

CS FOR HOUSE BILL NO. 351(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/25/94
Referred: 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 handgun; providing
2 for local option elections in municipalities and established villages to prohibit the
3 possession of a concealed handgun under a permit; and relating to the possession
4 of weapons."

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

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

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

9 (1) in the defendant's dwelling or on land owned or leased by the
10 defendant appurtenant to the dwelling; or

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

14 (3) the holder of a valid permit to carry a concealed handgun under

1 AS 18.65.700 - 18.65.790, the deadly weapon concealed was a handgun as defined
2 in AS 18.65.790, and the possession did not occur in a municipality or established
3 village that had prohibited possession of concealed handguns under AS 18.65.780 -
4 18.65.785.

5 * Sec. 2. AS 11.61.220(e) is amended to read:

6 (e) For purposes of this section, a deadly weapon on a person is concealed if
7 it is covered or enclosed in any manner so that an observer cannot determine that it
8 is a weapon without removing it from that which covers or encloses it or without
9 opening, lifting, or removing that which covers or encloses it; a deadly weapon on
10 a person is not concealed if it is an unloaded firearm encased in a closed and
11 locked container designed for transporting firearms.

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

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

15 * Sec. 4. AS 18.65 is amended by adding new sections to read:

16 ARTICLE 9. PERMIT TO CARRY A CONCEALED HANDGUN.

17 Sec. 18.65.700. PERMIT TO CARRY A CONCEALED HANDGUN. (a) The
18 department shall issue a permit to carry a concealed handgun to a person who

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

20 (2) qualifies under AS 18.65.705;

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

24 (4) submits two complete sets of fingerprints on Federal Bureau of
25 Investigation approved fingerprint cards that are of sufficient quality so that the
26 fingerprints may be processed;

27 (5) submits evidence of competence with handguns as provided in
28 AS 18.65.715;

29 (6) provides two frontal view color photographs of the person taken
30 within the preceding 30 days that include the head and shoulders of the person and are
31 of a size specified by the department;

1 (7) shows a valid Alaska driver's license or identification card at the
2 time of application;

3 (8) is physically and mentally capable to carry a concealed handgun
4 safely; and

5 (9) pays the application fee required by AS 18.65.720.

6 (b) The department shall either approve or reject an application for a permit
7 to carry a concealed handgun under (a) of this section within 30 days of receipt of
8 background information from the Federal Bureau of Investigation or other agency
9 necessary to make a determination concerning the application. The department shall
10 notify the applicant in writing of the reason for a rejection.

11 (c) A permit issued under (a) of this section is valid for three years from the
12 date of issue. The permit must specify the size and type of handgun described in the
13 permittee's certificate of competency under AS 18.65.715.

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

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

17 (2) is eligible to own or possess a firearm under the laws of this state
18 and under federal law;

19 (3) has not been convicted of and is not currently charged under a
20 complaint, information, indictment, or presentment with a felony under the laws of this
21 state or a similar law of another jurisdiction;

22 (4) has not been convicted, within the five years immediately preceding
23 the application, of, and is not currently charged under a complaint, information,
24 indictment, or presentment with, any of the following misdemeanor offenses or similar
25 laws of another jurisdiction:

26 (A) AS 11.41.230, 11.41.250, 11.41.270;

27 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

28 (C) AS 11.51.130;

29 (D) AS 11.56.330, 11.56.350, 11.56.380, 11.56.545, 11.56.700,
30 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800, 11.56.805, 11.56.810;

31 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

1 (F) AS 11.71.050, 11.71.060;
2 (G) AS 18.65.750, 18.65.755, 18.65.760; or
3 (H) any misdemeanor offense committed while the person
4 possessed a concealed handgun;

5 (5) is not now suffering, and has not within the five years immediately
6 preceding the application suffered, from a mental illness as defined in AS 47.30.915;

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

11 (7) is a resident of the state and has been for the 90 days immediately
12 preceding the application for a permit;

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

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

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

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

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

28 (13) has demonstrated competence with handguns as provided in
29 AS 18.65.715.

30 Sec. 18.65.710. APPLICATION FOR PERMIT TO CARRY A CONCEALED
31 HANDGUN. The application for a permit to carry a concealed handgun must, at a

1 minimum, include

2 (1) the applicant's name, physical residence, mailing address, place and
3 date of birth, physical description, including height, weight, race, hair color, and eye
4 color, and Alaska driver's license or identification card number;

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

6 (3) a statement that the applicant has been furnished with a copy of
7 AS 18.65.700 - 18.65.790, has read those sections, and understands them;

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

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

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

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

22 (8) any other information the department determines to be necessary
23 to carry out the provisions of AS 18.65.700 - 18.65.790.

24 Sec. 18.65.715. DEMONSTRATION OF COMPETENCE WITH
25 HANDGUNS. (a) An applicant for a permit to carry a concealed handgun shall
26 provide a certificate of successful completion of a handgun course that is approved by
27 the department. The certificate must state the type and size of handgun or handguns
28 the applicant has demonstrated competence with. A permittee may only carry as a
29 concealed handgun a size and type of handgun described in the certificate. The
30 handgun course must have been completed within the 12 months immediately
31 preceding the application. To be approved by the department, the handgun course

1 must at a minimum test the applicant's

2 (1) knowledge of Alaska law relating to firearms and the use of deadly
3 force; and

4 (2) physical competence with each type and size of handgun the
5 applicant wishes to carry under the permit.

6 (b) At the time the permittee renews a permit under AS 18.65.725 for the
7 second time and every other renewal thereafter, the permittee shall provide at the time
8 of renewal a certificate of successful completion of a handgun refresher course
9 approved by the department. A handgun refresher course required under this section
10 must be completed in the 12 months immediately preceding the appropriate renewal.

11 (c) The department shall maintain a list of approved courses and shall provide
12 the list upon request to the public.

13 Sec. 18.65.720. FEES. The department shall charge a nonrefundable fee for
14 the processing of the application for and initial issuance of a permit, renewal of a
15 permit, or replacement of a permit. The fees shall be set by regulation and must be
16 based on the actual costs incurred by the department, including charges by other
17 governmental or private agencies for conducting criminal history or other record
18 checks for implementing and maintaining the concealed handgun permit system.

19 Sec. 18.65.725. PERMIT RENEWAL. (a) A permittee shall apply in person
20 for renewal of a permit to carry a concealed handgun within 90 days before the
21 expiration of the permit and shall present a complete renewal form provided by the
22 department. The renewal form shall be submitted under oath and must include

23 (1) any change in the information originally submitted under
24 AS 18.65.710;

25 (2) a statement that the person remains qualified to receive and hold
26 a permit to carry a concealed handgun under AS 18.65.705;

27 (3) if required under AS 18.65.715, a certificate of successful
28 completion of a handgun refresher course within the 12 months immediately preceding
29 the renewal;

30 (4) two frontal view photographs of the person taken within the
31 preceding 30 days that include the head and shoulders of the person and are of a size

1 specified by the department; and

2 (5) the renewal fee required under AS 18.65.720.

3 (b) The department shall take a single thumb or fingerprint from the permittee
4 to compare against the fingerprints originally submitted with the application.

5 (c) A renewal of a permit to carry a concealed handgun submitted on or after
6 the expiration date is subject to a late fee of \$25. The department may not accept a
7 renewal for a permit that is submitted more than 30 days after the expiration date of
8 the permit. Nothing in this subsection prohibits the holder of an expired permit from
9 applying for a new permit.

10 Sec. 18.65.730. REPLACEMENT OF PERMIT. The department may replace
11 a permit that the permittee certifies under oath has been lost, stolen, or destroyed,
12 provided the permittee applies in person and

13 (1) provides two frontal view photographs of the permittee taken within
14 the preceding 30 days that include the head and shoulders and are of a size specified
15 by the department;

16 (2) submits to the taking of a single thumb or fingerprint by the
17 department to compare against the fingerprint originally submitted with the application;
18 and

19 (3) pays the replacement fee required under AS 18.65.720.

20 Sec. 18.65.735. SUSPENSION OF PERMIT. (a) The department shall
21 immediately suspend a permit to carry a concealed handgun if a permittee is arrested
22 for or formally charged with a crime that would disqualify the permittee under
23 AS 18.65.705(3) - (4) from being eligible for a permit to carry a concealed handgun
24 or is the subject of an injunction under AS 25.35.010 - 25.35.020. A suspension of
25 a permit remains in effect until the permit is revoked under AS 18.65.740, the
26 department has been notified of a disposition favorable to the defendant or the
27 defendant has been released from custody without being charged, or the injunction
28 under AS 25.35.010 - 25.35.020 is dissolved or expires without being renewed. In this
29 section, "disposition favorable to the defendant" means a dismissal by the prosecutor
30 or an adjudication by a court other than a conviction or a suspended imposition of
31 sentence.

1 (b) A person whose permit is suspended under this section shall immediately
2 surrender the permit to the nearest peace officer. A peace officer receiving a permit
3 under this section shall immediately forward the permit to the department.

4 (c) The department shall retain a permit suspended under this section until the
5 permit is revoked or returned to the permittee.

6 Sec. 18.65.740. REVOCATION OF PERMIT; APPEAL. (a) A permit to
7 carry a concealed handgun shall be immediately revoked by the department when the
8 permittee

9 (1) becomes disqualified to receive and hold a permit under
10 AS 18.65.705;

11 (2) knowingly supplied a false or fraudulent answer, statement, or
12 document, or made a material misstatement or omission, in connection with an
13 application for a permit or renewal or replacement of a permit.

14 (b) A person whose permit is revoked under (a) of this section shall
15 immediately surrender the permit to the nearest peace officer. A peace officer
16 receiving a permit under this section shall immediately forward the permit to the
17 department.

18 (c) A person whose permit is revoked under this section may appeal the
19 revocation decision to the commissioner. A person may seek judicial review of the
20 decision of the commissioner under AS 44.62.560 - 44.62.570.

21 (d) A person whose permit is revoked may not apply for a permit until at least
22 five years after the revocation.

23 Sec. 18.65.745. NO LIABILITY FOR ISSUANCE OF PERMIT OR FOR
24 TRAINING. (a) The department, and its officers and employees, are not liable by
25 virtue of having issued a permit to carry a concealed handgun for damage or harm
26 caused by the permittee.

27 (b) A person who provides firearm training to a person who receives a permit
28 under AS 18.65.700 - 18.65.790 is not liable for damage or harm caused by the
29 permittee.

30 Sec. 18.65.750. POSSESSION AND DISPLAY OF PERMIT. (a) A permittee
31 shall carry the permit at all times the permittee carries a concealed handgun. The

1 permittee shall display both the license and other proper identification when asked to
2 do so by a peace officer at any time.

3 (b) Whenever a permittee who is carrying a concealed handgun is contacted
4 by a peace officer, the permittee shall immediately inform the peace officer that the
5 permittee is carrying a concealed handgun under the permit.

6 (c) During a contact with a permittee, a peace officer may secure a handgun,
7 or direct that it be secured, during the duration of the contact if the peace officer
8 determines that the action is necessary for the safety of any person, including the peace
9 officer, present. The permittee shall submit to the securing of the handgun.

10 (d) In this section, "contacted by a peace officer" means stopped, detained,
11 questioned, or addressed in person by the peace officer for an official purpose.

12 (e) A person who violates (a) or (b) of this section is guilty of a class B
13 misdemeanor.

14 (f) A person who violates (c) of this section is guilty of a class A
15 misdemeanor.

16 Sec. 18.65.755. PLACES WHERE PERMITTEE MAY NOT POSSESS A
17 CONCEALED HANDGUN. (a) A permittee may not carry a concealed handgun into

18 (1) a law enforcement or correctional facility;

19 (2) or on school grounds; in this paragraph, "school grounds" has the
20 meaning given in AS 11.71.900;

21 (3) a courthouse or a courtroom;

22 (4) an office or building housing state or federal offices or the offices
23 of a political subdivision of the state;

24 (5) a passenger loading or unloading area of an airline terminal;

25 (6) a vessel of the Alaska marine highway system;

26 (7) another place where the possession of a deadly weapon or firearm
27 is prohibited by law; or

28 (8) a municipality or established village that has prohibited the
29 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

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

1 **Sec. 18.65.760. MISUSE OF A PERMIT.** (a) The holder of a permit issued
2 under this chapter may not

- 3 (1) alter the permit;
4 (2) allow another person to use the permit; or
5 (3) possess a suspended or revoked permit or display a suspended,
6 revoked, or expired permit.

7 (b) A person who violates this section is guilty of a class A misdemeanor.

8 **Sec. 18.65.765. RESPONSIBILITIES OF THE PERMITTEE.** (a) The holder
9 of a permit issued under this section

10 (1) shall notify the department of a change in the permittee's address
11 within 30 days;

12 (2) shall immediately report a lost, stolen, or damaged permit to the
13 department; and

14 (3) shall immediately notify the department if the holder is no longer
15 qualified to hold a permit under AS 18.65.705; and

16 (4) may only carry a concealed handgun of the type and size the holder
17 has demonstrated competency with by certificate under AS 18.65.715.

18 (b) A person who violates this section is guilty of a violation and upon
19 conviction may be punished by a fine of not more than \$100.

20 **Sec. 18.65.770. ACCESS TO LIST OF PERMITTEES BY PEACE**
21 **OFFICERS.** The department shall compile a list of permittees in a manner that allows
22 immediate access to the information by peace officers. The list of permittees and all
23 applications, permits, and renewals are not public records under AS 09.25.110 -
24 09.25.125 and may only be used for law enforcement purposes.

25 **Sec. 18.65.775. REGULATIONS.** The department shall adopt regulations to
26 implement AS 18.65.700 - 18.65.790.

27 **Sec. 18.65.780. PROHIBITION OF POSSESSION OF CONCEALED**
28 **HANDGUNS.** (a) The following question, appearing alone, may be placed before the
29 voters of a municipality or an established village in accordance with AS 18.65.785:

30 Shall the possession of concealed handguns by permit in

31 (name of municipality or village) be prohibited?

[] Yes [] No.

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, the department shall be notified immediately after certification of the results of the election, and so long as the prohibition remains in effect, a person may not possess a concealed handgun with a permit issued under AS 18.65.700 - 18.65.790 in the municipality or the established village.

Sec. 18.65.785. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a) The local governing body of a municipality, whenever a number of registered voters equal to at least 10 percent of the number of votes cast at the last regular municipal election, petition the local governing body to do so, shall place upon a separate ballot at the next regular election or at a special election the question set out in AS 18.65.780 that is the subject of the petition. The local governing body shall conduct the election in accordance with the election ordinance of the municipality.

(b) The lieutenant governor, whenever 10 percent of the registered voters residing within an established village petition the lieutenant governor to do so, shall place upon a separate ballot at a special election the question set out in AS 18.65.780 that is the subject of the petition. The lieutenant governor shall conduct the election in the manner prescribed by AS 15 (Alaska Election Code).

(c) Notwithstanding another provision of law, an election under (a) or (b) of this section to remove a restriction on the possession of concealed handguns by permit under AS 18.65.780 may not be conducted more than once every 12 months.

(d) AS 29.26.110 - 29.26.160 apply to a petition under (a) of this section in a general law municipality except the

(1) number of required signatures is determined under (a) of this section rather than under AS 29.26.130;

(2) application filed under AS 29.26.110 must contain the question set out under AS 18.65.780 rather than containing an ordinance or resolution;

(3) petition must contain the question set out under AS 18.65.780 rather than material required under AS 29.26.120(a)(1) and (2).

Sec. 18.65.790. DEFINITIONS. In AS 18.65.700 - 18.65.790,

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

1 (2) "concealed handgun" means a firearm, that is a pistol or a revolver,
2 and that is covered or enclosed in any manner so that an observer cannot determine
3 that it is a handgun without removing it from that which covers or encloses it or
4 without opening, lifting, or removing that which covers or encloses it; however,
5 "concealed handgun" does not include a shotgun, rifle, derringer or other miniature
6 handgun, or a prohibited weapon as defined under AS 11.61.200;

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

8 (4) "established village" has the meaning given in AS 04.21.080;

9 (5) "local governing body" has the meaning given in AS 04.21.080;

10 (6) "permit" means a permit to carry a concealed handgun issued under
11 AS 18.65.700 - 18.65.790.