

CS FOR HOUSE BILL NO. 104 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/15/91
Referred: Finance

Sponsor(s): REPRESENTATIVES DONLEY, Ulmer, Barnes, C.Davis

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 represents by words or other conduct that
9 either that person or another participant is so armed;

10 (2) uses or attempts to use a dangerous instrument or a defensive weapon or
11 represents by words or other conduct that either that person or another participant is armed with
12 a dangerous instrument or a defensive weapon; 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 concealed on one's person
14 or a removable rifle magazine capable of containing more than five cartridges after having
15 been convicted of a felony by a 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 being concealed on one's
18 person or a removable rifle magazine capable of containing more than five cartridges to a
19 person who has been convicted of a felony by a court of this state, a court of the United States,
20 or a court of another state or territory;

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

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

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

27 (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 (7) violates AS 11.46.320 and, during the violation, possesses on the person a
31 firearm when the person's physical or mental condition is impaired as a result of the

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

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

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

10 (10) resides in a dwelling knowing that there is a firearm capable of being
11 concealed on one's person, a prohibited weapon, or a removable rifle magazine capable of
12 containing more than five cartridges in the dwelling if the person has been convicted of a
13 felony by a court of this state, a court of the United States, or a court of another state or
14 territory, unless the person has written authorization to live in a dwelling in which there
15 is a weapon or magazine described in this paragraph from a court of competent jurisdiction
16 or from the head of the law enforcement agency of the community in which the dwelling
17 is located.

18 * Sec. 5. AS 11.61.200(b) is amended to read:

19 (b) It is an affirmative defense to a prosecution under (a)(1), (2), or (10) [(a)(1) OR (2)]
20 of this section that

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

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

25 (3) a period of 10 [FIVE] years or more has elapsed between the date of the
26 person's unconditional discharge on the prior offense and the date of the violation of (a)(1), (2),
27 or (10) of this section, and the prior conviction did not result from a violation of AS 11.41
28 or of a similar law of the United States or of another state or territory [POSSESSION,
29 SALE, OR TRANSFER OF THE FIREARM].

30 * Sec. 6. AS 11.61.200(e) is amended to read:

31 (e) As used in this section,

- 1 (1) "prohibited weapon" means any
2 (A) explosive, incendiary, or noxious gas
3 (i) mine or device that is designed, made, or adapted for the
4 purpose of inflicting serious physical injury or death;
5 (ii) rocket, other than an emergency flare, having a propellant
6 charge of more than four ounces;
7 (iii) bomb; or
8 (iv) grenade;
9 (B) device designed, made, or adapted to muffle the report of a firearm;
10 (C) [METAL KNUCKLES;
11 (D) SWITCHBLADE OR GRAVITY KNIFE;
12 (E)] firearm that is capable of shooting more than one shot automatically,
13 without manual reloading, by a single function of the trigger; or
14 (D) [(F)] rifle with a barrel length of less than 16 inches, shotgun with a
15 barrel length of less than 18 inches, or firearm made from a rifle or shotgun which, as
16 modified, has an overall length of less than 26 inches;

17 (2) "unconditional discharge" has the meaning ascribed to it in AS 12.55.185. 15

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, or in the interior of a vehicle in which the person
22 is present, a firearm when the person's physical or mental condition is impaired as a result
23 of the introduction of an intoxicating liquor or a controlled substance into the person's body
24 [WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR DRUG] in
25 circumstances other than described in 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 or a gravity knife.

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

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

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

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

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

9 (4) knowingly possesses a firearm

10 (A) within the grounds of or on a parking lot immediately adjacent
11 to a public or private preschool, elementary, junior high, or secondary school,
12 without the permission of the chief administrative officer of the school or district or
13 the designee of the chief administrative officer, except that a person 18 years of age
14 or older may possess an unloaded firearm in the trunk of a motor vehicle or encased
15 in a closed container in a motor vehicle; or

16 (B) within the grounds of or on a parking lot immediately adjacent
17 to a center, other than a private residence, licensed under AS 47.35.010 - 47.35.075
18 or recognized by the federal government for the care of children; or

19 (5) possesses or transports a switchblade or a gravity knife.

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

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

23 * Sec. 10. AS 11.81.900(b) is amended by adding a new paragraph to read:

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

26 * Sec. 11. AS 11.61.215 is repealed.