

SENATE CS FOR CS FOR HOUSE BILL NO. 351(STA) am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

**Amended: 5/3/94
Offered: 4/27/94**

Sponsor(s): REPRESENTATIVES JAMES, Bunde, Olberg, Sanders

SENATORS Halford, Taylor, Leman, Miller, Sharp

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 one year 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 a handgun course, including the personal
19 protection course offered by the National Rifle Association, if the course tests the
20 applicant's

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

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

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

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

29 (b) At the time the permittee renews a permit under AS 18.65.725, the
30 permittee shall provide a certificate of successful completion of a handgun course
31 approved by the department under (a) of this section. The handgun course required

1 under this subsection must be completed in the 12 months immediately preceding the
2 renewal.

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

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

9 Sec. 18.65.720. FEES. The department shall charge a nonrefundable fee for
10 the processing of the application for and initial issuance of a permit, renewal of a
11 permit, or replacement of a permit. The fees shall be set by regulation and must be
12 based on the actual costs incurred by the department. However, the fee for the
13 processing of an application and initial issuance of a permit may not exceed \$125 and
14 the fee for renewal of a permit or replacement of a permit may not exceed \$60.

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

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

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

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

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

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

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

31 (c) A renewal of a permit to carry a concealed handgun submitted on or after

1 the expiration date is subject to a late fee of \$25. The department may not accept a
2 renewal for a permit that is submitted more than 30 days after the expiration date of
3 the permit. Nothing in this subsection prohibits the holder of an expired permit from
4 applying for a new permit.

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

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

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

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

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

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

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

1 under this section shall immediately forward the permit to the department.

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

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

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

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

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

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

19 (c) A person whose permit is revoked under this section may appeal the
20 revocation 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 person whose permit is revoked may not apply for a permit until at least
23 five years after the revocation.

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

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

31 Sec. 18.65.750. POSSESSION AND DISPLAY OF PERMIT. (a) A permittee

1 shall carry the permit at all times the permittee carries a concealed handgun. The
2 permittee shall display both the license and other proper identification when asked to
3 do so by a peace officer at any time.

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

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

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

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

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

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

19 (1) a law enforcement or correctional facility;

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

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

23 (A) is a judge; or

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

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

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

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

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

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

4 (9) a residence where notice that carrying a concealed handgun is
5 prohibited has been given by the posting of a conspicuous notice or by oral statement
6 by the resident to the permittee;

7 (10) a meeting of a business, charitable, or other organization or entity
8 where notice that carrying a concealed handgun is prohibited has been given by the
9 posting of conspicuous notice;

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

13 (12) another place where the possession of a deadly weapon or firearm
14 is prohibited by law; or

15 (13) a municipality or established village that has prohibited the
16 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

17 (b) In (a) of this section, the posting of a conspicuous notice is satisfied if the
18 notice

19 (1) is printed in legible English;

20 (2) is at least 144 square inches in size;

21 (3) contains the name and address of the person under whose authority
22 the notice is posted; and

23 (4) is posted at each entrance to the residence or place where a meeting
24 is being held.

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

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

29 (1) alter the permit;

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

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

1 (4) display an expired permit.

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

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

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

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

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

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

14 (4) may only carry a concealed handgun of the action type and caliber
15 the holder has demonstrated competency with or of any lesser caliber of the same
16 action type as authorized in the permit issued under AS 18.65.700.

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

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

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

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

31 Sec. 18.65.780. PROHIBITION OF POSSESSION OF CONCEALED

1 **HANDGUNS.** (a) The following question, appearing alone, may be placed before the
2 voters of a municipality or an established village in accordance with AS 18.65.785:

3 Shall the possession of concealed handguns by permit in
4 (name of municipality or village) be prohibited?

5 Yes No.

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

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

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

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

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

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

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

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

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

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

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

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

8 (B) six out of 10 shots at 15 yards;

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

15 (A) "derringer" means a handgun that has individual barrels for
16 each cartridge it is capable of firing and lacks a manufacturer's installed trigger
17 guard that completely encircles the trigger and which is part of the frame; and

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

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

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

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

25 (7) "permit" means a permit to carry a concealed handgun issued under

26 AS 18.65.700 - 18.65.790.

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

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