

CS FOR SENATE BILL NO. 141(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/1/97

Referred: Today's Calendar

Sponsor(s): SENATOR GREEN

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) the defendant was considered a permittee under AS 18.65.748
 5 and

6 (A) the weapon was a concealed handgun as defined in
 7 AS 18.65.790; and

8 (B) the possession did not occur in a municipality or
 9 established village in which the possession of concealed handguns is
 10 prohibited under AS 18.65.780 - 18.65.785.

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

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

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

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

16 (1) an affirmative defense that

17 (A) the defendant, at the time of possession, was considered
 18 a permittee under AS 18.65.748;

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

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

24 (D) the possession did not occur in a municipality or
 25 established village in which the possession of concealed handguns is
 26 prohibited under AS 18.65.780 - 18.65.785;

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

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

31 (B) [(2) ON BUSINESS PREMISES] in the course of the

1 defendant's employment for the owner or lessee of those premises.

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

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

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

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

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

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

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

13 (2) qualifies under AS 18.65.705;

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

20 (4) submits two complete sets of fingerprints on Federal Bureau of
21 Investigation approved fingerprint cards that are of sufficient quality so that the
22 fingerprints may be processed; the fingerprints must be taken by a person, group, or
23 agency approved by the department; the department shall maintain a list of persons,
24 groups, or agencies approved to take fingerprints and shall provide the list to the
25 public upon request;

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

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

31 (7) shows a valid Alaska driver's license or identification card at the

1 time of application;

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

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

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

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

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

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

1 "honorably retired peace officer" and the evidence that must be submitted to establish
2 eligibility under this subsection.

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

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

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

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

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

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

14 (5) has demonstrated competence with handguns as provided in
15 AS 18.65.715.

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

17 (3) a statement that the applicant has been furnished with a copy of **the**
18 **state laws and regulations relating to concealed handguns** [AS 18.65.700 -
19 18.65.790], has read those sections, and understands them;

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

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

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

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

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

31 (a) A permit to carry a concealed handgun shall be immediately revoked by

1 the department when the permittee

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

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

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

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

11 **Sec. 18.65.748. Permit holders from other jurisdictions considered Alaska**
12 **permit holders.** A person holding a valid permit to carry a concealed handgun from
13 another state or a political subdivision of another state or who may lawfully carry a
14 concealed handgun in public in the state where the person resides is a permittee under
15 AS 18.65.700(b) for purposes of AS 18.65.750 - 18.65.765 if the person has not been
16 in Alaska for more than 120 consecutive days.

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

18 (a) A permittee may not possess a concealed handgun

19 (1) within a residence, other than the permittee's residence, unless the
20 permittee has first obtained the express permission of an adult residing there to bring
21 a concealed handgun within the residence; and

22 (2) anywhere a person is prohibited from possessing a handgun under
23 state or federal law.

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

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

1 (A) "DERRINGER" MEANS A HANDGUN THAT HAS
2 INDIVIDUAL BARRELS FOR EACH CARTRIDGE IT IS CAPABLE OF
3 FIRING AND LACKS A MANUFACTURER'S INSTALLED TRIGGER
4 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH
5 IS PART OF THE FRAME; AND

6 (B) "MINIATURE HANDGUN" MEANS A HANDGUN
7 THAT HAS A BARREL LENGTH OF THREE AND ONE-HALF INCHES
8 OR LESS AND LACKS A MANUFACTURER'S INSTALLED TRIGGER
9 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH
10 IS PART OF THE FRAME];

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