SENATE CS FOR CS FOR HOUSE BILL NO. 28(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/25/95
Referred: Rules

Sponsor(s): REPRESENTATIVES BUNDE, Rokeberg, Green, Toohey, Kott, Elton
SENATORS Halford, Pearce, Salo, Phillips, Donley, Green, Torgerson, Taylor, Kelly, Frank, Sharp, Duncan, Zharoff, Leman, Miller

A BILL

FOR AN ACT ENTITLED

"An Act relating to the possession of weapons within the buildings of, grounds of, or on the parking lot of preschools, elementary, junior high, and secondary schools or while participating in a school-sponsored event; requiring the expulsion or suspension of students possessing deadly weapons on school grounds; requiring reports to the Department of Education concerning those expulsions or suspensions; and relating to school lockers and other containers provided in a public or private school by the school or the school district."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 11.61.210(a) is amended to read:

(a) A person commits the crime of misconduct involving weapons in the fourth degree if the person

(1) possesses on the person, or in the interior of a vehicle in which the person is present, a firearm when the person's physical or mental condition is impaired
as a result of the introduction of an intoxicating liquor or a controlled substance into
the person’s body in circumstances other than described in AS 11.61.200(a)(7);

(2) discharges a firearm from, on, or across a highway;

(3) discharges a firearm with reckless disregard for a risk of damage
to property or a risk of physical injury to a person;

(4) manufactures, possesses, transports, sells, or transfers metal
knuckles;

(5) manufactures, sells, or transfers a switchblade or a gravity knife;

[OR]

(6) knowingly sells a firearm or a defensive weapon to a person under
18 years of age;

(7) other than a preschool, elementary, junior high, or secondary
school student, knowingly possesses a deadly weapon or a defensive weapon,
without the permission of the chief administrative officer of the school or district
or the designee of the chief administrative officer, within the buildings of, on the
grounds of, or on the school parking lot of a public or private preschool,
elementary, junior high, or secondary school or while participating in a school-
sponsored event, except that a person 21 years of age or older may possess

(A) a deadly weapon, other than a loaded firearm, in the
trunk of a motor vehicle or encased in a closed container in a motor
vehicle;

(B) a defensive weapon;

(C) an unloaded firearm if the person is traversing school
premises in a rural area for the purpose of entering public or private land
that is open to hunting and the school board with jurisdiction over the
school premises has elected to have this exemption apply to the school
premises; in this subparagraph, "rural" means a community with a
population of 5,500 or less that is not connected by road or rail to
Anchorage or Fairbanks or with a population of 1,500 or less that is
connected by road or rail to Anchorage or Fairbanks; or

(8) being a preschool, elementary, junior high, or secondary school
student, knowingly possesses a deadly weapon or a defensive weapon, within the
buildings of, on the grounds of, or on the school parking lot of a public or private
preschool, elementary, junior high, or secondary school or while participating in
a school-sponsored event, except that a student may possess a deadly weapon,
other than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the
student has obtained the prior permission of the chief administrative officer of the
school or district or the designee of the chief administrative officer for the
possess

* Sec. 2. AS 11.61.210 is amended by adding a new subsection to read:
  (d) The provisions of (a)(7) of this section do not apply to a peace officer
  acting within the scope and authority of the officer's employment.

* Sec. 3. AS 11.61.220(a) is amended to read:
  (a) A person commits the crime of misconduct involving weapons in the fifth
degree if the person
  (1) knowingly possesses a deadly weapon, other than an ordinary
  pocket knife or a defensive weapon, that is concealed on the person;
  (2) knowingly possesses a loaded firearm on the person in any place
  where intoxicating liquor is sold for consumption on the premises;
  (3) being an unemancipated minor under 16 years of age, possesses a
  firearm without the consent of a parent or guardian of the minor;
  (4) knowingly possesses a firearm
  [(A) OR A DEFENSIVE WEAPON WITHIN THE GROUNDS
  OF OR ON A PARKING LOT IMMEDIATELY ADJACENT TO A PUBLIC
  OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR HIGH, OR
  SECONDARY SCHOOL WITHOUT THE PERMISSION OF THE CHIEF
  ADMINISTRATIVE OFFICER OF THE SCHOOL OR DISTRICT OR THE
  DESIGNEE OF THE CHIEF ADMINISTRATIVE OFFICER, EXCEPT THAT
  A PERSON 21 YEARS OF AGE OR OLDER MAY POSSESS
  (i) AN UNLOADED FIREARM IN THE TRUNK OF
  A MOTOR VEHICLE OR ENCASED IN A CLOSED CONTAINER
  IN A MOTOR VEHICLE;
(ii) A DEFENSIVE WEAPON; OR

(B)] within the grounds of or on a parking lot immediately adjacent to a center, other than a private residence, licensed under AS 47.33 or AS 47.35 or recognized by the federal government for the care of children; or

(5) possesses or transports a switchblade or a gravity knife.

* Sec. 4. AS 14.03.080 is amended by adding a new subsection to read:

(f) This section does not require a school district to admit a child or person currently under suspension or expulsion under AS 14.03.160 in that or another school district.

* Sec. 5. AS 14.03 is amended by adding a new section to read:

Sec. 14.03.105. SCHOOL LOCKERS. (a) Subject to (b) of this section, a locker or other container provided in a school by the school or the school district may be searched and examined with the permission of the chief administrative officer of the school or the school district or the designee of the chief administrative officer to determine compliance with school regulations, school district regulations, and local, state, and federal laws. A search or examination under this section may not be more intrusive than reasonably necessary to meet the objectives of the search.

(b) Notices in letters at least two inches high stating the right and the intention of school and school district officers to permit searches and examinations under (a) of this section shall be posted in prominent locations throughout a school.

(c) Nothing in this section limits the ability of a peace officer, chief administrative officer, or other appropriate person, acting in compliance with local, state, or federal laws, to search a locker or other container provided in a public or private school by the school district.

* Sec. 6. AS 14.03 is amended by adding a new section to read:

Sec. 14.03.160. SUSPENSION OR EXPULSION OF STUDENTS FOR POSSESSING WEAPONS. (a) Notwithstanding any other provision of law, a school district shall

(1) expel for at least one year a student who violates AS 11.61.210(a)(8) while possessing a firearm, as that term is defined under 18 U.S.C. 921;
(2) suspend for a least 30 days, or expel for the school year or
permanently, a student who violates AS 11.61.210(a)(8) while possessing a deadly
weapon, other than a firearm as that term is defined under 18 U.S.C. 921.

(b) The administrative officer of a school district may on a case-by-case basis
reduce or otherwise modify the expulsion or suspension of a student under (a) of this
section.

c) A prior conviction, or adjudication of delinquency or child in need of aid,
for violation of AS 11.61.210(a)(8) is not necessary for a school board to suspend or
expel a student under this section.

d) Each school district shall adopt a policy providing for the

(1) referral to law enforcement authorities of students who violate
AS 11.61.210(a)(8);

(2) identification of procedures and conditions for early reinstatement
of students suspended or expelled under this section.

e) Annually on a date set by the department, each school district shall report
to the department the number of students expelled under this section and the types of
weapons involved.

(f) In this section,

(1) "deadly weapon" has the meaning given in AS 11.81.900;

(2) "district" has the meaning given in AS 14.17.250.

* Sec. 7. AS 14.45 is amended by adding a new section to article 3 to read:

Sec. 14.45.190. SCHOOL LOCKERS. A private school may search school
lockers and other containers as provided in AS 14.03.105.