silencer, and any part intended only for use in
12 such assembly or fabrication;

13 (3) {2} Fugitive from justice means any person who has fled or is
14 fleeing from any peace officer to avoid prosecution or incarceration for
15 a felony;

16 (4) {3} Handgun means any firearm with a barrel less than sixteen
17 inches in length or any firearm designed to be held and fired by the use
18 of a single hand;

19 (5) {4} Juvenile means any person under the age of eighteen years;

20 (6) {5} Knife means:

21 (a) Any dagger, dirk, knife, or stiletto with a blade over three and
22 one-half inches in length and which, in the manner it is used or intended
23 to be used, is capable of producing death or serious bodily injury; or

24 (b) Any other dangerous instrument which is capable of inflicting
25 cutting, stabbing, or tearing wounds and which, in the manner it is used
26 or intended to be used, is capable of producing death or serious bodily
27 injury;

28 (7) {6} Knuckles and brass or iron knuckles means any instrument
29 that consists of finger rings or guards made of a hard substance and that
30 is designed, made, or adapted for the purpose of inflicting serious
31 bodily injury or death by striking a person with a fist enclosed in the

1 knuckles;

2 (8) ~~(7)~~ Machine gun means any firearm, whatever its size and usual
3 designation, that shoots automatically more than one shot, without manual
4 reloading, by a single function of the trigger;

5 (9) Multiburst trigger activator means either: (a) A device designed
6 or redesigned to be attached to a semiautomatic firearm which allows the
7 firearm to discharge two or more shots in a burst by activating the
8 device; or (b) a trigger-activating device, whether manual or power-
9 driven, that is constructed and designed so that when such device is
10 attached to a semiautomatic firearm the rate of fire of such firearm is
11 increased;

12 (10) ~~(8)~~ School means a public, private, denominational, or
13 parochial elementary, vocational, or secondary school, a private
14 postsecondary career school as defined in section 85-1603, a community
15 college, a public or private college, a junior college, or a university;

16 (11) ~~(9)~~ Short rifle means a rifle having a barrel less than sixteen
17 inches long or an overall length of less than twenty-six inches; and

18 (12) ~~(10)~~ Short shotgun means a shotgun having a barrel or barrels
19 less than eighteen inches long or an overall length of less than twenty-
20 six inches.

21 Sec. 2. Section 28-1203, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-1203 (1) Any person ~~or persons~~ who transports ~~shall transport~~ or
24 possesses ~~possess~~ any machine gun, short rifle, or short shotgun commits
25 a Class IV felony.

26 (2) Any person who manufactures or causes to be manufactured,
27 imports or causes to be imported into this state, keeps for sale, offers
28 or exposes for sale, gives, lends, or possesses any multiburst trigger
29 activator or firearm silencer commits a Class IV felony.

30 (3) This ~~(2)~~ ~~The provisions of this~~ section shall not be held to
31 prohibit any act by peace officers, members of the United States armed

1 services, or members of the National Guard of this state, in the lawful
2 discharge of their duties, or persons qualified under the provisions of
3 federal law relating to the short rifle, short shotgun, or machine gun.

4 Sec. 3. Section 28-1351, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 28-1351 (1) A person commits the offense of unlawful membership
7 recruitment into an organization or association when he or she knowingly
8 and intentionally coerces, intimidates, threatens, or inflicts bodily
9 harm upon another person in order to entice that other person to join or
10 prevent that other person from leaving any organization, group,
11 enterprise, or association whose members, individually or collectively,
12 engage in or have engaged in any of the following criminal acts for the
13 benefit of, at the direction of, or on behalf of the organization, group,
14 enterprise, or association or any of its members:

15 (a) Robbery under section 28-324;

16 (b) Arson in the first, second, or third degree under section
17 28-502, 28-503, or 28-504, respectively;

18 (c) Burglary under section 28-507;

19 (d) Murder in the first degree, murder in the second degree, or
20 manslaughter under section 28-303, 28-304, or 28-305, respectively;

21 (e) Violations of the Uniform Controlled Substances Act that involve
22 possession with intent to deliver, distribution, delivery, or manufacture
23 of a controlled substance;

24 (f) Unlawful use, possession, or discharge of a firearm, ~~or~~ other
25 deadly weapon, multiburst trigger activator, or firearm silencer under
26 sections 28-1201 to 28-1212.04;

27 (g) Assault in the first degree or assault in the second degree
28 under section 28-308 or 28-309, respectively;

29 (h) Assault on an officer, an emergency responder, a state
30 correctional employee, a Department of Health and Human Services
31 employee, or a health care professional in the first, second, or third

1 degree under section 28-929, 28-930, or 28-931, respectively, or assault
2 on an officer, an emergency responder, a state correctional employee, a
3 Department of Health and Human Services employee, or a health care
4 professional using a motor vehicle under section 28-931.01;

5 (i) Theft by unlawful taking or disposition under section 28-511;

6 (j) Theft by receiving stolen property under section 28-517;

7 (k) Theft by deception under section 28-512;

8 (l) Theft by extortion under section 28-513;

9 (m) Kidnapping under section 28-313;

10 (n) Any forgery offense under sections 28-602 to 28-605;

11 (o) Criminal impersonation under section 28-638;

12 (p) Tampering with a publicly exhibited contest under section
13 28-614;

14 (q) Unauthorized use of a financial transaction device or criminal
15 possession of a financial transaction device under section 28-620 or
16 28-621, respectively;

17 (r) Pandering under section 28-802;

18 (s) Bribery, bribery of a witness, or bribery of a juror under
19 section 28-917, 28-918, or 28-920, respectively;

20 (t) Tampering with a witness or an informant or jury tampering under
21 section 28-919;

22 (u) Unauthorized application of graffiti under section 28-524;

23 (v) Dogfighting, cockfighting, bearbaiting, or pitting an animal
24 against another under section 28-1005; or

25 (w) Promoting gambling in the first degree under section 28-1102.

26 (2) Unlawful membership recruitment into an organization or
27 association is a Class IV felony.

28 Sec. 4. Section 28-1354, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 28-1354 For purposes of the Public Protection Act:

31 (1) Enterprise means any individual, sole proprietorship,

1 partnership, corporation, trust, association, or any legal entity, union,
2 or group of individuals associated in fact although not a legal entity,
3 and shall include illicit as well as licit enterprises as well as other
4 entities;

5 (2) Pattern of racketeering activity means a cumulative loss for one
6 or more victims or gains for the enterprise of not less than one thousand
7 five hundred dollars resulting from at least two acts of racketeering
8 activity, one of which occurred after August 30, 2009, and the last of
9 which occurred within ten years, excluding any period of imprisonment,
10 after the commission of a prior act of racketeering activity;

11 (3) Until January 1, 2017, person means any individual or entity, as
12 defined in section 21-2014, holding or capable of holding a legal,
13 equitable, or beneficial interest in property. Beginning January 1, 2017,
14 person means any individual or entity, as defined in section 21-214,
15 holding or capable of holding a legal, equitable, or beneficial interest
16 in property;

17 (4) Prosecutor includes the Attorney General of the State of
18 Nebraska, the deputy attorney general, assistant attorneys general, a
19 county attorney, a deputy county attorney, or any person so designated by
20 the Attorney General, a county attorney, or a court of the state to carry
21 out the powers conferred by the act;

22 (5) Racketeering activity includes the commission of, criminal
23 attempt to commit, conspiracy to commit, aiding and abetting in the
24 commission of, aiding in the consummation of, acting as an accessory to
25 the commission of, or the solicitation, coercion, or intimidation of
26 another to commit or aid in the commission of any of the following:

27 (a) Offenses against the person which include: Murder in the first
28 degree under section 28-303; murder in the second degree under section
29 28-304; manslaughter under section 28-305; assault in the first degree
30 under section 28-308; assault in the second degree under section 28-309;
31 assault in the third degree under section 28-310; terroristic threats

1 under section 28-311.01; kidnapping under section 28-313; false
2 imprisonment in the first degree under section 28-314; false imprisonment
3 in the second degree under section 28-315; sexual assault in the first
4 degree under section 28-319; and robbery under section 28-324;

5 (b) Offenses relating to controlled substances which include: To
6 unlawfully manufacture, distribute, deliver, dispense, or possess with
7 intent to manufacture, distribute, deliver, or dispense a controlled
8 substance under subsection (1) of section 28-416; possession of marijuana
9 weighing more than one pound under subsection (12) of section 28-416;
10 possession of money used or intended to be used to facilitate a violation
11 of subsection (1) of section 28-416 prohibited under subsection (17) of
12 section 28-416; any violation of section 28-418; to unlawfully
13 manufacture, distribute, deliver, or possess with intent to distribute or
14 deliver an imitation controlled substance under section 28-445;
15 possession of anhydrous ammonia with the intent to manufacture
16 methamphetamine under section 28-451; and possession of ephedrine,
17 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
18 methamphetamine under section 28-452;

19 (c) Offenses against property which include: Arson in the first
20 degree under section 28-502; arson in the second degree under section
21 28-503; arson in the third degree under section 28-504; burglary under
22 section 28-507; theft by unlawful taking or disposition under section
23 28-511; theft by shoplifting under section 28-511.01; theft by deception
24 under section 28-512; theft by extortion under section 28-513; theft of
25 services under section 28-515; theft by receiving stolen property under
26 section 28-517; criminal mischief under section 28-519; and unlawfully
27 depriving or obtaining property or services using a computer under
28 section 28-1344;

29 (d) Offenses involving fraud which include: Burning to defraud an
30 insurer under section 28-505; forgery in the first degree under section
31 28-602; forgery in the second degree under section 28-603; criminal

1 possession of a forged instrument under section 28-604; criminal
2 possession of written instrument forgery devices under section 28-605;
3 criminal impersonation under section 28-638; identity theft under section
4 28-639; identity fraud under section 28-640; false statement or book
5 entry under section 28-612; tampering with a publicly exhibited contest
6 under section 28-614; issuing a false financial statement for purposes of
7 obtaining a financial transaction device under section 28-619;
8 unauthorized use of a financial transaction device under section 28-620;
9 criminal possession of a financial transaction device under section
10 28-621; unlawful circulation of a financial transaction device in the
11 first degree under section 28-622; unlawful circulation of a financial
12 transaction device in the second degree under section 28-623; criminal
13 possession of a blank financial transaction device under section 28-624;
14 criminal sale of a blank financial transaction device under section
15 28-625; criminal possession of a financial transaction forgery device
16 under section 28-626; unlawful manufacture of a financial transaction
17 device under section 28-627; laundering of sales forms under section
18 28-628; unlawful acquisition of sales form processing services under
19 section 28-629; unlawful factoring of a financial transaction device
20 under section 28-630; and fraudulent insurance acts under section 28-631;
21 (e) Offenses involving governmental operations which include: Abuse
22 of public records under section 28-911; perjury or subornation of perjury
23 under section 28-915; bribery under section 28-917; bribery of a witness
24 under section 28-918; tampering with a witness or informant or jury
25 tampering under section 28-919; bribery of a juror under section 28-920;
26 assault on an officer, an emergency responder, a state correctional
27 employee, a Department of Health and Human Services employee, or a health
28 care professional in the first degree under section 28-929; assault on an
29 officer, an emergency responder, a state correctional employee, a
30 Department of Health and Human Services employee, or a health care
31 professional in the second degree under section 28-930; assault on an

1 officer, an emergency responder, a state correctional employee, a
2 Department of Health and Human Services employee, or a health care
3 professional in the third degree under section 28-931; and assault on an
4 officer, an emergency responder, a state correctional employee, a
5 Department of Health and Human Services employee, or a health care
6 professional using a motor vehicle under section 28-931.01;

7 (f) Offenses involving gambling which include: Promoting gambling in
8 the first degree under section 28-1102; possession of gambling records
9 under section 28-1105; gambling debt collection under section 28-1105.01;
10 and possession of a gambling device under section 28-1107;

11 (g) Offenses relating to firearms, weapons, and explosives which
12 include: Carrying a concealed weapon under section 28-1202;
13 transportation or possession of machine guns, short rifles, or short
14 shotguns or possession of or other unlawful acts relating to multiburst
15 trigger activators or firearm silencers under section 28-1203; unlawful
16 possession of a handgun under section 28-1204; unlawful transfer of a
17 firearm to a juvenile under section 28-1204.01; using a deadly weapon to
18 commit a felony or possession of a deadly weapon during the commission of
19 a felony under section 28-1205; possession of a deadly weapon by a
20 prohibited person under section 28-1206; possession of a defaced firearm
21 under section 28-1207; defacing a firearm under section 28-1208; unlawful
22 discharge of a firearm under section 28-1212.02; possession, receipt,
23 retention, or disposition of a stolen firearm under section 28-1212.03;
24 unlawful possession of explosive materials in the first degree under
25 section 28-1215; unlawful possession of explosive materials in the second
26 degree under section 28-1216; unlawful sale of explosives under section
27 28-1217; use of explosives without a permit under section 28-1218;
28 obtaining an explosives permit through false representations under
29 section 28-1219; possession of a destructive device under section
30 28-1220; threatening the use of explosives or placing a false bomb under
31 section 28-1221; using explosives to commit a felony under section

1 28-1222; using explosives to damage or destroy property under section
2 28-1223; and using explosives to kill or injure any person under section
3 28-1224;

4 (h) Any violation of the Securities Act of Nebraska pursuant to
5 section 8-1117;

6 (i) Any violation of the Nebraska Revenue Act of 1967 pursuant to
7 section 77-2713;

8 (j) Offenses relating to public health and morals which include:
9 Prostitution under section 28-801; pandering under section 28-802;
10 keeping a place of prostitution under section 28-804; labor trafficking,
11 sex trafficking, labor trafficking of a minor, or sex trafficking of a
12 minor under section 28-831; a violation of section 28-1005; and any act
13 relating to the visual depiction of sexually explicit conduct prohibited
14 in the Child Pornography Prevention Act; and

15 (k) A violation of the Computer Crimes Act;

16 (6) State means the State of Nebraska or any political subdivision
17 or any department, agency, or instrumentality thereof; and

18 (7) Unlawful debt means a debt of at least one thousand five hundred
19 dollars:

20 (a) Incurred or contracted in gambling activity which was in
21 violation of federal law or the law of the state or which is
22 unenforceable under state or federal law in whole or in part as to
23 principal or interest because of the laws relating to usury; or

24 (b) Which was incurred in connection with the business of gambling
25 in violation of federal law or the law of the state or the business of
26 lending money or a thing of value at a rate usurious under state law if
27 the usurious rate is at least twice the enforceable rate.

28 Sec. 5. Original sections 28-1203, 28-1351, and 28-1354, Reissue
29 Revised Statutes of Nebraska, and section 28-1201, Revised Statutes
30 Supplement, 2017, are repealed.