

HOUSE BILL NO. 351

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES JAMES, Bunde, Olberg

Introduced: 1/10/94

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the issuance of permits for the carrying of a concealed
2 weapon."

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

4 * Section 1. AS 11.61.220(b) is amended to read:

5 (b) In a prosecution under (a)(1) of this section, it is an affirmative defense
6 that the defendant, at the time of possession, was

7 (1) in the defendant's dwelling or on land owned or leased by the
8 defendant appurtenant to the dwelling; [OR]

9 (2) actually engaged in lawful hunting, fishing, trapping, or other lawful
10 outdoor activity that necessarily involves the carrying of a weapon for personal
11 protection; or

12 (3) the holder of a permit to carry a concealed weapon under
13 AS 18.65.700 - 18.65.775 and the deadly weapon was not a shotgun, a rifle, or a
14 prohibited weapon as defined in AS 11.61.200.

1 * Sec. 2. AS 18.65 is amended by adding new sections to read:

2 **ARTICLE 9. PERMIT TO CARRY A CONCEALED WEAPON.**

3 **Sec. 18.65.700. PERMIT TO CARRY A CONCEALED WEAPON.** (a) The
4 department shall issue a permit to carry a concealed weapon to a person who

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

6 (2) qualifies under AS 18.65.705;

7 (3) submits a completed application on a form provided by the
8 department, that provides the information required under AS 18.65.705 and 18.65.710
9 and is executed under oath;

10 (4) submits a photocopy of a certificate, an affidavit of an instructor,
11 or other documentation evidencing firearms competency as required under
12 AS 18.65.705;

13 (5) permits the Alaska State Troopers to take one set of fingerprints of
14 the person and, on a blank permit, a print of one finger of each hand;

15 (6) provides two full frontal view color photographs of the person taken
16 within the preceding 30 days in which the head, including hair, measures 7/8 of an
17 inch wide and one and 1/8 inches high; and

18 (7) pays the application fee required by AS 18.65.715.

19 (b) The department shall either approve or reject an application for a permit to
20 carry a concealed weapon within 90 days of receipt of the application. The department
21 shall notify the applicant in writing of the reason for a rejection.

22 (c) A permit issued under this section is valid for three years from the date of
23 issue.

24 **Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT.** A person is
25 qualified to receive and hold a permit to carry a concealed weapon if the person

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

27 (2) has not been convicted of a felony or a law or ordinance of another
28 jurisdiction that would be a felony if committed in this state;

29 (3) is not currently charged under a complaint, information, indictment,
30 or presentment with a violation of AS 11.41 or a similar law of another jurisdiction;

31 (4) has not been voluntarily or involuntarily committed to a treatment

1 facility for a mental illness, unless the person presents to the department a sworn
2 statement of

3 (A) an official in charge of the facility certifying that the person
4 has been released from the facility for at least the five years immediately
5 preceding the application and that at the time of release the person was not
6 suffering from the condition that led to the commitment; and

7 (B) a psychiatrist who has treated the person certifying that the
8 person has not suffered from the condition that led to the commitment during
9 the five years immediately preceding the application;

10 (5) has not been adjudicated as mentally incapacitated by a court of this
11 state, another state, territory, or jurisdiction, or of the United States, unless the
12 guardianship or similar arrangement has been closed or terminated and five years have
13 elapsed since the closure or other termination;

14 (6) is a resident of the state and has been for the 12 months
15 immediately preceding the application for a permit;

16 (7) has not been convicted of an unlawful use of a controlled substance;

17 (8) has not been discharged from the armed forces of the United States
18 under dishonorable conditions;

19 (9) is not an alien who is residing in the United States illegally or a
20 former citizen of the United States who has renounced the person's citizenship;

21 (10) is not now in and has not previously entered an alcohol treatment
22 program, unless the person presents the department with a sworn statement of a
23 medical or psychological professional that the person has undergone treatment for
24 alcohol abuse and has demonstrated freedom from alcohol impairment for the three
25 years immediately preceding the application;

26 (11) has not been convicted of two violations of AS 28.33.030,
27 28.33.031, AS 28.35.030 or 28.35.032 or similar laws of another jurisdiction within
28 the five years immediately preceding the application; and

29 (12) has demonstrated competence with a firearm by one of the
30 following:

31 (A) successful completion of a

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(i) hunter education or hunter safety course approved by the Department of Fish and Game or the department;

(ii) National Rifle Association firearms safety or training course;

(iii) firearms safety or training course or class available to the public offered by a law enforcement agency, junior college, college, or public or private institution or organization or firearms training school, utilizing instructors certified by the National Rifle Association or the Alaska Police Standards Council;

(iv) law enforcement firearms safety or training course or class offered for security guards or law enforcement officers approved by the Alaska Police Standards Council;

(B) experience with a firearm equivalent to the training provided under (A) of this paragraph through participation in organized shooting competitions or military service.

Sec. 18.65.710. APPLICATION FOR PERMIT TO CARRY A CONCEALED WEAPON. The application for a permit to carry a concealed weapon must, at a minimum, include

(1) the applicant's name, address, place and date of birth, physical description, including height, weight, race, hair color, and eye color, and social security number;

(2) a statement that the applicant qualifies under AS 18.65.705;

(3) a statement that the applicant has been furnished with a copy of AS 18.65.700 - 18.65.775, has read those sections, and understands them;

(4) a statement that the applicant desires a permit to carry a concealed weapon for a lawful purpose, which may include lawful self-defense;

(5) a sworn statement by the applicant that all statements, answers, and attachments to the application are true and complete;

(6) a conspicuous warning that the application is executed under oath and that an applicant who supplies a false statement, answer, or document, in connection with the application which the applicant does not believe to be true, may

1 be prosecuted for perjury under AS 11.56.200 and, if found guilty, may be punished
2 for violation of a class B felony, and that in such cases the permit shall be revoked
3 and the applicant may be barred from any further application for a permit;

4 (7) a statement that the applicant understands that a background
5 investigation may be conducted as a part of the application process, that this may
6 involve computerized records searches, and that the applicant authorizes the
7 investigation; and

8 (8) any other information determined by the department to be
9 necessary.

10 Sec. 18.65.715. FEES. (a) The department shall charge a nonrefundable fee
11 of \$125 for application for and initial issuance of a permit.

12 (b) The department shall charge a fee of \$100 for the renewal of a permit
13 under AS 18.65.720.

14 (c) The department shall charge a fee of \$15 for replacement of a permit under
15 AS 18.65.725.

16 Sec. 18.65.720. PERMIT RENEWAL. (a) A permittee shall apply for
17 renewal of a permit to carry a concealed weapon within 90 days before the expiration
18 of the permit on a form provided by the department. The renewal form shall be
19 submitted under oath and must include

20 (1) any change in the information originally submitted under
21 AS 18.65.710;

22 (2) a statement that the person remains qualified to receive and hold
23 a permit to carry a concealed weapon under AS 18.65.705; and

24 (3) the renewal fee required under AS 18.65.715.

25 (b) A renewal of a permit to carry a concealed weapon submitted on or after
26 the expiration date is subject to a late fee of \$15. The department may not accept a
27 renewal for a permit that is submitted more than 90 days after the expiration date of
28 the permit. Nothing in this subsection prohibits the holder of an expired permit from
29 applying for a new permit.

30 Sec. 18.65.725. REPLACEMENT OF PERMIT. The department may replace
31 a permit that the permittee certifies under oath has been lost, stolen, or destroyed.

1 **Sec. 18.65.730. SUSPENSION OF PERMIT.** The department shall
2 immediately suspend a permit to carry a concealed weapon if a permittee is arrested
3 for or formally charged with a crime that would disqualify the permittee under
4 AS 18.65.705(3) from being eligible to hold a permit to carry a concealed weapon.
5 A suspension of a permit remains in effect until the permit is revoked under
6 AS 18.65.735 or the department has been notified of a disposition favorable to the
7 defendant or the defendant has been released from custody without being charged. In
8 this section, "disposition favorable to the defendant" means an adjudication by a court
9 other than a conviction.

10 **Sec. 18.65.735. REVOCATION OF PERMIT; APPEAL.** (a) A permit to
11 carry a concealed weapon shall be immediately revoked by the department when the
12 permittee

13 (1) becomes disqualified to receive and hold a permit under
14 AS 18.65.705, other than AS 18.65.705(3);

15 (2) is voluntarily or involuntarily committed to a treatment facility for
16 a mental illness;

17 (3) is convicted of two violations of AS 28.33.030, 28.33.031,
18 AS 28.35.030, or 28.35.032 or similar laws of another jurisdiction within a five-year
19 period if at least one of the convictions occurs after the issuance of the permit;

20 (4) is convicted of three violations of AS 18.65.750 or 18.65.755 within
21 a five-year period;

22 (5) is convicted of violating AS 28.33.030, 28.33.031, AS 28.35.030,
23 or 28.35.032 while carrying a concealed weapon; or

24 (6) with intent to mislead the department or its employees, supplied a
25 false or fraudulent answer, statement, or document, or made a material misstatement
26 or omission, in connection with an application for a permit, renewal, or replacement
27 of a permit.

28 (b) A person whose permit is revoked under this section may appeal the
29 revocation decision to the commissioner. A person may seek judicial review of the
30 decision of the commissioner under AS 44.62.560 - 44.62.570.

31 (c) A person whose permit is revoked under (a)(2) - (4) of this section may

1 not apply for a new permit until at least five years have elapsed since the date of the
2 last conviction or the date of the revocation whichever occurs later.

3 Sec. 18.65.740. NO LIABILITY FOR ISSUANCE OF PERMIT. The
4 department is not liable by virtue of having issued a permit to carry a concealed
5 weapon for damage or harm caused by the permittee.

6 Sec. 18.65.750. POSSESSION AND DISPLAY OF PERMIT. (a) A permittee
7 shall carry the permit and valid identification at all times the permittee carries a
8 concealed weapon. The permittee shall display both the license and valid identification
9 when asked to do so by a peace officer at any time.

10 (b) A person who violates (a) of this section is guilty of a violation and shall
11 be punished by a fine of \$25.

12 Sec. 18.65.755. PLACES WHERE PERMITTEE MAY NOT POSSESS A
13 CONCEALED WEAPON. (a) A permittee may not carry a concealed weapon into
14 a law enforcement or correctional facility; a courthouse or a courtroom; an office or
15 building housing state or federal offices or the offices of a political subdivision of the
16 state; a passenger loading or unloading area of an airline terminal; a vessel of the
17 Alaska marine highway system or any other place where the possession of a deadly
18 weapon or a firearm is prohibited by state law. This section does not prohibit a peace
19 officer from possessing a concealed deadly weapon in any of these places nor does it
20 prohibit a judge from possessing or determining who may possess a concealed deadly
21 weapon within a courtroom.

22 (b) In addition to any other penalty provided by law, a person who violates
23 this section is guilty of a class B misdemeanor.

24 Sec. 18.65.760. ACCESS TO LIST OF PERMITTEES BY PEACE
25 OFFICERS. The department shall compile a list of permittees in a manner that allows
26 immediate access to the information by peace officers.

27 Sec. 18.65.765. REGULATIONS. The department shall adopt regulations to
28 implement AS 18.65.700 - 18.65.775. This section does not delegate to the department
29 the authority to regulate or restrict the issuing of permits beyond those provisions
30 contained in AS 18.65.700 - 18.65.775. Subjective or arbitrary actions or regulations
31 that encumber the issuing process by placing burdens on the applicant beyond those

1 **sworn statements and specified documents detailed in AS 18.65.700 - 18.65.775 or that**
2 **create restrictions beyond those specified or specifically authorized in AS 18.65.700 -**
3 **18.65.775 are prohibited.**

4 **Sec. 18.65.770. PROHIBITION ON CERTAIN ORDINANCES. A**
5 **municipality may not enact an ordinance that conflicts with or imposes stricter**
6 **standards than the requirements of this chapter.**

7 **Sec. 18.65.775. DEFINITIONS. In AS 18.65.700 - 18.65.775,**

8 (1) **"commissioner" means the commissioner of public safety;**

9 (2) **"concealed weapon" means a deadly weapon, as defined in**
10 **AS 11.81.900, other than a shotgun or rifle or a prohibited weapon as defined under**
11 **AS 11.61.200, that is covered or enclosed in any manner so that an observer cannot**
12 **determine that it is a weapon without removing it from that which covers or encloses**
13 **it or without opening, lifting, or removing that which covers or encloses it;**

14 (3) **"department" means the Department of Public Safety;**

15 (4) **"permit" means a permit to carry a concealed weapon issued under**
16 **AS 18.65.700 - 18.65.775.**