

NEBRASKA ADMINISTRATIVE CODE

TITLE 272, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 22

NEBRASKA STATE PATROL

Nebraska Handgun Purchase Certificate Act

001 SCOPE AND PURPOSE

- 001.01 These regulations are to implement the Nebraska Handgun Purchase Certificate Act. The purpose of the Act is to regulate the purchase, lease, rent, or transfer of handguns.
- 001.02 Statutory authority for these regulations can be found at Neb. Rev. Stat. § 69-2401 through 69-2425.

002 DEFINITIONS

- 002.01 “The Act” means Neb. Rev. Stat. §§ 69-2401 to 69-2425.
- 002.02 “*Antique handgun or pistol*” is defined in Neb. Rev. Stat. § 69-2402(1).
- 002.03 “Certificate” means a Nebraska Handgun Purchase Certificate.
- 002.04 “*Criminal history record check*” is defined by Neb. Rev. Stat. § 69-2402(2) and includes a check of the National Instant Criminal Background Check System.
- 002.05 “Handgun” is defined by Neb. Rev. Stat. § 69-2402(4)

003 APPLICATIONS

- 003.01 Any person desiring to purchase, lease, rent, or receive transfer of a handgun will apply with the chief of police or sheriff of the applicant’s place of residence for a certificate. The certificate will not be required under the circumstances listed in Neb. Rev. Stat. §69-2403(2).

- 003.02 The application may be made in person or by mail.
 - 003.02A If the application is made in person, the applicant will also present a Nebraska driver's license, or state identification card reflecting the current address, or military identification card.
 - 003.02B If the application is made by mail, the application will describe the license or card used for identification, including the license or card number, and be notarized by a notary public.
- 003.03 A fee as specified in Neb. Rev. Stat. § 69-2404 will be charged for each application for a certificate.
- 003.04 Only the official Nebraska State Patrol application form will be accepted. The application form will be designed by NSP and include the following requirements:
 - 003.04A Full name and any previous name(s) used by applicant;
 - 003.04B Complete address;
 - 003.04C Date of birth;
 - 003.04D Proof of citizenship by birth certificate, or passport, or in alternative for aliens qualified by federal law to purchase or possesses firearms, their US alien or admission number;
 - 003.04E Current driver's license number, state identification card number, or military identification card number, if application is made in person;
 - 003.04F Signature of the applicant.
- 003.05 The vendor selected to print the forms will provide application and certificate forms to issuing agencies only. Issuing agencies may provide blank application forms to dealers. The issuing agency will ensure application forms are accounted for to allow a proper audit of all funds received under the Act.
- 003.06 Application and certificate forms may be made available electronically in a secure manner to issuing agencies.
- 003.07 All applications and certificate records will be maintained in a secure fashion by law enforcement agencies for audits.
- 003.08 To receive a certificate, applicants must:
 - 003.08A Be at least twenty-one (21) years of age;

- 003.08B Complete the application and submit it along with all necessary documentation to the appropriate issuing agency;
- 003.08C Pay the required fee;
- 003.08D Not be prohibited from purchasing or possessing a handgun by federal, state or local law. Verification of this requires a criminal history record check, including a National Instant Criminal Background Check System (NICS) check.
- 003.08E Be a U.S. citizen, or an alien qualified under federal law to purchase or possess a handgun. If the applicant is not a U.S. citizen, they will include their place of birth or their U.S. alien or admission number.

004 INVESTIGATIONS

- 004.01 The sheriff or chief of police may require the applicant to obtain and provide additional information as needed, to investigate and make a firearms eligibility decision. The three-days to issue the certificate does not begin until the application is completed, all necessary documentation is received by the issuing agency, and the required fee is paid.
- 004.02 The sheriff or chief of police to whom the application as submitted will conduct a background check to determine whether the applicant has a firearm disability that precludes him or her from purchasing or possessing a handgun.
- 004.03 The background check may include, but is not limited to, a criminal background check, a check of court and government records including notations or warrants and commitment orders issued by courts or mental health boards, and interviews of individuals with reliable and pertinent information about the applicant.

005 CERTIFICATE ISSUANCE PROCESS

- 005.01 A permit will be issued to the applicant by the chief of police or by the sheriff within three days so long as the record check reveals no disqualifying information and applicant meets all of the requirements of the Act and these regulations.
- 005.02 Neb. Rev. Stat. § 69-2405 will be followed when calculating the three-day period to issue or deny the certificate.

006 DENIAL AND REVOCATION OF CERTIFICATE

- 006.01 If an applicant does not meet the certificate qualifications, they will be notified in writing indicating the reason(s) for the denial, along with notification of the appeal process as set out in Neb. Rev. Stat. § 69-2406.
- 006.02 If the chief of police or sheriff who issued the certificate determines that the applicant has become disqualified for the certificate under federal, state or local law and the certificate's three-year term has not expired, he or she may immediately revoke the certificate and require the holder to surrender the certificate immediately.
- 006.03 The agency to which an application was made will preserve evidence of the reason(s) for denial or revocation for at least 30 days, should the applicant appeal the denial or revocation.
- 006.04 Any person who is denied a certificate, whose certificate is revoked, or who has not been issued a certificate upon expiration of the three-day period may appeal as set out in Neb. Rev. Stat. § 69-2406.

007 PERSONS WITH FIREARM DISABILITIES

- 007.01 A certificate application will be denied if federal, state, or local laws prohibits the applicant from purchasing or possessing a handgun. The following subsections of Section 07 are a nonexclusive list of firearm disabilities that prevent persons from purchasing or possessing handguns.
- 007.01A Persons convicted of a crime classified as a felony or a crime punishable by imprisonment for a term exceeding one year, whether or not imposed, per 18 U.S.C. § 922(g)(1).
- 007.01B Persons convicted of a misdemeanor punishable by imprisonment for a term exceeding two years, whether or not imposed, per 18 U.S.C. § 922(g)(1).
- 007.01C Persons who are fugitives from justice, pursuant to 18 U.S.C. § 922(g)(2), as defined by 18 U.S.C. § 921(15), or Neb. Rev. Stat. § 28-1206, as defined by Neb. Rev. Stat. § 28-1201.
- 007.01D Persons who are unlawful users of or addicted to any controlled substance pursuant to 18 U.S.C. §922(g)(3). "Unlawful user of or addicted to any controlled substance" is defined in 27 C.F.R. §

478.11. A copy of this federal regulation can be found at NSP State Headquarters, and online at <https://www.ecfr.gov/current/title-27/chapter-II/subchapter-B/part-478>.

- 007.01E Persons who have been adjudicated as mental defectives or have been committed to any mental institution, as described in 18 U.S.C. § 922(g)(4). “Adjudicated as a mental defective”, “committed to a mental institution”, and “mental institution” are defined by 27 C.F.R. § 478.11.
- 007.01F Persons who are aliens and are illegally or unlawfully in the United States, as defined by 18 U.S.C. § 922(g)(5). “Alien” and “alien illegally or unlawfully in the United States” are defined in 27 C.F.R. § 478.11.
- 007.01G Persons who have been discharged from the U.S. Armed Forces under a dishonorable discharge conditions, pursuant to 18 U.S.C. § 922(g)(6). This does not include a “bad conduct” discharge or “other than honorable” discharge from the U.S. Armed Forces.
- 007.01H Persons who, having been citizens of the United States, have renounced their U.S. Citizenship, as set out in 18 U.S.C. § 922(g)(7). All renounced citizenship information is provided by the Department of State and is found in the NICS Indices.
- 007.01I Persons convicted in any federal, state, or tribal court of a misdemeanor crime of domestic violence as set out in 18 U.S.C. § 922(g)(9). A misdemeanor crime of domestic violence means a conviction pursuant to 18 U.S.C. § 921(a)(33).
- 007.01J Persons subject to a court order that restrains them from harassing, stalking, or threatening an intimate partner, as defined by 18 U.S.C. § 921(a)(32), or a child of such intimate partner, or from engaging in other conduct that would place the partner or child in reasonable fear of bodily injury pursuant to 18 U.S.C. § 922(g)(8). This firearm disability only applies to a court order that:
- (1) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and
 - (2) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(3) by its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

007.01K Persons who are under indictment or information in any court of a crime punishable by imprisonment for a term exceeding one year, as prohibited by 18 U.S.C. § 922(n), or any state offense classified by the laws of the state as misdemeanor and punishable by imprisonment for a term exceeding two years. "Indictment" is defined by 27 C.F.R. § 478.11.

007.01L Persons who are prohibited by Neb. Rev. Stat. § 28-1206 or Neb. Rev. Stat. § 28-1204.05 from possessing a firearm.

007.01M Persons prohibited from purchasing or possessing a handgun by city or village ordinance.

007.02 A certificate will not be denied to a person who has been granted lawful relief from a firearm disability.

008 ISSUING AGENCIES

008.01 Any activity required or authorized to be performed by the chief of police or sheriff under the Act may be performed by his or her authorized designee.

008.02 Chiefs of police and sheriffs acting pursuant to the Act will establish accounting practices to assure proper disposition of all funds received and to provide an effective audit trail.

CERTIFICATE OF ADOPTION
STATE OF NEBRASKA
NEBRASKA STATE PATROL

I, Andrew Duis, Lieutenant Colonel of the Nebraska State Patrol, do hereby certify that the attached are true and correct copies of the 272 NAC Chapter 22 – Nebraska Handgun Purchase Certificate Act, as proposed for adoption after a public hearing held on November 29, 2021, having given notification by publication in a general circulation newspaper, in the State of Nebraska.

Dated this _____ day of January, 2022.

Andrew Duis

Lieutenant Colonel of the Nebraska State Patrol

Nebraska State Patrol