

**HOUSE BILL NO. 104**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVES DONLEY, Ulmer, Barnes**

**Introduced: 2/4/91**

**Referred: Judiciary, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act defining defensive weapons and prohibiting their possession and use in certain  
2 circumstances; and amending the criminal laws relating to misconduct involving weapons."

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

4 \* **Section 1.** AS 11.41.500(a) is amended to read:

5 (a) A person commits the crime of robbery in the first degree if the person violates  
6 AS 11.41.510 and, in the course of violating that section or in immediate flight thereafter, that  
7 person or another participant

8 (1) is armed with a deadly weapon or a defensive weapon or represents by  
9 words or other conduct that either that person or another participant is so armed;

10 (2) uses or attempts to use a dangerous instrument or represents by words or  
11 other conduct that either that person or another participant is armed with a dangerous instrument;

12 or

13 (3) causes or attempts to cause serious physical injury to any person.

14 \* **Sec. 2.** AS 11.56.300(a) is amended to read:

1 (a) One commits the crime of escape in the first degree if, without lawful authority, one  
2 removes oneself from official detention by means of a deadly weapon or a defensive weapon.

3 \* Sec. 3. AS 11.56.375(a) is amended to read:

4 (a) A person commits the crime of promoting contraband in the first degree if the person  
5 violates AS 11.56.380 and the contraband is

6 (1) a deadly weapon or a defensive weapon;

7 (2) an article that is intended by the defendant to be used as a means of  
8 facilitating an escape; or

9 (3) a controlled substance.

10 \* Sec. 4. AS 11.61.200(a) is amended to read:

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

13 (1) [KNOWINGLY POSSESSES A FIREARM CAPABLE OF BEING CON-  
14 CEALED ON ONE'S PERSON AFTER HAVING BEEN CONVICTED OF A FELONY BY A  
15 COURT OF THIS STATE, A COURT OF THE UNITED STATES, OR A COURT OF  
16 ANOTHER STATE OR TERRITORY;

17 (2) KNOWINGLY SELLS OR TRANSFERS A FIREARM CAPABLE OF  
18 BEING CONCEALED ON ONE'S PERSON TO A PERSON WHO HAS BEEN CONVICTED  
19 OF A FELONY BY A COURT OF THIS STATE, A COURT OF THE UNITED STATES, OR  
20 A COURT OF ANOTHER STATE OR TERRITORY;

21 (3) manufactures, possesses, transports, sells, or transfers a prohibited weapon;

22 (2) [(4)] knowingly sells or transfers a firearm to another whose physical or  
23 mental condition is substantially impaired as a result of the introduction of an intoxicating liquor  
24 or controlled substance [DRUG] into that other person's body;

25 (3) [(5)] removes, covers, alters, or destroys the manufacturer's serial number on  
26 a firearm with intent to render the firearm untraceable;

27 (4) [(6)] possesses a firearm on which the manufacturer's serial number has been  
28 removed, covered, altered, or destroyed, knowing that the serial number has been removed,  
29 covered, altered, or destroyed with the intent of rendering the firearm untraceable;

30 (5) [(7)] violates AS 11.46.320 and, during the violation, possesses on the person  
31 a firearm when the person's physical or mental condition is substantially impaired as a

1 result of the introduction of an intoxicating liquor or a controlled substance into the  
2 person's body [WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR  
3 DRUG];

4 (6) [(8)] violates AS 11.46.320 or 11.46.330 by entering or remaining unlawfully  
5 on premises or in a propelled vehicle in violation of a provision of an order issued under  
6 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a defensive  
7 weapon or a deadly weapon, other than an ordinary pocketknife; or

8 (7) [(9)] communicates in person with another in violation of AS 11.61.120(a)(6)  
9 and, during the communication, possesses on the person a defensive weapon or a deadly  
10 weapon, other than an ordinary pocketknife.

11 \* Sec. 5. AS 11.61.200(c) is amended to read:

12 (c) It is an affirmative defense to a prosecution under (a)(1) [(a)(3)] of this section that  
13 the manufacture, possession, transportation, sale, or transfer of the prohibited weapon was in  
14 accordance with registration under 26 U.S.C. 5801 - 5872 (National Firearms Act).

15 \* Sec. 6. AS 11.61.200(d) is amended to read:

16 (d) The provisions of (a)(1) [(a)(3)] of this section do not apply to a peace officer acting  
17 within the scope and authority of the officer's employment.

18 \* Sec. 7. AS 11.61.210(a) is amended to read:

19 (a) A person commits the crime of misconduct involving weapons in the second degree  
20 if the person

21 (1) possesses on the person a firearm when the person's physical or mental  
22 condition is substantially impaired as a result of the introduction of an intoxicating liquor  
23 or a controlled substance into the person's body [WHILE UNDER THE INFLUENCE OF AN  
24 INTOXICATING LIQUOR OR DRUG] in circumstances other than described in  
25 AS 11.61.200(a)(5) [AS 11.61.200(a)(7)];

26 (2) discharges a firearm from, on, or across a highway; [OR]

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

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

30 (5) manufactures, sells, or transfers a switchblade, a gravity knife, or a  
31 butterfly knife.

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

2 (a) A person commits the crime of misconduct involving weapons in the third degree if  
3 the person

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

6 (2) knowingly possesses a loaded firearm on the person in any place where  
7 intoxicating liquor is sold for consumption on the premises; [OR]

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

10 (4) knowingly possesses a firearm within the grounds of or on a parking lot  
11 immediately adjacent to a public or private preschool, elementary, junior high, or secondary  
12 school, without the permission of the chief administrative officer of the school or district or  
13 the designee of the chief administrative officer; or

14 (5) possesses or transports a switchblade, a gravity knife, or a butterfly knife.

15 \* **Sec. 9.** AS 11.61.220(c) is amended to read:

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

18 \* **Sec. 10.** AS 11.61 is amended by adding new sections to read:

19 Sec. 11.61.225. FELON CONNECTED MISCONDUCT INVOLVING WEAPONS IN  
20 THE FIRST DEGREE (a) A person commits the crime of felon connected misconduct  
21 involving weapons in the first degree if the person, having been convicted of a felony by a court  
22 of this state, a court of the United States, or a court of another state or territory, manufactures,  
23 possesses, transports, sells, or transfers

24 (1) a firearm capable of being concealed on one's person;

25 (2) a prohibited weapon; or

26 (3) a semi-automatic firearm.

27 (b) Felon connected misconduct involving weapons in the first degree is a class B felony.

28 Sec. 11.61.226. FELON-CONNECTED MISCONDUCT INVOLVING WEAPONS IN  
29 THE SECOND DEGREE. (a) A person commits the crime of felon-connected misconduct  
30 involving weapons in the second degree if the person

31 (1) knowingly sells or transfers a semi-automatic firearm or a firearm capable of

1 being concealed on one's person to a person who has been convicted of a felony by a court of  
2 this state, a court of the United States, or a court of another state or territory; or

3 (2) knowingly resides in a location where there is a weapon listed in  
4 AS 11.61.225(a) if the person has been convicted of a felony by a court of this state, a court of  
5 the United States, or a court of another state or territory.

6 (b) Felon connected misconduct involving weapons in the second degree is a class C  
7 felony.

8 Sec. 11.61.227. DEFENSES. It is an affirmative defense to a prosecution under  
9 AS 11.61.225 or 11.61.226 that

10 (1) the person convicted of the prior offense on which the action is based received  
11 a pardon for that conviction;

12 (2) the underlying conviction upon which the action is based has been set aside  
13 under AS 12.55.085 or as a result of post-conviction proceedings; or

14 (3) a period of 10 years or more has elapsed between the date of the person's  
15 unconditional discharge on the prior offense and the date of the violation of AS 11.61.225 or  
16 11.61.226, and the prior conviction did not result from a violation of AS 11.41 or of a similar  
17 law of the United States or of another state or territory.

18 \* Sec. 11. AS 11.61 is amended by adding a new section to read:

19 Sec. 11.61.260. DEFINITIONS. In AS 11.61.200 - 11.61.260,

20 (1) "prohibited weapon" means any

21 (A) explosive, incendiary, or noxious gas

22 (i) mine or device that is designed, made, or adapted for the  
23 purpose of inflicting serious physical injury or death;

24 (ii) rocket, other than an emergency flare, having a propellant  
25 charge of more than four ounces;

26 (iii) bomb;

27 (iv) grenade;

28 (B) device designed, made, or adapted to muffle the report of a firearm;

29 (C) firearm that is capable of shooting more than one shot automatically,  
30 without manual reloading, by a single function of the trigger; or

31 (D) rifle with a barrel length of less than 16 inches, shotgun with a barrel

1 length of less than 18 inches, or firearm made from a rifle or shotgun which, as modified,  
2 has an overall length of less than 26 inches;

3 (2) "semi-automatic firearm" means a firearm designed or specifically adapted to  
4 fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a  
5 single function of the trigger or firing mechanism;

6 (3) "unconditional discharge" has the meaning given in AS 12.55.185.

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

8 (58) "defensive weapon" means an electric stun gun, or a device to dispense  
9 mace, pepper, or a similar chemical agent, that is not designed to cause death or serious physical  
10 injury.

11 \* Sec. 13. AS 11.61.200(b), 11.61.200(e), and 11.61.215 are repealed.