

CS FOR HOUSE BILL NO. 351(STA)**IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - SECOND SESSION****BY THE HOUSE STATE AFFAIRS COMMITTEE****Offered: 3/2/94****Referred: Judiciary, Finance****Sponsor(s): REPRESENTATIVES JAMES, Bunde, Olberg, Sanders****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to permits for the carrying of a concealed weapon; relating to
2 the authority of a court to prohibit persons convicted of certain misdemeanors
3 from applying for, receiving, and possessing a permit to carry a concealed
4 weapon; and relating to the possession of weapons."

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

6 * Section 1. INTENT. The legislature finds as a matter of public policy and fact that it
7 is necessary to provide statewide uniform standards for issuing licenses to carry concealed
8 weapons and firearms for self-defense and finds it necessary to occupy the field of regulation
9 of the bearing of concealed weapons or firearms for self-defense to ensure that an honest, law-
10 abiding person who qualifies under the provisions of this Act is not subjectively or arbitrarily
11 denied that person's rights. The legislature intends that this Act shall be liberally construed
12 to carry out the constitutional right to bear arms. This Act is supplemental and additional to
13 existing rights to bear arms, and nothing in this Act is intended to impair or diminish those
14 rights.

1 * Sec. 2. AS 11.61.220(a) is amended to read:

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

4 (1) knowingly possesses a deadly weapon, other than an ordinary
5 pocketknife or a defensive weapon, that is concealed on the person, unless the person
6 at the time of the possession was

7 (A) in the person's dwelling or on land owned or leased by
8 the person appurtenant to the dwelling;

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

12 (C) the holder of a permit to carry a concealed weapon
13 under AS 18.65.700 - 18.65.780 and the deadly weapon was not a
14 prohibited weapon under AS 11.61.200;

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

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

19 (4) knowingly possesses a firearm

20 (A) or a defensive weapon within the grounds of or on a
21 parking lot immediately adjacent to a public or private preschool, elementary,
22 junior high, or secondary school without the permission of the chief
23 administrative officer of the school or district or the designee of the chief
24 administrative officer, except that a person 21 years of age or older may
25 possess

26 (i) an unloaded firearm in the trunk of a motor vehicle
27 or encased in a closed container in a motor vehicle;

28 (ii) a defensive weapon; or

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

1 of children; or

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

3 * Sec. 3. AS 11.61.220(c) is amended to read:

4 (c) The provisions of (a)(1), (2), and (4) of this section do not apply to a peace
5 officer [ACTING WITHIN THE SCOPE AND AUTHORITY OF THE OFFICER'S
6 EMPLOYMENT].

7 * Sec. 4. AS 11.61.220(d) is amended to read:

8 (d) In a prosecution under (a)(1) or (2) [(a)(2)] of this section, it is a defense
9 that the defendant, at the time of possession, was

10 (1) on business premises owned by or leased by the defendant; or

11 (2) on business premises in the course of the defendant's employment
12 for the owner or lessee of those premises.

13 * Sec. 5. AS 11.61.220(e) is amended to read:

14 (e) For purposes of this section, a deadly weapon on a person is concealed if
15 it is covered or enclosed in any manner so that an observer cannot determine that it
16 is a weapon without removing it from that which covers or encloses it or without
17 opening, lifting, or removing that which covers or encloses it, it does not include an
18 unloaded firearm encased in a closed container designed for transporting
19 firearms.

20 * Sec. 6. AS 11.61.220(f) is amended to read:

21 (f) For purposes of (a)(2) and (e) of this section, a firearm is loaded if the
22 firing chamber, magazine, clip, or cylinder of the firearm contains a cartridge.

23 * Sec. 7. AS 12.55.015(a) is amended to read:

24 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
25 sentence on a defendant convicted of an offense, may singly or in combination

26 (1) impose a fine when authorized by law and as provided in
27 AS 12.55.035;

28 (2) order the defendant to be placed on probation under conditions
29 specified by the court that may include provision for active supervision;

30 (3) impose a definite term of periodic imprisonment;

31 (4) impose a definite term of continuous imprisonment;

- 1 (5) order the defendant to make restitution under AS 12.55.045;
- 2 (6) order the defendant to carry out a continuous or periodic program
- 3 of community work under AS 12.55.055;
- 4 (7) suspend execution of all or a portion of the sentence imposed under
- 5 AS 12.55.080;
- 6 (8) suspend imposition of sentence under AS 12.55.085;
- 7 (9) order the forfeiture to the commissioner of public safety of a deadly
- 8 weapon that was in the actual possession of or used by the defendant during the
- 9 commission of an offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;
- 10 (10) order the defendant, while incarcerated, to participate in or comply
- 11 with the treatment plan of a rehabilitation program that is related to the defendant's
- 12 offense or to the defendant's rehabilitation, if the program is made available to the
- 13 defendant by the Department of Corrections;
- 14 (11) prohibit the defendant from applying for, receiving, or
- 15 possessing a permit to carry a concealed weapon under AS 18.65.700 - 18.65.780
- 16 for a period of not greater than five years if the defendant was convicted of any
- 17 of the following misdemeanor offenses:
- 18 (A) AS 11.41.230, 11.41.250, 11.41.270;
- 19 (B) AS 11.46.140 or 11.46.150 when the defendant has
- 20 committed theft of services under AS 11.46.200(a)(1);
- 21 (C) AS 11.46.270, 11.46.320, 11.46.430, 11.46.484(a)(7);
- 22 (D) AS 11.51.130(a)(1);
- 23 (E) AS 11.56.330, 11.56.350, 11.56.380, 11.56.700, 11.56.740;
- 24 (F) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;
- 25 (G) AS 11.66.130; or
- 26 (H) AS 11.71.050.

27 * Sec. 8. AS 18.65 is amended by adding new sections to read:

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

29 **Sec. 18.65.700. PERMIT TO CARRY A CONCEALED WEAPON. (a) The**

30 **department shall issue a permit to carry a concealed weapon to a person who**

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

- 1 (2) qualifies under AS 18.65.705;
- 2 (3) submits a completed application on a form provided by the
- 3 department, that provides the information required under AS 18.65.705 and 18.65.710
- 4 and is executed under oath;
- 5 (4) submits evidence of competence with firearms as provided in
- 6 AS 18.65.715;
- 7 (5) shows a valid picture identification at the time of application; and
- 8 (6) pays the application fee required by AS 18.65.720.

9 (b) The department shall immediately issue the permit or provide a written
10 statement to the applicant providing the reasons for the rejection.

11 (c) A permit issued under this section is valid for five years from the date of
12 issue.

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

- 15 (1) is 21 years of age or older;
- 16 (2) is eligible to own or possess a firearm under the laws of this state
- 17 and under federal law;
- 18 (3) is not prohibited by a court under AS 12.55.015 from applying for,
- 19 receiving, or possessing a permit to carry a concealed weapon;
- 20 (4) is not currently charged under a complaint, information, indictment,
- 21 or presentment with a felony violation of AS 11.41 or a similar law of another
- 22 jurisdiction;
- 23 (5) is not now suffering, and has not within the five years immediately
- 24 preceding the application suffered, from a mental illness as defined in AS 47.30.915;
- 25 (6) is not now, and has not been, adjudicated as mentally incapacitated
- 26 by a court of this state, another state, territory, or jurisdiction, or of the United States,
- 27 unless the guardianship or similar arrangement has been closed or terminated and five
- 28 years have elapsed since the closure or other termination;
- 29 (7) is a resident of the state and has been for the 12 months
- 30 immediately preceding the application for a permit;
- 31 (8) has not been discharged from the armed forces of the United States

1 under dishonorable conditions;

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

4 (10) is not now, and has not for the three years immediately preceding
5 the application, suffered impairment from alcohol;

6 (11) is not an unlawful user of, or addicted to, a controlled substance;

7 (12) has not been convicted of two violations of AS 28.33.030,
8 28.33.031, AS 28.35.030 or 28.35.032 or similar laws of another jurisdiction within
9 the five years immediately preceding the application; and

10 (13) has demonstrated competence with firearms as provided in
11 AS 18.65.715.

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

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

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

19 (3) a statement that the applicant has been furnished with a copy of
20 AS 18.65.700 - 18.65.780, has read those sections, and understands them;

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

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

25 (6) a conspicuous warning that the application is executed under oath
26 and that an applicant who supplies a false statement, answer, or document, in
27 connection with the application that the applicant does not believe to be true, may be
28 prosecuted for perjury under AS 11.56.200 and, if found guilty, may be punished for
29 violation of a class B felony, and that in such cases the permit shall be revoked and
30 the applicant may be barred from any further application for a permit; and

31 (7) a statement that the applicant understands that a background

1 investigation may be conducted as a part of the application process, that this may
2 involve computerized records searches, and that the applicant authorizes the
3 investigation.

4 (b) As a part of an application under (a) of this section, the department may
5 not inquire of an applicant as to any firearms owned by the applicant.

6 **Sec. 18.65.715. DEMONSTRATION OF COMPETENCE WITH FIREARMS.**

7 An applicant for a permit to carry a concealed weapon must be competent in the use
8 of firearms. The applicant may demonstrate this competence by submitting with the
9 application

10 (1) evidence in the form of a copy of a certificate of completion, a
11 certified copy of a transcript, or an affidavit of the instructor, group, club, or
12 organization that conducted the training, course, or class, that the applicant has
13 successfully completed a

14 (A) law enforcement firearms safety and training course or class
15 offered for peace officers, security guards, or private investigators; or

16 (B) firearms safety or training course or class conducted by a
17 National Rifle Association certified, United States Practical Shooting
18 Association certified, state certified, or other certified firearms instructor;

19 (2) evidence of military instruction and experience with the safe use of
20 firearms; or

21 (3) other evidence satisfactory to the commissioner that the person is
22 competent in the use of firearms.

23 **Sec. 18.65.720. FEES.** (a) The department shall charge a nonrefundable fee
24 of \$50 for application for and initial issuance of a permit.

25 (b) The department shall charge a fee of \$25 for the renewal of a permit under
26 AS 18.65.725.

27 (c) The department shall charge a fee of \$15 for replacement of a permit under
28 AS 18.65.730.

29 **Sec. 18.65.725. PERMIT RENEWAL.** (a) A permittee shall apply for
30 renewal of a permit to carry a concealed weapon within 90 days before the expiration
31 of the permit on a form provided by the department. The renewal form shall be

1 submitted under oath and must include

2 (1) any change in the information originally submitted under
3 AS 18.65.710;

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

6 (3) the renewal fee required under AS 18.65.720.

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

12 Sec. 18.65.730. REPLACEMENT OF PERMIT. The department may replace
13 a permit that the permittee certifies under oath has been lost, stolen, or destroyed.

14 Sec. 18.65.735. SUSPENSION OF PERMIT. The department shall
15 immediately suspend a permit to carry a concealed weapon if a permittee is arrested
16 for or formally charged with a crime that would disqualify the permittee under
17 AS 18.65.705(4) from being eligible to hold a permit to carry a concealed weapon.
18 A suspension of a permit remains in effect until the permit is revoked under
19 AS 18.65.740 or the department has been notified of a disposition favorable to the
20 defendant or the defendant has been released from custody without being charged. In
21 this section, "disposition favorable to the defendant" means a dismissal by the
22 prosecutor or an adjudication by a court other than a conviction.

23 Sec. 18.65.740. REVOCATION OF PERMIT; APPEAL. (a) A permit to
24 carry a concealed weapon shall be immediately revoked by the department when the
25 permittee

26 (1) becomes disqualified to receive and hold a permit under
27 AS 18.65.705, other than AS 18.65.705(4);

28 (2) is convicted of three violations of AS 18.65.750 or 18.65.755 within
29 a five-year period;

30 (3) is convicted of two violations of AS 28.33.030, 28.33.031,
31 AS 28.35.030, or 28.35.032, or similar laws of another jurisdiction within a five-year

1 period if at least one of the convictions occurs after the issuance of the permit;

2 (4) is convicted of violating AS 28.33.030, 28.33.031, AS 28.35.030,
3 or 28.35.032 and was carrying a concealed weapon at the time of the violation; or

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

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

11 (c) A person whose permit is revoked under (a)(2) - (5) of this section may
12 not apply for a new permit until at least five years have elapsed since the date of the
13 last conviction or the revocation, whichever occurs first.

14 Sec. 18.65.745. NO LIABILITY FOR ISSUANCE OF PERMIT OR FOR
15 TRAINING. (a) The department is not liable by virtue of having issued a permit to
16 carry a concealed weapon for damage or harm caused by the permittee.

17 (b) A person who provides firearm training to a person who receives a permit
18 under AS 18.65.700 - 18.65.780 is not liable for damage or harm caused to another
19 person by the permittee.

20 Sec. 18.65.750. POSSESSION AND DISPLAY OF PERMIT. (a) A permittee
21 shall carry the permit at all times the permittee carries a concealed weapon. The
22 permittee shall display both the license and other proper identification when asked to
23 do so by a peace officer at any time.

24 (b) Whenever a permittee who is carrying a concealed weapon is stopped by
25 a peace officer, the permittee shall immediately inform the peace officer that the
26 permittee is carrying a concealed weapon under the permit.

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

29 Sec. 18.65.755. PLACES WHERE PERMITTEE MAY NOT POSSESS A
30 CONCEALED WEAPON. (a) A permittee may not carry a concealed weapon into

31 (1) a law enforcement or correctional facility;

- 1 (2) a courthouse or a courtroom;
2 (3) an office or building housing state or federal offices or the offices
3 of a political subdivision of the state;
4 (4) a passenger loading or unloading area of an airline terminal;
5 (5) a vessel of the Alaska marine highway system; or
6 (6) another place where the possession of a deadly weapon or firearm
7 is prohibited by state or federal law.

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

10 Sec. 18.65.760. ACCESS TO LIST OF PERMITTEES BY PEACE
11 OFFICERS. The department shall compile a list of permittees in a manner that allows
12 immediate access to the information by peace officers. The list of permittees and all
13 applications, permits, and renewals are not public records under AS 09.25.110 -
14 09.25.125 and may only be accessed for law enforcement purposes.

15 Sec. 18.65.765. EXEMPT PERSONS. Persons who are permitted to carry a
16 concealed weapon under AS 11.61.220 other than AS 11.61.220(a)(1)(C), or are
17 provided a defense to a charge of carrying a concealed weapon under AS 11.61.220
18 are exempt from the provisions of AS 18.65.700 - 18.65.780 while engaging in the
19 activities permitted or to which the defense applies.

20 Sec. 18.65.770. REGULATIONS. The department shall adopt regulations to
21 implement AS 18.65.700 - 18.65.780. This section does not delegate to the department
22 the authority to regulate or restrict the issuing of permits beyond those provisions
23 contained in AS 18.65.700 - 18.65.780. Subjective or arbitrary actions or regulations
24 that encumber the issuing process by placing burdens on the applicant beyond those
25 sworn statements and specified documents detailed in AS 18.65.700 - 18.65.780 or that
26 create restrictions beyond those specified or specifically authorized in AS 18.65.700 -
27 18.65.780 are prohibited.

28 Sec. 18.65.775. PROHIBITION ON CERTAIN ORDINANCES. A
29 municipality may not enact an ordinance that conflicts with or imposes stricter
30 standards than the requirements of this chapter.

31 Sec. 18.65.780. DEFINITIONS. In AS 18.65.700 - 18.65.780,

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

(2) "concealed weapon" means a deadly weapon, as defined in AS 11.81.900, that is covered or enclosed in any manner so that an observer cannot determine that it is a weapon without removing it from that which covers or encloses it or without opening, lifting, or removing that which covers or encloses it; however, "concealed weapon" does not include an unloaded firearm encased in a closed container designed for transporting firearms, a deadly weapon that is a prohibited weapon as defined under AS 11.61.200;

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

(4) "permit" means a permit to carry a concealed weapon issued under AS 18.65.700 - 18.65.780.

* Sec. 9. AS 11.61.220(b) is repealed.