

HOUSE CS FOR CS FOR SENATE BILL NO. 141(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/9/97

Offered: 5/8/97

Sponsor(s): SENATOR GREEN

REPRESENTATIVES Kohring, Ogan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to permits to carry concealed handguns; and relating to the
2 possession of firearms."

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

4 * **Section 1.** AS 11.61.200(a) is amended by adding a new paragraph to read:

5 (12) knowingly possesses a firearm that is concealed on the person after
6 having been convicted of a felony or adjudicated a delinquent minor for conduct that
7 would constitute a felony if committed by an adult by a court of this state, a court of
8 the United States, or a court of another state or territory.

9 * **Sec. 2.** AS 11.61.200 is amended by adding new subsections to read:

10 (h) For purposes of (a)(12) of this section, a firearm on a person is concealed
11 if it is covered or enclosed in any manner so that an observer cannot determine that
12 it is a firearm without removing it from that which covers or encloses it or without
13 opening, lifting, or removing that which covers or encloses it. A firearm on a person
14 is not concealed if it is unloaded and is encased in a closed container designed for

1 transporting firearms.

2 (i) It is an affirmative defense to a prosecution under (a)(12) of this section
3 that

4 (1) either

5 (A) the defendant convicted of the prior offense on which the
6 action is based received a pardon for that conviction;

7 (B) the underlying conviction upon which the action is based
8 has been set aside under AS 12.55.085 or as a result of post-conviction
9 proceedings; or

10 (C) a period of 10 years or more has elapsed between the date
11 of the defendant's unconditional discharge on the prior offense or adjudication
12 of juvenile delinquency and the date of the violation of (a)(12) of this section,
13 and the prior conviction or adjudication of juvenile delinquency did not result
14 from a violation of AS 11.41 or of a similar law of the United States or of
15 another state or territory; and

16 (2) at the time of possession, the defendant was

17 (A) in the defendant's dwelling or on land owned or leased by
18 the defendant appurtenant to the dwelling; or

19 (B) actually engaged in lawful hunting, fishing, trapping, or
20 other lawful outdoor activity that necessarily involves the carrying of a weapon
21 for personal protection.

22 * **Sec. 3.** AS 11.61.210(a) is amended to read:

23 **Sec. 11.61.210. Misconduct involving weapons in the fourth degree.** (a)

24 A person commits the crime of misconduct involving weapons in the fourth degree if
25 the person

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

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

31 (3) discharges a firearm with reckless disregard for a risk of damage

1 to property or a risk of physical injury to a person;

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

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

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

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

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

17 (B) a defensive weapon;

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

26 (8) being a preschool, elementary, junior high, or secondary school
27 student, knowingly possesses a deadly weapon or a defensive weapon, within the
28 buildings of, on the grounds of, or on the school parking lot of a public or private
29 preschool, elementary, junior high, or secondary school, **on a school bus while being**
30 **transported to or from school or a school-sponsored event**, or while participating
31 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 possession.

* **Sec. 4.** 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) 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

(B) within a

(i) courtroom or office of the Alaska Court System;

or

(ii) courthouse that is occupied only by the Alaska Court System and other justice-related agencies;

(C) within a domestic violence or sexual assault shelter that receives funding from the state; or

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

* **Sec. 5.** AS 11.61.220(b) is amended to read:

(b) In a prosecution under (a)(1) of this section, it is an affirmative defense that the defendant, at the time of possession, was

(1) in the defendant's dwelling or on land owned or leased by the defendant appurtenant to the dwelling;

(2) actually engaged in lawful hunting, fishing, trapping, or other lawful outdoor activity that necessarily involves the carrying of a weapon for personal

1 protection; [OR]

2 (3) the holder of a valid permit to carry a concealed handgun under
3 AS 18.65.700 - 18.65.790, the [DEADLY] weapon [CONCEALED] was a **concealed**
4 handgun as defined in AS 18.65.790, and the possession did not occur in a
5 municipality or established village in which the possession of concealed handguns is
6 prohibited under AS 18.65.780 - 18.65.785; **or**

7 **(4) the defendant was considered a permittee under AS 18.65.748**
8 **and**

9 **(A) the weapon was a concealed handgun as defined in**
10 **AS 18.65.790; and**

11 **(B) the possession did not occur in a municipality or**
12 **established village in which the possession of concealed handguns is**
13 **prohibited under AS 18.65.780 - 18.65.785.**

14 * Sec. 6. AS 11.61.220(c) is amended to read:

15 (c) The provisions of **(a)(2)** [(a)(1), (2),] and (4) of this section do not apply
16 to a peace officer acting within the scope and authority of the officer's employment.

17 * Sec. 7. AS 11.61.220(d) is amended to read:

18 (d) In a prosecution under (a)(2) of this section, it is

19 **(1) an affirmative defense that**

20 **(A) the defendant, at the time of possession, was the holder**
21 **of a valid permit to carry a concealed handgun under AS 18.65.700 -**
22 **18.65.790 or was considered a permittee under AS 18.65.748;**

23 **(B) the loaded firearm was a concealed handgun as defined**
24 **in AS 18.65.790;**

25 **(C) the possession occurred at a place designated as a**
26 **restaurant for the purposes of AS 04.16.049 and the defendant did not**
27 **consume intoxicating liquor at the place; and**

28 **(D) the possession did not occur in a municipality or**
29 **established village in which the possession of concealed handguns is**
30 **prohibited under AS 18.65.780 - 18.65.785;**

31 **(2) a defense that the defendant, at the time of possession, was on**

business premises

(A) [(1) ON BUSINESS PREMISES] owned by or leased by the defendant; or

(B) [(2) ON BUSINESS PREMISES] in the course of the defendant's employment for the owner or lessee of those premises.

* Sec. 8. AS 11.61.220 is amended by adding new subsections to read:

(h) The provisions of (a)(1) of this section do not apply to a peace officer

(1) of this state who is certified by the Alaska Police Standards Council as a peace officer; or

(2) employed by another state or a political subdivision of another state who is at the time of the possession certified as a peace officer by the other state and is acting within the scope and authority of the officer's employment.

(i) In a prosecution

(A) under (a)(4)(B) of this section, it is a defense that the defendant, at the time of possession, was authorized to possess the firearm under a rule of court;

(B) under (a)(4)(C) of this section, it is a defense that the defendant, at the time of possession, was authorized in writing by the administrator of the shelter to possess the firearm.

* Sec. 9. AS 18.65.700(a) is amended to read:

(a) The department shall issue a permit to carry a concealed handgun to a person who

(1) applies in person at an office of the Alaska State Troopers;

(2) qualifies under AS 18.65.705;

(3) submits a completed application on a form provided by the department, that provides the information required under AS 18.65.705 and 18.65.710 and is executed under oath; **with each application form provided by the department, the department shall provide a copy of the state laws and regulations relating to concealed handguns, which must include a concise summary of where, when, and by whom a handgun can be carried under state and federal law;**

(4) submits two complete sets of fingerprints on Federal Bureau of

Investigation approved fingerprint cards that are of sufficient quality so that the fingerprints may be processed; the fingerprints must be taken by a person, group, or agency approved by the department; the department shall maintain a list of persons, groups, or agencies approved to take fingerprints and shall provide the list to the public upon request;

(5) submits evidence of competence with handguns as provided in AS 18.65.715;

(6) provides two frontal view color photographs of the person taken within the preceding 30 days that include the head and shoulders of the person and are of a size specified by the department;

(7) shows a valid Alaska driver's license or identification card at the time of application;

(8) does not suffer a physical infirmity that prevents the safe handling of a handgun; and

(9) pays the application fee required by AS 18.65.720.

* **Sec. 10.** AS 18.65.700(b) is amended to read:

(b) The department shall either approve or reject an application for a permit to carry a concealed handgun under (a) of this section within **30** [15] days of receipt of [PERMIT ELIGIBILITY INFORMATION FROM THE FEDERAL BUREAU OF INVESTIGATION OR OTHER AGENCY NECESSARY TO MAKE A DETERMINATION CONCERNING] the application. **If the department has not received necessary fingerprint eligibility information from another agency by the end of this 30-day period, and the applicant is otherwise eligible, the department shall issue a conditional permit to the applicant subject to immediate revocation under the procedure provided in AS 18.65.740(a) - (c) if the fingerprint information subsequently discloses that the applicant is ineligible for a permit** [THE DEPARTMENT SHALL REQUEST PERMIT ELIGIBILITY INFORMATION UNDER THIS SUBSECTION WITHIN FIVE DAYS OF THE RECEIPT OF THE APPLICATION]. The department shall notify the applicant in writing of the reason for a rejection.

* **Sec. 11.** AS 18.65.700 is amended by adding a new subsection to read:

(e) The department shall issue a permit to carry a concealed handgun to an honorably retired peace officer of this state who applies for a concealed handgun permit within one year of the officer's retirement and who satisfies the requirements of this subsection. To qualify for a permit under this subsection, an honorably retired peace officer must satisfy (a)(1) - (3) and (6) - (9) of this section and, unless the honorably retired peace officer has qualified with a handgun within five years of the officer's retirement, must also satisfy (a)(5) of this section. The department may not require an honorably retired peace officer applying under this subsection to comply with (a)(4) of this section to receive a permit. The department shall issue the permit without submitting information to or receiving permit eligibility information from the Federal Bureau of Investigation. The department may adopt regulations to define an "honorably retired peace officer" and the evidence that must be submitted to establish eligibility under this subsection.

* **Sec. 12.** AS 18.65.705 is repealed and reenacted to read:

Sec. 18.65.705. Qualifications to obtain a permit. A person is qualified to receive and hold a permit to carry a concealed handgun if the person

(1) is 21 years of age or older;

(2) is eligible to own or possess a handgun under the laws of this state and under federal law;

(3) is a resident of the state and has been for the 90 days immediately preceding the application for a permit;

(4) has not been convicted of two or more class A misdemeanors of this state or similar laws of another jurisdiction within the six years immediately preceding the application;

(5) is not now in and has not in the three years immediately preceding the application been ordered by a court to complete an alcohol or substance abuse treatment program; and

(6) has demonstrated competence with handguns as provided in AS 18.65.715.

* **Sec. 13.** AS 18.65.710(a)(3) is amended to read:

(3) a statement that the applicant has been furnished with a copy of the

state laws and regulations relating to concealed handguns [AS 18.65.700 - 18.65.790], has read those sections, and understands them;

* **Sec. 14.** AS 18.65.720 is amended to read:

Sec. 18.65.720. Fees. The department shall charge a nonrefundable fee for the processing of the application for and initial issuance of a permit, renewal of a permit, or replacement of a permit. The fees shall be set by regulation and must be based on the actual costs incurred by the department. However, the fee for the processing of an application and initial issuance of a permit may not exceed **\$99** [\$125] and the fee for renewal of a permit or replacement of a permit may not exceed **\$30** [\$60].

* **Sec. 15.** AS 18.65.735(a) is repealed and reenacted to read:

(a) The department shall immediately suspend a permit to carry a concealed handgun if a permittee becomes ineligible to hold a permit under AS 18.65.705.

* **Sec. 16.** AS 18.65.740(a) is amended to read:

(a) A permit to carry a concealed handgun shall be immediately revoked by the department when the permittee

(1) becomes disqualified to receive and hold a permit under AS 18.65.705;

(2) is convicted of two class A misdemeanors of this state or similar laws of another jurisdiction within a **six-year** [FIVE-YEAR] period if at least one of the convictions occurs after the application;

(3) knowingly supplied a false or fraudulent answer, statement, or document, or made a material misstatement or omission, in connection with an application for a permit or renewal or replacement of a permit.

* **Sec. 17.** AS 18.65 is amended by adding a new section to read:

Sec. 18.65.748. Permit holders from other jurisdictions considered Alaska permit holders. A person holding a valid permit to carry a concealed handgun from another state or a political subdivision of another state with permit requirements at least as strict as those in AS 18.65.700 - 18.65.790 is a permittee under AS 18.65.700(b) for purposes of AS 18.65.750 - 18.65.765 if the person has not been in Alaska for more than 120 consecutive days.

* **Sec. 18.** AS 18.65.755(a) is repealed and reenacted to read:

- 1 (a) A permittee may not possess a concealed handgun
- 2 (1) within a residence, other than the permittee's residence, unless the
- 3 permittee has first obtained the express permission of an adult residing there to bring
- 4 a concealed handgun within the residence; and
- 5 (2) anywhere a person is prohibited from possessing a handgun under
- 6 state or federal law.

7 * **Sec. 19.** AS 18.65.790(3) is amended to read:

8 (3) "concealed handgun" means a firearm, that is a pistol or a revolver,

9 and that is covered or enclosed in any manner so that an observer cannot determine

10 that it is a handgun without removing it from that which covers or encloses it or

11 without opening, lifting, or removing that which covers or encloses it; however,

12 "concealed handgun" does not include a shotgun, rifle, [DERRINGER OR OTHER

13 MINIATURE HANDGUN,] or a prohibited weapon as defined under AS 11.61.200

14 [; IN THIS PARAGRAPH,

15 (A) "DERRINGER" MEANS A HANDGUN THAT HAS

16 INDIVIDUAL BARRELS FOR EACH CARTRIDGE IT IS CAPABLE OF

17 FIRING AND LACKS A MANUFACTURER'S INSTALLED TRIGGER

18 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH

19 IS PART OF THE FRAME; AND

20 (B) "MINIATURE HANDGUN" MEANS A HANDGUN

21 THAT HAS A BARREL LENGTH OF THREE AND ONE-HALF INCHES

22 OR LESS AND LACKS A MANUFACTURER'S INSTALLED TRIGGER

23 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH

24 IS PART OF THE FRAME];

25 * **Sec. 20.** AS 18.65.715(b), 18.65.725(a)(3), and 18.65.755(b) are repealed.