

CS FOR HOUSE BILL NO. 351(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/12/94

Referred: Rules

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; or

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
11 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) does not suffer a physical infirmity that prevents the safe handling
4 of a handgun; 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 request background information under this subsection within five days of the receipt
11 of the application. The department shall notify the applicant in writing of the reason
12 for a rejection.

13 (c) A person whose application is rejected under this section may appeal the
14 rejection decision to the commissioner. A person may seek judicial review of the
15 decision of the commissioner under AS 44.62.560 - 44.62.570.

16 (d) A permit issued under (a) of this section is valid for three years from the
17 date of issue. The permit must specify the size and type of handgun described in the
18 permittee's certificate of competency under AS 18.65.715 but may not specifically
19 identify a handgun by make, model, or serial number.

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

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

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

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

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

- 1 (A) AS 11.41.230, 11.41.250, 11.41.270;
2 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;
3 (C) AS 11.51.130;
4 (D) AS 11.56.330, 11.56.350, 11.56.380, 11.56.545, 11.56.700,
5 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800, 11.56.805, 11.56.810;
6 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;
7 (F) AS 11.71.050, 11.71.060;
8 (G) AS 18.65.750, 18.65.755, 18.65.760; or
9 (H) any misdemeanor offense committed while the person
10 possessed a concealed handgun;
- 11 (5) has not within the 10 years immediately preceding the application
12 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;
13 (6) is not now suffering, and has not within the five years immediately
14 preceding the application suffered, from a mental illness as defined in AS 47.30.915;
15 (7) has not been adjudicated as mentally incapacitated by a court of this
16 state, another state, territory, or jurisdiction, or of the United States, unless the
17 guardianship or similar arrangement has been closed or terminated and five years have
18 elapsed since the closure or other termination;
- 19 (8) is a resident of the state and has been for the 90 days immediately
20 preceding the application for a permit;
- 21 (9) has not been discharged from the armed forces of the United States
22 under dishonorable conditions;
- 23 (10) is not an alien who is residing in the United States illegally or a
24 former citizen of the United States who has renounced the person's citizenship;
- 25 (11) is not an unlawful user of, or addicted to, a controlled substance;
- 26 (12) is not now the subject of an injunction under AS 25.35.010 -
27 25.35.020 unless the injunction has been dissolved or has expired;
- 28 (13) is not now in and has not previously involuntarily entered an
29 alcohol treatment program, unless the person presents the department with a sworn
30 statement of a medical or psychological professional that the person has undergone
31 treatment for alcohol abuse and has demonstrated freedom from alcohol impairment

1 for the three years immediately preceding the application;

2 (14) is not now in and has not previously entered a substance abuse
3 treatment program, unless the person presents the department with a sworn statement
4 of a medical or psychological professional that the person has undergone treatment for
5 substance abuse and has demonstrated freedom from substance impairment for the
6 three years immediately preceding the application; and

7 (15) has demonstrated competence with handguns as provided in
8 AS 18.65.715.

9 Sec. 18.65.710. APPLICATION FOR PERMIT TO CARRY A CONCEALED
10 HANDGUN. The application for a permit to carry a concealed handgun must, at a
11 minimum, include

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

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

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

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

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

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

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

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

3 Sec. 18.65.715. DEMONSTRATION OF COMPETENCE WITH
4 HANDGUNS. (a) An applicant for a permit to carry a concealed handgun shall
5 provide a certificate of successful completion of a handgun course that is approved by
6 the department. The certificate must state the type and size of handgun or handguns
7 the applicant has demonstrated competence with. A permittee may only carry as a
8 concealed handgun a size and type of handgun described in the certificate. The
9 handgun course must have been completed within the 12 months immediately
10 preceding the application. The department shall approve any handgun course that tests
11 the applicant's

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

14 (2) familiarity with the basic concepts of the safe and responsible use
15 of handguns;

16 (3) knowledge of self-defense principles; and

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

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

24 (c) The department may not require a certificate of competence submitted
25 under this section to contain any specifically identifying information, including make,
26 model, or serial number, of a handgun with which an applicant or permittee has
27 demonstrated competence.

28 (d) The department shall maintain a list of approved courses and shall provide
29 the list upon request to the public.

30 Sec. 18.65.720. FEES. The department shall charge a nonrefundable fee for
31 the processing of the application for and initial issuance of a permit, renewal of a

1 permit, or replacement of a permit. The fees shall be set by regulation and must be
2 based on the actual costs incurred by the department.

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

7 (1) any change in the information originally submitted under
8 AS 18.65.710;

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

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

14 (4) two frontal view photographs of the person taken within the
15 preceding 30 days that include the head and shoulders of the person and are of a size
16 specified by the department; and

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

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

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

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

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

31 (2) submits to the taking of a single thumb or fingerprint by the

1 department to compare against the fingerprint originally submitted with the application;
2 and

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

4 Sec. 18.65.735. SUSPENSION OF PERMIT. (a) The department shall
5 immediately suspend a permit to carry a concealed handgun if a permittee is arrested
6 for or formally charged with a crime that would disqualify the permittee under
7 AS 18.65.705(3) - (4) from being eligible for a permit to carry a concealed handgun
8 or is the subject of an injunction under AS 25.35.010 - 25.35.020. A suspension of
9 a permit remains in effect until the permit is revoked under AS 18.65.740, the
10 department has been notified of a disposition favorable to the defendant or the
11 defendant has been released from custody without being charged, or the injunction
12 under AS 25.35.010 - 25.35.020 is dissolved or expires without being renewed. In this
13 section, "disposition favorable to the defendant" means a dismissal by the prosecutor
14 or an adjudication by a court other than a conviction or a suspended imposition of
15 sentence.

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

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

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

24 (1) becomes disqualified to receive and hold a permit under
25 AS 18.65.705;

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

29 (b) A person whose permit is revoked under (a) of this section shall
30 immediately surrender the permit to the nearest peace officer. A peace officer
31 receiving a permit under this section shall immediately forward the permit to the

1 department.

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

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

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

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

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

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

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

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

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

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

31 Sec. 18.65.755. PLACES WHERE PERMITTEE MAY NOT POSSESS A

1 CONCEALED HANDGUN. (a) A permittee may not carry a concealed handgun into

2 (1) a law enforcement or correctional facility;

3 (2) or on school grounds or a school bus; in this paragraph, "school
4 grounds" has the meaning given in AS 11.71.900;

5 (3) a courthouse or a courtroom;

6 (4) a building housing only state or federal offices or the offices of a
7 political subdivision of the state;

8 (5) an office of the state, federal government, or of a political
9 subdivision of the state that is not located in a building described in (4) of this
10 subsection;

11 (6) a passenger loading or unloading area of an airline terminal;

12 (7) a vessel of the Alaska marine highway system;

13 (8) a facility providing services to victims of domestic violence or
14 sexual assault;

15 (9) another place where the possession of a deadly weapon or firearm
16 is prohibited by law; or

17 (10) a municipality or established village that has prohibited the
18 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

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

21 Sec. 18.65.760. MISUSE OF A PERMIT. (a) The holder of a permit issued
22 under AS 18.65.700 - 18.65.790 may not

23 (1) alter the permit;

24 (2) allow another person to use the permit; or

25 (3) possess a suspended or revoked permit or display a suspended,
26 revoked, or expired permit.

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

28 Sec. 18.65.765. RESPONSIBILITIES OF THE PERMITTEE. (a) The holder
29 of a permit issued under AS 18.65.700 - 18.65.790

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

1 (2) shall immediately report a lost, stolen, or illegible permit to the
2 department; and

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

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

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

9 Sec. 18.65.770. ACCESS TO LIST OF PERMITTEES BY PEACE
10 OFFICERS. The department shall compile a list of permittees in a manner that allows
11 immediate access to the information by peace officers. The list of permittees and all
12 applications, permits, and renewals are not public records under AS 09.25.110 -
13 09.25.125 and may only be used for law enforcement purposes.

14 Sec. 18.65.775. REGULATIONS. The department shall adopt regulations to
15 implement AS 18.65.700 - 18.65.790. This section does not delegate to the
16 department the authority to regulate or restrict the issuing of permits beyond those
17 provisions contained in AS 18.65.700 - 18.65.790.

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

21 Shall the possession of concealed handguns by permit in
22 (name of municipality or village) be prohibited?
23 [] Yes [] No.

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

29 Sec. 18.65.785. PROCEDURE FOR LOCAL OPTION ELECTIONS. (a) The
30 local governing body of a municipality, whenever a number of registered voters equal
31 to at least 10 percent of the number of votes cast at the last regular municipal election,

1 petition the local governing body to do so, shall place upon a separate ballot at the
2 next regular election or at a special election the question set out in AS 18.65.780 that
3 is the subject of the petition. The local governing body shall conduct the election in
4 accordance with the election ordinance of the municipality.

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

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

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

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

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

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

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

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

23 (2) "competence" means the ability to place 7 out of 10 shots in a life
24 size silhouette target at seven yards;

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

31 (4) "department" means the Department of Public Safety;

- 1 (5) "established village" has the meaning given in AS 04.21.080;
- 2 (6) "local governing body" has the meaning given in AS 04.21.080;
- 3 (7) "permit" means a permit to carry a concealed handgun issued under
- 4 AS 18.65.700 - 18.65.790.