

**SENATE CS FOR CS FOR HOUSE BILL NO. 351(STA)****IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - SECOND SESSION****BY THE SENATE STATE AFFAIRS COMMITTEE****Offered: 4/27/94**  
**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; and providing for an effective date."

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 in which the possession of concealed handguns is prohibited under  
4 AS 18.65.780 -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 (1) firing chamber, magazine, clip, or cylinder of the firearm contains  
15 a cartridge; and

16 (2) chamber, magazine, clip, or cylinder is installed in or on the  
17 firearm.

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

19 ARTICLE 9. PERMIT TO CARRY A CONCEALED HANDGUN.

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

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

23 (2) qualifies under AS 18.65.705;

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

27 (4) submits two complete sets of fingerprints on Federal Bureau of  
28 Investigation approved fingerprint cards that are of sufficient quality so that the  
29 fingerprints may be processed; the fingerprints must be taken by a person, group, or  
30 agency approved by the department; the department shall maintain a list of persons,  
31 groups, or agencies approved to take fingerprints and shall provide the list to the

- 1 public upon request;
- 2 (5) submits evidence of competence with handguns as provided in  
3 AS 18.65.715;
- 4 (6) provides two frontal view color photographs of the person taken  
5 within the preceding 30 days that include the head and shoulders of the person and are  
6 of a size specified by the department;
- 7 (7) shows a valid Alaska driver's license or identification card at the  
8 time of application;
- 9 (8) does not suffer a physical infirmity that prevents the safe handling  
10 of a handgun; and
- 11 (9) pays the application fee required by AS 18.65.720.
- 12 (b) The department shall either approve or reject an application for a permit  
13 to carry a concealed handgun under (a) of this section within 15 days of receipt of  
14 permit eligibility information from the Federal Bureau of Investigation or other agency  
15 necessary to make a determination concerning the application. The department shall  
16 request permit eligibility information under this subsection within five days of the  
17 receipt of the application. The department shall notify the applicant in writing of the  
18 reason for a rejection.
- 19 (c) A person whose application is rejected under this section may appeal the  
20 rejection decision to the commissioner. A person may seek judicial review of the  
21 decision of the commissioner under AS 44.62.560 - 44.62.570.
- 22 (d) A permit issued under (a) of this section is valid for five years from the  
23 date of issue. The permit must specify the action types and maximum calibers of  
24 handgun described in the permittee's certificate of competency under AS 18.65.715 but  
25 may not specifically identify a handgun by make, model, or serial number.
- 26 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is  
27 qualified to receive and hold a permit to carry a concealed handgun if the person
- 28 (1) is 21 years of age or older;
- 29 (2) is eligible to own or possess a firearm under the laws of this state  
30 and under federal law;
- 31 (3) has not been convicted of and is not currently charged under a

1 complaint, information, indictment, or presentment with a felony under the laws of this  
2 state or a similar law of another jurisdiction;

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

7 (A) AS 11.41.230, 11.41.250, 11.41.270;

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

9 (C) AS 11.51.130;

10 (D) AS 11.56.330, 11.56.350, 11.56.380, 11.56.545, 11.56.700,  
11 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800, 11.56.805;

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

13 or

14 (F) AS 11.71.050, 11.71.060;

15 (5) has not been convicted of two or more class A misdemeanors of  
16 this state or similar laws of another jurisdiction within the five years immediately  
17 preceding the application;

18 (6) has not within the 10 years immediately preceding the application  
19 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;

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

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

26 (9) is a resident of the state and has been for the 90 days immediately  
27 preceding the application for a permit;

28 (10) has not been discharged from the armed forces of the United  
29 States under dishonorable conditions;

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

- 1 (12) is not an unlawful user of, or addicted to, a controlled substance;  
2 (13) is not now the subject of an injunction under AS 25.35.010 -  
3 25.35.020 unless the injunction has been dissolved or has expired;  
4 (14) is not now in and has not in the three years immediately preceding  
5 the application been ordered by a court to complete an alcohol treatment program;  
6 (15) is not now in and has not in the three years immediately preceding  
7 the application entered a substance abuse treatment program; and  
8 (16) has demonstrated competence with handguns as provided in  
9 AS 18.65.715.

10 Sec. 18.65.710. APPLICATION FOR PERMIT TO CARRY A CONCEALED  
11 HANDGUN. (a) The application for a permit to carry a concealed handgun must  
12 contain the following information:

- 13 (1) the applicant's name, physical residence, mailing address, place and  
14 date of birth, physical description, including height, weight, race, hair color, and eye  
15 color, Alaska driver's license or identification card number, and the city and state of  
16 each place the applicant has resided in the five years immediately preceding the  
17 application;  
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 - 18.65.790, has read those sections, and understands them;  
21 (4) a statement that the applicant desires a permit to carry a concealed  
22 handgun for a lawful purpose, which may include 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 permit eligibility

1 investigation will 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) An application under (a) of this section may not inquire of an applicant  
5 about or require the submission of information beyond that described in that  
6 subsection. As part of an application under (a) of this section, the department may not  
7 inquire of an applicant as to any firearms owned by the applicant.

8 Sec. 18.65.715. DEMONSTRATION OF COMPETENCE WITH  
9 HANDGUNS. (a) An applicant for a permit to carry a concealed handgun shall  
10 provide a certificate of successful completion of a handgun course that is approved by  
11 the department. The certificate must state the action type and caliber of handgun or  
12 handguns the applicant has demonstrated competence with and that the applicant may  
13 be permitted to carry. A permittee may only carry as a concealed handgun an action  
14 type of handgun described in the certificate. A permittee may only carry as a  
15 concealed handgun the caliber of the action type that the permittee demonstrated  
16 competence with or any lesser caliber of the same action type. The handgun course  
17 must have been completed within the 12 months immediately preceding the  
18 application. The department shall approve the personal protection course offered by  
19 the National Rifle Association and any other handgun course that tests the applicant's

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

22 (2) familiarity with the basic concepts of the safe and responsible use  
23 of handguns;

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

25 (4) physical competence with each action type of handgun the applicant  
26 wishes to carry under the permit and the maximum caliber for each action type the  
27 applicant wishes to carry under the permit.

28 (b) At the time the permittee renews a permit under AS 18.65.725, the  
29 permittee shall provide a certificate of successful completion of a handgun course  
30 approved by the department under (a) of this section. The handgun course required  
31 under this subsection must be completed in the 12 months immediately preceding the

1 renewal.

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

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

8 Sec. 18.65.720. FEES. The department shall charge a nonrefundable fee for  
9 the processing of the application for and initial issuance of a permit, renewal of a  
10 permit, or replacement of a permit. The fees shall be set by regulation and must be  
11 based on the actual costs incurred by the department. However, the fee for the  
12 processing of an application and initial issuance of a permit may not exceed \$125 and  
13 the fee for renewal of a permit or replacement of a permit may not exceed \$50.

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

18 (1) any change in the information originally submitted under  
19 AS 18.65.710;

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

22 (3) a certificate of successful completion of a handgun course within  
23 the 12 months immediately preceding the renewal;

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

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

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

30 (c) A renewal of a permit to carry a concealed handgun submitted on or after  
31 the expiration date is subject to a late fee of \$25. The department may not accept a

1 renewal for a permit that is submitted more than 30 days after the expiration date of  
2 the permit. Nothing in this subsection prohibits the holder of an expired permit from  
3 applying for a new permit.

4 (d) A renewal form under (a) of this section may not inquire of a permittee  
5 about, or require the submission of, information beyond that described in (a) of this  
6 section.

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

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

13 (2) submits to the taking of a single thumb or fingerprint by the  
14 department to compare against the fingerprint originally submitted with the application;  
15 and

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

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

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

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

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

6 (1) becomes disqualified to receive and hold a permit under  
7 AS 18.65.705;

8 (2) is convicted of two class A misdemeanors of this state or similar  
9 laws of another jurisdiction within a five-year period if at least one of the convictions  
10 occurs after the application;

11 (3) 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 state, and its officers and employees, are not liable by virtue of  
25 having issued a permit to carry a concealed handgun for damage or harm caused by  
26 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) of this section is guilty of a violation and upon  
13 conviction may be punished by a fine of not more than \$100.

14 (f) A person who violates (b) or (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 or a school bus; in this paragraph, "school  
20 grounds" has the meaning given in AS 11.71.900;

21 (3) a courthouse or a courtroom of this state, unless the permittee

22 (A) is a judge; or

23 (B) has been authorized to possess a concealed handgun by a  
24 judge presiding at that courthouse or courtroom;

25 (4) a building housing only state or federal offices or the offices of a  
26 political subdivision of the state, except as authorized under (3) of this subsection;

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

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

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

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

3 (9) a financial institution; in this paragraph, "financial institution"  
4 means a bank, savings bank, savings association, credit union, or other institution  
5 regulated by the Department of Commerce and Economic Development under AS 06;

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

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

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

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

14 (1) alter the permit;

15 (2) allow another person to use the permit;

16 (3) possess or display a suspended or revoked permit; or

17 (4) display an expired permit.

18 (b) A person who violates (a)(1) - (3) of this section is guilty of a class A  
19 misdemeanor.

20 (c) A person who violates (a)(4) of this section is guilty of a violation and  
21 upon conviction may be punished by a fine of not more than \$100.

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

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

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

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

30 (4) may only carry a concealed handgun of the action type and caliber  
31 the holder has demonstrated competency with or of any lesser caliber of the same

1 action type as authorized in the permit issued under AS 18.65.700.

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

4 Sec. 18.65.770. ACCESS TO LIST OF PERMITTEES BY PEACE  
5 OFFICERS. The department shall compile a list of permittees in a manner that allows  
6 immediate access to the information by peace officers. The list of permittees and all  
7 applications, permits, and renewals are not public records under AS 09.25.110 -  
8 09.25.125 and may only be used for law enforcement purposes.

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

13 Sec. 18.65.778. MUNICIPAL PREEMPTION. A municipality may not restrict  
14 the carrying of a concealed handgun by permit under AS 18.65.700 - 18.65.790 except  
15 as provided in AS 18.65.780 - 18.65.785.

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

19 Shall the possession of concealed handguns by permit in .....

20 (name of municipality or village) be prohibited?

21 [ ] Yes [ ] No.

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

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

1 is the subject of the petition. The local governing body shall conduct the election in  
2 accordance with the election ordinance of the municipality.

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

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

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

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

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

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

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

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

21 (2) "competence" means the ability to place in a life size silhouette  
22 target

23 (A) seven out of 10 shots at seven yards;

24 (B) six out of 10 shots at 15 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; in this paragraph,

31 (A) "derringer" means a handgun that has individual barrels for

1 each cartridge it is capable of firing and lacks a manufacturer's installed trigger  
2 guard that completely encircles the trigger and which is part of the frame; and

3 (B) "miniature handgun" means a handgun that has a barrel  
4 length of three and one-half inches or less and lacks a manufacturer's installed  
5 trigger guard that completely encircles the trigger and which is part of the  
6 frame;

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

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

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

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

12 \* Sec. 5. AS 18.65.780 - 18.65.790, added by sec. 4 of this Act, take effect immediately.

13 \* Sec. 6. Except as provided in sec. 5 of this Act, this Act takes effect October 1, 1994.