

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

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

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

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

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

12 (1) possesses on the person, or in the interior of a vehicle in which the
13 person is present, a firearm when the person's physical or mental condition is impaired

1 as a result of the introduction of an intoxicating liquor or a controlled substance into
2 the person's body in circumstances other than described in AS 11.61.200(a)(7);

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

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

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

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

9 [OR]

10 (6) knowingly sells a firearm or a defensive weapon to a person under
11 18 years of age;

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

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

22 (B) a defensive weapon;

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

31 (8) being a preschool, elementary, junior high, or secondary school

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

9 * **Sec. 2.** AS 11.61.210 is amended by adding a new subsection to read:

10 (d) The provisions of (a)(7) of this section do not apply to a peace officer
11 acting within the scope and authority of the officer's employment.

12 * **Sec. 3.** AS 11.61.220(a) is amended to read:

13 (a) A person commits the crime of misconduct involving weapons in the fifth
14 degree if the person

15 (1) knowingly possesses a deadly weapon, other than an ordinary
16 pocket knife or a defensive weapon, that is concealed on the person;

17 (2) knowingly possesses a loaded firearm on the person in any place
18 where intoxicating liquor is sold for consumption on the premises;

19 (3) being an unemancipated minor under 16 years of age, possesses a
20 firearm without the consent of a parent or guardian of the minor;

21 (4) knowingly possesses a firearm

22 [(A) OR A DEFENSIVE WEAPON WITHIN THE GROUNDS
23 OF OR ON A PARKING LOT IMMEDIATELY ADJACENT TO A PUBLIC
24 OR PRIVATE PRESCHOOL, ELEMENTARY, JUNIOR HIGH, OR
25 SECONDARY SCHOOL WITHOUT THE PERMISSION OF THE CHIEF
26 ADMINISTRATIVE OFFICER OF THE SCHOOL OR DISTRICT OR THE
27 DESIGNEE OF THE CHIEF ADMINISTRATIVE OFFICER, EXCEPT THAT
28 A PERSON 21 YEARS OF AGE OR OLDER MAY POSSESS

29 (i) AN UNLOADED FIREARM IN THE TRUNK OF
30 A MOTOR VEHICLE OR ENCASED IN A CLOSED CONTAINER
31 IN A MOTOR VEHICLE;

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(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;

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

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

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

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

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

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

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

18 (f) In this section,

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

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

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

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