

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 23, 2023

1:31 p.m.

MEMBERS PRESENT

Senator Forrest Dunbar, Chair
Senator Elvi Gray-Jackson
Senator Jesse Bjorkman
Senator Cathy Giessel

MEMBERS ABSENT

Senator Donald Olson, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 63

"An Act relating to restrictions on firearms and other weapons."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 63

SHORT TITLE: LIMITATIONS ON FIREARMS RESTRICTIONS

SPONSOR(S): SENATOR(S) KAWASAKI

02/08/23	(S)	READ THE FIRST TIME - REFERRALS
02/08/23	(S)	CRA, JUD
02/23/23	(S)	CRA AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR SCOTT KAWASAKI, District P
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 63.

JOE HAYES, Staff
Senator Scott Kawasaki
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 63.

LISA PURINTON, Chief
Criminal Records and Identification Bureau
Division of Statewide Services
Department of Public Safety (DPS)
Anchorage, Alaska
POSITION STATEMENT: Answered questions pertaining to SB 63.

MARSHALL HARBIN, Assistant Attorney General
Labor and State Affairs Section
Civil Division
Department of Law
Anchorage, Alaska
POSITION STATEMENT: Answered questions pertaining to SB 63.

AOIBHEANN CLINE, Legislative Liaison
National Rifle Association (NRA)
Boise, Idaho
POSITION STATEMENT: Gave invited testimony on SB 63.

MARIAN CLOUGH, representing self
Auke Bay, Alaska
POSITION STATEMENT: Testified in opposition to SB 63.

JOHN SONIN, representing self
Douglas, Alaska
POSITION STATEMENT: Testified in opposition to SB 63.

ANN GIFFORD, representing self
Juneau, Alaska
POSITION STATEMENT: Testified in opposition to SB 63.

TAMARA ROSELIUS, representing self
Fairbanks, Alaska
POSITION STATEMENT: Testified in opposition to SB 63.

ROCHELLE PARKER, Member
Moms Demand Action - Alaska Chapter
Anchorage, Alaska
POSITION STATEMENT: Testified in opposition to SB 63.

LUANN MCVEY, Volunteer
Moms Demand Action for Gun Sense - Alaska Chapter
Juneau, Alaska
POSITION STATEMENT: Testified in opposition to SB 63.

ANTONIA LEONARD, representing self
Wasilla, Alaska

POSITION STATEMENT: Undecided whether she opposes or supports SB 63.

ACTION NARRATIVE

[1:31:06 PM](#)

CHAIR FORREST DUNBAR called the Senate Community and Regional Affairs Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Gray-Jackson, Giessel, and Chair Dunbar. Senator Bjorkman joined the meeting immediately thereafter.

SB 63-LIMITATIONS ON FIREARMS RESTRICTIONS

[1:31:42 PM](#)

CHAIR DUNBAR announced the consideration of SENATE BILL NO. 63 "An Act relating to restrictions on firearms and other weapons."

CHAIR DUNBAR invited Senator Kawasaki to introduce the bill.

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SENATOR BJORKMAN joined the committee.

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SENATOR SCOTT KAWASAKI, District P, Alaska State Legislature, Juneau, Alaska, sponsor of SB 63, introduced the bill. He said the Second Amendment is a tried-and-true right that is honored in the state of Alaska. Alaskans have a strong belief in individualism and the right to bear arms. During the recent state emergency declaration, the state deemed cannabis shops and alcohol dispensing stores essential. They were allowed to stay open, but gun shops were not. He said SB 63 proposes changing that and recognizing gun stores as essential.

SENATOR KAWASAKI said there are good reasons why in recent years, Idaho, Kansas, Louisiana, Montana, North Dakota, Ohio, South Dakota, Texas, West Virginia, and Wyoming passed "emergency power" laws. Temporarily closing gun stores could give rise to a variety of safety and law enforcement concerns, such as:

- An Increase in Investigation Delays Related to Gun Tracing. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) relies on physical sales records to trace guns recovered in crime scenes. Federal law requires firearm dealers to keep these records in their dealerships. He said that temporary closures

slow ATF's ability to examine records, which could delay law enforcement's ability to trace guns and solve crimes.

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- An Increase in the Purchase of Black-Market Firearms.

Firearm buyers may resort to black-market firearm purchases, which undermines the background check system. Brick-and-mortar dealerships must conduct background checks on would-be gun owners in Alaska; however, private sellers are not required to run them. He said closing well-regulated, licensed dealerships has the potential to drive more buyers to unregulated markets, where felons, domestic abusers, and people who probably should not own guns avoid background checks. He stated that it is preferable that Americans get guns from reputable dealers and Alaska has many.

- An Increase in the Purchase of Do-It-Yourself (DIY) Gun Kits.

There may be an increase in the purchase of parts and kits to build do-it-yourself guns from online retailers. A background check is not required to purchase parts and DIY kits. DIY gun kits are used to build "ghost guns," which are so named because they lack serial numbers. He said that police cannot trace ghost guns recovered at crime scenes.

- An Increase in Gun Store Break-Ins and Thefts

Gun stores may become targets for break-ins and theft if they are closed during an emergency. This was a growing area of national concern even before the COVID-19 outbreak. High-volume gun store robberies increased in recent years, and theft may increase if the state requires temporary dealership closures.

SENATOR KAWASAKI said the right to keep and bear arms is sacred to Alaskans and ensuring this right is essential, especially during an emergency declaration. It is the correct policy decision. He noted that the Senate overwhelmingly supported this measure in the previous legislature, but it got locked up on the House floor on the last day of the session.

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CHAIR DUNBAR invited Joe Hayes to put himself on the record to present the sectional analysis.

[1:37:07 PM](#)

JOE HAYES, Staff, Senator Scott Kawasaki, Alaska State Legislature, Juneau, Alaska, briefly summarized the following sectional analysis for SB 63:

Sec. 1. Pages 1 - 3 lines 4 - 1 Amends AS 44.99 adding new sections to article 5.

AS 44.99.510. Infringements on the right to keep and bear arms; disaster.

- Establishes that during a disaster emergency declared under AS 26.23.020, the governor, a state agency, or a municipality may not issue or adopt an order, proclamation, regulation, ordinance, or policy regarding the following.

1. Forbidding the possession, use, or transfer of a firearm, a firearm accessory, ammunition, or other weapon for personal use.

2. Ordering the seizure or confiscation of a firearm, a firearm accessory, ammunition, or other weapon for personal use.

3. Limiting the quantity or placing other restrictions on the sale or service of firearms, firearm accessories, ammunition, or other weapons for personal use.

4. Clarifies the closure or limitation of commerce must apply equally to all forms of commerce within the jurisdiction, and cannot selectively close or limit the operating hours of the following:

Entity engaged in the sale or service of firearms, firearm accessories, ammunition, or other weapons for personal use.

Operation of an indoor or outdoor shooting range is prohibited.

5. Suspending or revoking a permit to carry a concealed handgun issued under AS 18.65.700, except as provided in AS 18.65.735 (Suspension of permit) and AS 18.65.740 (Revocation of permit; appeal.)

6. Refusing to accept an application to carry a concealed handgun, provided the application contains the information required under AS 18.65.710. (Application for permit to carry a concealed handgun).

- Clarifies that AS 44.99.510 does not apply to the possession of a firearm, a firearm accessory, ammunition, or other weapon by a person who is prohibited from legally possessing a firearm, a firearm accessory, ammunition, or other weapon under state law.
- Establishes that a person may bring a civil action in superior court if a person is adversely affected by a violation of AS 44.99.510(a) and is one of the following.
 1. Individual is qualified under state law to possess a firearm, firearm accessory, ammunition, or other weapon.
 2. A membership organization consisting of two or more individuals that are qualified under state law to possess a firearm, firearm accessory, ammunition, or other weapon; and is dedicated in whole or in part to the protection of the rights of persons who possess or use firearms or other weapons.
- Clarifies that notwithstanding AS 09.17.020(f) - (h) of Chapter 17. Civil Damages and Appointment of Fault, a prevailing plaintiff may recover the following: greater amount of actual economic damages or punitive damages in the amount of three times the plaintiff's attorney fees, court costs, and attorney fees.

AS 44.99.595. Definitions. In AS 44.99.500 - 44.99.510

- Provides a definition for "Firearm" in AS 11.81.900.
- Provides a definition for "Firearm accessory" means an item that is used in conjunction with or mounted on a firearm but is not essential to the basic function of a firearm, including a telescopic or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock and grip, speedloader, ammunition carrier and light for target illumination.

Sec. 2 - **Page 3**, Line 2 Repeals AS 44.99.500(g)(1).

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SENATOR GIESSEL asked for more information about the repeal of AS 44.99.500(g)(1).

MR. HAYES deferred the question to the Department of Public Safety (DPS).

[1:38:37 PM](#)

LISA PURINTON, Chief, Criminal Records and Identification Bureau, Division of Statewide Services, Department of Public Safety (DPS), Anchorage, Alaska, replied that SB 63 repeals the definitions for:

- firearm accessory;
- generic and insignificant parts of a weapon, including springs, screws, nuts, and pins;
- manufactured, which means a firearm, a firearm accessory, or ammunition that has been created from basic materials for functional usefulness, including forging, casting, machining, or other processes for working materials.

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CHAIR DUNBAR asked how the repealer relates to the broad purpose of emergencies or achieves the goal of preventing confiscation during an emergency.

MR. HAYES replied that new definitions in Sec. 44.99.520 replace the repealer definitions.

SENATOR GIESSEL mentioned that the public could find Sec. 44.99.520 on page 2, line 27 through page 3, line 1. The section defines "firearm and firearm accessory."

[1:42:07 PM](#)

SENATOR GRAY-JACKSON asked whether SB 63 creates a private right of action wherein an individual officer, national guardsman, or aid worker could be sued for doing their job to protect the public.

[1:42:32 PM](#)

MR. HAYES asked Senator Gray-Jackson to repeat the question.

SENATOR GRAY-JACKSON asked whether SB 63 creates a private right of action where individual officers, national guardsmen, or aid

workers could be sued for doing their jobs to protect public safety.

MR. HAYES replied that he was unsure on what grounds a person could bring a suit since SB 63 proposes the same recognition for gun stores as cannabis and alcohol dispensing stores.

SENATOR GRAY-JACKSON said she would like to discuss the question offline.

SENATOR KAWASAKI replied that according to Title 26, Alaska Disaster Act, a governor can take certain enforcement actions in an emergency. SB 63 states that the governor may not issue or adopt orders, proclamations, regulations, or ordinances that prevent a firearm or firearm accessories store from opening.

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SENATOR GRAY-JACKSON directed attention to page 2, subsection d(1), which speaks to economic and punitive damages. She asked why punitive damages were included in the bill and in the amount of three times the fees.

SENATOR KAWASAKI replied that treble damages are a fairly specific part of law where it is triple the actual cost. He said he wanted a specific penalty in place, so a plaintiff that brings an action against the state could collect damages. He suggested an attorney might speak better to the question.

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SENATOR DUNBAR asked if Senator Gray-Jackson would like to hear from the Department of Law representative.

SENATOR GRAY-JACKSON said that would be fine.

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MARSHALL HARBIN, Assistant Attorney General, Labor and State Affairs Section, Civil Division, Department of Law, Anchorage, Alaska, answered questions about SB 63. He noted, for context, that the Alaska Disasters Act has a provision that speaks to a government official convicted of official misconduct or interference with constitutional rights due to attempting to confiscate a firearm during a disaster emergency. The official could be subject to impeachment and forfeit any appointed government position. He pointed out that during Hurricane Katrina, a movement for private cause of action began because New Orleans law enforcement took a lot of firearms from individuals. A big declaratory judgment required the state to

return guns to their owners. He said that in this type of situation, attorney's fees apply even though an individual is not sued. He said he was not involved in the development of this legislation, so he had little to add about treble damages. He will get back to the committee if members want clarification.

SENATOR GRAY-JACKSON responded that would be fine.

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CHAIR DUNBAR asked whose interpretation it is that only the governor would be subject to this private right of action. He wondered whether a lower-level official or frontline worker, like a police officer, could be sued under this cause of action.

MR. HARBIN replied that he would confer with colleagues on that question. He said his interpretation of the bill is that it seeks to avoid an individual liability situation. This bill prevents the governor or state subdivision from issuing a document allowing the seizure of firearms. He said he would get back to the committee on whether a lower-level official or frontline worker could be individually liable.

CHAIR DUNBAR said that the committee would appreciate that analysis. He would like to know whether the remedy of injunctive relief or specific performance is more typical than treble damages for this type of law. He asked about the governor's liability, in a personal capacity, if treble damages apply to this bill.

MR. HARBIN replied that he would provide an analysis.

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SENATOR GIESSEL asked whether a legal memo accompanied SB 63.

SENATOR KAWASAKI answered no.

MR. HAYES commented that an invited testifier might be able to answer some of the questions.

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CHAIR DUNBAR advanced to invited testimony and asked Ms. Cline to put herself on the record and provide her testimony.

[1:52:00 PM](#)

AOIBHEANN CLINE, State Director, National Rifle Association (NRA), Boise, Idaho, gave invited testimony in support of SB 63 and provided the following written testimony:

[Original punctuation provided.]

Thank you for the opportunity to testify in support of SB 63 on behalf of the NRA's tens of thousands of members in Alaska.

SB 63 protects Alaskans' constitutional rights to keep and bear arms from government infringement during emergency disaster declarations.

SB 63 prevents the State and municipalities from acting under the color of a disaster emergency declaration to arbitrarily infringe on Alaskan's rights to keep and bear arms.

This bill also avoids improperly placing the burden of proof on the business owner to establish that a firearms business is critical or essential in an emergency.

At the core of the Second Amendment is the right to self-defense. The importance of this right is elevated in times of chaos, uncertainty, and emergency.

Alaskans must be able to access firearms, ammunition, shooting ranges and other essential firearms-related businesses during times of emergency.

SB 63 provides a thoughtful and effective approach to balance Second Amendment rights and local control.

In recent years, the NRA has worked with 10 states to implement or expand emergency powers protections, similar to SB 63.

Damages are a deterrent. Violation of an individual's fundamental right in violation of the constitution and Alaska state law should SB 63 pass, deserve strong legal recourse.

I respectfully request your support of SB 63.

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SENATOR GRAY-JACKSON clarified that the bill number is SB 63.

[1:54:19 PM](#)

CHAIR DUNBAR opened public testimony on SB 63

[1:54:52 PM](#)

MARIAN CLOUGH, representing self, Auke Bay, Alaska, testified in opposition to SB 63. She stated that she supports a citizen's right to bear arms. This bill is not about protecting gun ownership but about giving gun dealers special privileges. It invites needless expense and distracting legal battles. She said that the government is supposed to protect citizens in disasters. She asked how guaranteeing gun stores and ranges remain open help deal with fires, tsunamis, landslides, floods, or volcanic eruptions. She questioned whether Alaska law should guarantee the right of gun stores to remain open for rioters in the event of an armed riot. She said that SB 63 mandates gun shops and gun ranges remain unregulated, unlike every other profession, business, or gathering. This makes no sense. She asked whether state law mandates cannabis and liquor stores stay open or does it take power away from the governor. SB 63 does not discuss the seizure of firearms; the bill is about mandating that gun ranges and gun shops remain open. SB 63 incentivizes politically motivated individuals and interest groups to enforce the law through private lawsuits. She wondered if there are other laws that triple attorney fees. She asked the committee to ensure that state and municipal agencies have the ability to respond to disasters unencumbered by the political agendas of interest groups.

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JOHN SONIN, representing self, Douglas, Alaska, testified in opposition to SB 63. He said the last shop that should be open during an emergency is a gun shop. He drew attention to the argument about gun tracing, stating the more significant issue is prioritizing the safety of Alaskans against misanthropic-type individuals who might purchase firearms or ammunition during an emergency declaration. The priority during an emergency declaration is feeding people and ensuring safety.

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SENATOR GIESSEL asked Mr. Sonin to clarify whether he is for or against SB 63.

MR. SONIN expressed his belief that he is against SB 63.

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ANN GIFFORD, representing self, Juneau, Alaska, testified in opposition to SB 63. She said that the concept behind the bill is fundamentally flawed. The sponsor statement discusses keeping

gun stores open; however, the bill is much broader. It prohibits the governor and other officials from issuing any kind of order that forbids the possession or use of firearms during an emergency, among other things. Restrictions on firearms during an emergency happen all the time, and reasonable restrictions are almost universally considered constitutional. She expressed her belief that Alaskans do not want to tie the hands of the governor or local officials in an emergency. At times the state needs to restrict access to certain areas to keep people safe and prevent theft. The state might need to set up temporary shelters and field hospitals. Gun restrictions prevent looting in these places, and it is no different than prohibiting vehicle traffic in a restricted area. She said sometimes restrictions keep people safe, and restricting an individual's right to carry a gun is the same type of thing. She asked the committee to make it possible for Alaskan leaders to respond effectively in an emergency.

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CHAIR DUNBAR said that testifiers can send additional written comments to his office or the committee for distribution to members.

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TAMARA ROSELIUS, representing self, Fairbanks, Alaska, testified in opposition to SB 63 as a mom in a gun-owning family and for Moms Demand Action for Gun Sense - Alaska Chapter. She said that the question of who decides who can take guns where and when during an emergency is better left to trained professionals, local municipalities, state officials, and agencies. She said an immediate, on-the-ground response to dangerous conditions matters most in an emergency. Alaskans trust elected officials to do their jobs; likewise, Alaskans trust public safety agencies and trained emergency safety personnel to do theirs. This is why the state has emergency management. She noted that her nephew received years of emergency management training to work in the public safety sector, emphasizing that legislators do not receive this training. She said the Senate is asking for trouble, putting politics above the expertise of trained public safety professionals during emergency management. She said SB 63 goes too far and is unnecessary because the limits on state authority and guaranteed rights exist and remain in full effect during an emergency, according to art. I, sec. 19, Constitution of the State of Alaska. She referred to the Department of Law statement concerning existing penalties against elected officials, stating triple damage penalties and private actions against public safety officers are unnecessarily excessive. An

emergency does not threaten the guaranteed right to own arms; however, taking public safety from the hands of trained emergency safety personnel and putting it in the hands of the legislature does. She urged the committee not to move SB 63 from the committee for these reasons.

2:05:24 PM

ROCHELLE PARKER, Member, Moms Demand Action for Gun Sense - Alaska Chapter, Anchorage, Alaska, testified in opposition to SB 63. She said that it does not make sense to restrict the government's ability to make public safety decisions during a disaster when there are a multitude of unknowns to consider. For instance, it would not make sense to prohibit state or municipal leadership from regulating firearms within temporary shelters run by the military, the Red Cross, or the government after a significant earthquake. People can behave irrationally in disaster situations, and municipal or state leaders might need to take necessary measures to prevent theft or violence. This bill is an unnecessary broadening of Alaska's preemption law; it already prevents local authorities from overriding state policy on firearms. She said that as a mother of young children, she wishes that the legislature would quit wasting time on this type of bill and focus on more pressing issues. She said that the legislature's main focus should be better funding for public schools and preventing gun violence and suicide in Alaska communities.

2:07:06 PM

LUANN MCVEY, Volunteer, Moms Demand Action for Gun Sense - Alaska Chapter, Juneau, Alaska, testified in opposition to SB 63. She said that she does not understand the logic behind legislation that blocks the governor, state agencies, or municipalities from acting to restrict the possession, use, or sale of:

- firearms,
- firearm accessories,
- ammunition, or
- other weapons

during a disaster emergency. This includes not allowing the governor, state agencies, or municipalities to temporarily close gun stores or ranges.

MS. MCVEY said emotions tend to run hot during such an emergency, which may necessitate gun sales or gun use restrictions to limit the chaos that can erupt when angry people have easy access to firearms. She believes that state leaders have the ability to discern when limits are necessary. She urged

the committee not to take away a tool that state leaders could use for constructive purposes to disarm those who might cause harm to others. Guns are not the answer to human strife, especially during a declared disaster emergency. She urged members not to pass SB 63 from committee.

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ANTONIA LEONARD, representing self, Wasilla, Alaska, stated she is undecided whether she opposes or supports SB 63. She said she would like a gun around if her liberty or children were threatened. She said that she does not own a gun or really like guns, but she knows people who do. She said this is a sensitive subject and suggests Alaskans listen to all viewpoints.

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CHAIR DUNBAR closed public testimony and held SB 63 in committee.

[2:11:00 PM](#)

There being no further business to come before the committee, Chair Dunbar adjourned the Senate Community and Regional Affairs Standing Committee meeting at 2:11 p.m.