

HOUSE BILL NO. 269

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE VEZEY

Introduced: 5/1/97

Referred: State Affairs, Finance

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 11.61.220(b) is amended to read:

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

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

27 (2) actually engaged in lawful hunting, fishing, trapping, or other lawful
28 outdoor activity that necessarily involves the carrying of a weapon for personal
29 protection; [OR]

30 (3) the holder of a valid permit to carry a concealed handgun under
31 AS 18.65.700 - 18.65.790, the [DEADLY] weapon [CONCEALED] was a **concealed**

1 handgun as defined in AS 18.65.790, and the possession did not occur in a
 2 municipality or established village in which the possession of concealed handguns is
 3 prohibited under AS 18.65.780 - 18.65.785; or

4 (4) lawfully able to carry a concealed handgun in public in the state
 5 where the defendant resides or was the holder of a valid permit to carry a
 6 concealed handgun issued by another state or a political subdivision of another
 7 state and

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

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

13 (C) if applicable, the defendant was considered a permittee
 14 under AS 18.65.748.

15 * Sec. 4. AS 11.61.220(c) is amended to read:

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

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

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

20 (1) an affirmative defense that

21 (A) the defendant, at the time of possession, was

22 (i) the holder of a valid permit to carry a concealed
 23 handgun under AS 18.65.700 - 18.65.790 or under the law of
 24 another state or a political subdivision of another state; or

25 (ii) lawfully able to carry a concealed handgun in
 26 public in the state where the defendant resides;

27 (B) the loaded firearm was a concealed handgun as defined
 28 in AS 18.65.790;

29 (C) the possession occurred at a place designated as a
 30 restaurant for the purposes of AS 04.16.049 and the defendant did not
 31 consume intoxicating liquor at the place;

1 **(D) the possession did not occur in a municipality or**
 2 **established village in which the possession of concealed handguns is**
 3 **prohibited under AS 18.65.780 - 18.65.785; and**

4 **(E) if applicable, the defendant was considered a permittee**
 5 **under AS 18.65.748;**

6 **(2)** a defense that the defendant, at the time of possession, was **on**
 7 **business premises**

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

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

12 * **Sec. 6.** AS 11.61.220 is amended by adding a new subsection to read:

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

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

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

19 * **Sec. 7.** AS 18.65.700(a) is amended to read:

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

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

23 (2) qualifies under AS 18.65.705;

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

30 (4) submits two complete sets of fingerprints on Federal Bureau of
 31 Investigation approved fingerprint cards that are of sufficient quality so that the

1 fingerprints may be processed; the fingerprints must be taken by a person, group, or
 2 agency approved by the department; the department shall maintain a list of persons,
 3 groups, or agencies approved to take fingerprints and shall provide the list to the
 4 public upon request;

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

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

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

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

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

15 * **Sec. 8.** AS 18.65.700(b) is amended to read:

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

30 * **Sec. 9.** AS 18.65.700 is amended by adding a new subsection to read:

31 (e) The department shall issue a permit to carry a concealed handgun to an

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

13 * **Sec. 10.** AS 18.65.705 is repealed and reenacted to read:

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

16 (1) is 21 years of age or older;

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

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

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

24 (5) has demonstrated competence with handguns as provided in
 25 AS 18.65.715.

26 * **Sec. 11.** AS 18.65.710(a)(3) is amended to read:

27 (3) a statement that the applicant has been furnished with a copy of **the**
 28 **state laws and regulations relating to concealed handguns** [AS 18.65.700 -
 29 18.65.790], has read those sections, and understands them;

30 * **Sec. 12.** AS 18.65.720 is amended to read:

31 **Sec. 18.65.720. Fees.** The department shall charge a nonrefundable fee for the

1 processing of the application for and initial issuance of a permit, renewal of a permit,
 2 or replacement of a permit. The fees shall be set by regulation and must be based on
 3 the actual costs incurred by the department. However, the fee for the processing of an
 4 application and initial issuance of a permit may not exceed \$99 [\$125] and the fee for
 5 renewal of a permit or replacement of a permit may not exceed \$30 [\$60].

6 * **Sec. 13.** AS 18.65.735(a) is repealed and reenacted to read:

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

9 * **Sec. 14.** AS 18.65.740(a) is amended to read:

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

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

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

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

20 * **Sec. 15.** AS 18.65 is amended by adding a new section to read:

21 **Sec. 18.65.748. Permit holders from other jurisdictions considered Alaska**
 22 **permit holders.** A person holding a permit to carry a concealed handgun from
 23 another state or a political subdivision of another state or who may lawfully carry a
 24 concealed handgun in public in the state where the person resides is a permittee under
 25 AS 18.65.700(b) for purposes of AS 18.65.750 - 18.65.765 if the person

26 (1) has not been in Alaska for more than 90 consecutive days; or

27 (2) has informed the Department of Public Safety of the person's
 28 presence in the state and address within the state and of the jurisdiction issuing the
 29 person's permit.

30 * **Sec. 16.** AS 18.65.755(a) is repealed and reenacted to read:

31 (a) A permittee may not possess a concealed handgun anywhere a person is

1 prohibited from possessing a handgun under state or federal law.

2 * **Sec. 17.** AS 18.65.790(3) is amended to read:

3 (3) "concealed handgun" means a firearm, that is a pistol or a revolver,
4 and that is covered or enclosed in any manner so that an observer cannot determine
5 that it is a handgun without removing it from that which covers or encloses it or
6 without opening, lifting, or removing that which covers or encloses it; however,
7 "concealed handgun" does not include a shotgun, rifle, [DERRINGER OR OTHER
8 MINIATURE HANDGUN,] or a prohibited weapon as defined under AS 11.61.200
9 [; IN THIS PARAGRAPH,

10 (A) "DERRINGER" MEANS A HANDGUN THAT HAS
11 INDIVIDUAL BARRELS FOR EACH CARTRIDGE IT IS CAPABLE OF
12 FIRING AND LACKS A MANUFACTURER'S INSTALLED TRIGGER
13 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH
14 IS PART OF THE FRAME; AND

15 (B) "MINIATURE HANDGUN" MEANS A HANDGUN
16 THAT HAS A BARREL LENGTH OF THREE AND ONE-HALF INCHES
17 OR LESS AND LACKS A MANUFACTURER'S INSTALLED TRIGGER
18 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH
19 IS PART OF THE FRAME];

20 * **Sec. 18.** AS 18.65.715(b), 18.65.725(a)(3), and 18.65.755(b) are repealed.