

HOUSE BILL NO. 177

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE EASTMAN

Introduced: 5/15/19

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to assault in the third and fourth degrees; relating to reckless**
2 **endangerment; relating to possession of a deadly weapon; and relating to misconduct**
3 **involving weapons."**

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

5 * **Section 1.** AS 11.41.220 is amended by adding a new subsection to read:

6 (f) The provisions of (a)(1)(A) of this section do not apply to the defensive
7 display of a firearm by a person.

8 * **Sec. 2.** AS 11.41.230 is amended by adding a new subsection to read:

9 (c) The provisions of (a)(3) of this section do not apply to the defensive
10 display of a firearm by a person.

11 * **Sec. 3.** AS 11.41.250 is amended by adding a new subsection to read:

12 (c) The provisions of (a) of this section do not apply to the defensive display
13 of a firearm by a person.

14 * **Sec. 4.** AS 11.61.200(e) is amended to read:

1 (e) The provisions of (a)(3) and (11) of this section do not apply to a **current**
 2 **or former** peace officer **who has not been convicted of a felony, whether the peace**
 3 **officer is on or off duty** [ACTING WITHIN THE SCOPE AND AUTHORITY OF
 4 THE OFFICER'S EMPLOYMENT].

5 * **Sec. 5.** AS 11.61.210(a) is amended to read:

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

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

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

13 (3) discharges a firearm with reckless disregard for a risk of damage to
 14 property or a risk of physical injury to a person under circumstances other than those
 15 described in AS 11.61.195(a)(3)(A);

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

18 (5) sells or transfers a switchblade or a gravity knife to a person under
 19 18 years of age without the prior written consent of the person's parent or guardian;

20 (6) knowingly sells a firearm or a defensive weapon to a person under
 21 18 years of age;

22 (7) other than a preschool, elementary, junior high, or secondary
 23 school student, knowingly possesses a deadly weapon or a defensive weapon, without
 24 the permission of the chief administrative officer of the school or district or the
 25 designee of the chief administrative officer, within the buildings of, on the grounds of,
 26 or on the school parking lot of a public or private preschool, elementary, junior high,
 27 or secondary school, on a school bus while being transported to or from school or a
 28 school-sponsored event, or while participating in a school-sponsored event, except that
 29 a person **18** [21] years of age or older may possess

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

1 (B) a defensive weapon;

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

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

19 * **Sec. 6.** AS 11.61.210(c) is amended to read:

20 (c) The provisions of (a)(7) of this section do not apply to a

21 **(1) current or former** peace officer **who has not been convicted of a**
22 **felony, whether the peace officer is on or off duty; or**

23 **(2) an employee of a school or school district** [ACTING WITHIN
24 THE SCOPE AND AUTHORITY OF THE OFFICER'S EMPLOYMENT].

25 * **Sec. 7.** AS 11.61.220(a) is amended to read:

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

28 (1) is **18** [21] years of age or older and knowingly possesses a deadly
29 weapon, other than an ordinary pocket knife or a defensive weapon,

30 (A) that is concealed on the person, and, when **requested**
31 [CONTACTED] by a peace officer, the person fails to

1 (i) immediately inform the peace officer of that
2 possession; or

3 (ii) allow the peace officer to secure the deadly weapon,
4 or fails to secure the weapon at the direction of the peace officer,
5 during the duration of the contact;

6 (B) that is concealed on the person within the residence of
7 another person unless the person has first obtained the express permission of
8 an adult residing there to bring a concealed deadly weapon within the
9 residence;

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

12 (3) being an unemancipated minor under 16 years of age, possesses a
13 firearm, switchblade, or gravity knife without the consent of a parent or guardian of
14 the minor;

15 (4) knowingly possesses a firearm

16 (A) within the grounds of or on a parking lot immediately
17 adjacent to an entity, other than a private residence, licensed as a child care
18 facility under AS 47.32 or recognized by the federal government for the care of
19 children, except that a person 18 [21] years of age or older may possess an
20 unloaded firearm in the trunk of a motor vehicle or encased in a closed
21 container of a motor vehicle;

22 (B) within a

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

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

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

28 (5) [REPEALED]

29 (6) is less than 18 [21] years of age and knowingly possesses a deadly
30 weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed
31 on the person.

1 * **Sec. 8.** AS 11.61.220(c) is amended to read:

2 (c) The provisions of (a)(2) and (4) of this section do not apply to a **current or**
 3 **former** peace officer **who has not been convicted of a felony, whether the peace**
 4 **officer is on or off duty** [ACTING WITHIN THE SCOPE AND AUTHORITY OF
 5 THE OFFICER'S EMPLOYMENT].

6 * **Sec. 9.** AS 11.61.220(g) is amended to read:

7 (g) The provisions of (a)(1) and (6) of this section do not apply to a

8 (1) **current or former** peace officer of this state or a municipality of
 9 this state **who has not been convicted of a felony, whether the peace officer is on**
 10 **or off duty** [ACTING WITHIN THE SCOPE AND AUTHORITY OF THE
 11 OFFICER'S EMPLOYMENT];

12 (2) peace officer employed by another state or a political subdivision
 13 of another state who, at the time of the possession, is

14 (A) certified as a peace officer by the other state; and

15 (B) acting within the scope and authority of the officer's
 16 employment; or

17 (3) **current or former** police officer of this state or a **current or**
 18 **former** police officer or chief administrative officer of a municipality of this state **who**
 19 **has not been convicted of a felony**; in this paragraph, "police officer" and "chief
 20 administrative officer" have the meanings given in AS 18.65.290.

21 * **Sec. 10.** AS 11.61.220(d) is amended to read:

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

23 (1) an affirmative defense that

24 (A) [REPEALED]

25 (B) the loaded firearm was a concealed handgun as defined in
 26 AS 18.65.790; and

27 (C) the possession occurred at a place **that serves any type of**
 28 **food** [DESIGNATED AS A RESTAURANT FOR THE PURPOSES OF
 29 AS 04.16.049] and the defendant did not consume intoxicating liquor at the
 30 place;

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

1 business premises [(A) OWNED BY OR LEASED BY THE DEFENDANT; OR (B)]
 2 in the course of the defendant's employment for the owner or lessee of those premises.

3 * **Sec. 11.** AS 11.61.220 is amended by adding a new subsection to read:

4 (k) The provisions of

5 (1) (a)(2) of this section do not apply to the owner or an employee of
 6 the business premises;

7 (2) (a)(4)(A) of this section do not apply to an employee of the child
 8 care facility.

9 * **Sec. 12.** AS 11.81.900(b) is amended by adding a new paragraph to read:

10 (68) "defensive display of a firearm" includes

11 (A) openly wearing, carrying, or possessing a firearm;

12 (B) verbally informing another person of the possession of a
 13 firearm;

14 (C) holding a firearm in a position that does not point the
 15 firearm directly at another person;

16 (D) displaying a firearm to dissuade a threatening person; and

17 (E) warning another person of the availability of a firearm to
 18 dissuade a threat by the other person.

19 * **Sec. 13.** AS 11.61.220(a)(1)(B) and 11.61.220(i) are repealed.

20 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **APPLICABILITY.** (a) AS 11.41.220(f), enacted by sec. 1 of this Act,
 23 AS 11.41.230(c), enacted by sec. 2 of this Act, and AS 11.41.250(c), enacted by sec. 3 of this
 24 Act, apply to offenses committed on or after the effective date of secs. 1 - 3 of this Act.

25 (b) AS 11.61.220(e), as amended by sec. 4 of this Act, AS 11.61.210(a), as amended
 26 by sec. 5 of this Act, AS 11.61.210(c), as amended by sec. 6 of this Act, AS 11.61.220(a), as
 27 amended by sec. 7 of this Act, AS 11.61.220(c), as amended by sec. 8 of this Act,
 28 AS 11.61.220(g), as amended by sec. 9 of this Act, AS 11.61.220(d)(1)(C), as amended by
 29 sec. 10 of this Act, and AS 11.61.220(k), enacted by sec. 11 of this Act, apply to offenses
 30 committed before, on, or after the effective date of secs. 4 - 11 of this Act.