

HOUSE BILL NO. 480

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE SANDERS

Introduced: 2/14/94

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sales and attempted sales of handguns; requiring the
2 Department of Public Safety to issue driver's licenses and identification cards with
3 a magnetic strip encoded with information as to whether the subject of the
4 license or card has been adjudicated mentally incompetent within the previous five
5 years or has been convicted of a felony; requiring the Department of Public
6 Safety to develop a computerized data base of felons and persons adjudicated
7 mentally incompetent; providing that federally licensed firearms dealers must use
8 a magnetic card reader to determine if the subject of the license or card is
9 eligible to purchase a firearm; providing criminal penalties relating to magnetic
10 reader strips; providing for the seizure of driver's licenses and identification cards
11 by the court upon conviction of a felony or adjudication as mentally incompetent;
12 and providing for an effective date."

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

2 * **Section 1.** AS 11.61.210(a) is amended to read:

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

5 (1) possesses on the person, or in the interior of a vehicle in which the
6 person is present, a firearm when the person's physical or mental condition is impaired
7 as a result of the introduction of an intoxicating liquor or a controlled substance into
8 the person's body in circumstances other than described in AS 11.61.200(a)(7);

9 (2) discharges a firearm from, on, or across a highway;

10 (3) discharges a firearm with reckless disregard for a risk of damage
11 to property or a risk of physical injury to a person;

12 (4) manufactures, possesses, transports, sells, or transfers metal
13 knuckles;

14 (5) manufactures, sells, or transfers a switchblade or a gravity knife;

15 [OR]

16 (6) knowingly sells a firearm or a defensive weapon to a person under
17 18 years of age; or

18 (7) is a federally licensed firearms dealer and

19 (A) sells a handgun to a person other than another federally
20 licensed firearms dealer without waiting the prescribed period of time
21 under 18 U.S.C. 922(s)(1), if applicable, unless the federally licensed
22 firearms dealer utilizes a magnetic code reader and the code reader
23 indicates that the person is not a prohibited person and is eligible to
24 possess a handgun; or

25 (B) fails or refuses to notify law enforcement authorities,
26 within 72 hours of the attempt, of any person attempting to purchase a
27 handgun who is identified as a prohibited person by use of a magnetic
28 code reader.

29 * **Sec. 2.** AS 11.61.220 is amended by adding a new subsection to read:

30 (h) In this section "federally licensed firearms dealer" and "prohibited person"
31 have the meanings given in AS 18.65.340.

1 * **Sec. 3.** AS 11.61 is amended by adding a new section to read:

2 **Sec. 11.61.235. ALTERATION OR COUNTERFEITING OF MAGNETIC**
3 **READER STRIP HANDGUN PERMIT.** (a) A person commits the crime of alteration
4 or counterfeiting of a magnetic reader handgun permit if the person knowingly alters,
5 changes, modifies, or counterfeits the magnetic reader strip or the information encoded
6 on that reader strip placed by the Department of Public Safety on a driver's license or
7 identification card.

8 (b) A person who violates (a) of this section is guilty of a class C felony.

9 * **Sec. 4.** AS 12.55.015 is amended by adding a new subsection to read:

10 (g) Upon conviction for a felony, the court shall seize any driver's licenses and
11 identification cards the defendant possesses that have been issued by the state and that
12 carry a magnetic reader strip under AS 18.65.310 or AS 28.15.111.

13 * **Sec. 5.** AS 18.65.310 is amended by adding new subsections to read:

14 (h) An identification card, and a renewal or replacement identification card,
15 must carry the magnetic reader strip required on driver's licenses under AS 28.15.111.

16 (i) An identification card issued under this section expires on the person's
17 birthday on the fifth year following the issuance of the card. A card may be renewed
18 by the department upon payment of the fee required for issuance of an identification
19 card.

20 (j) A person whose identification card is seized under AS 12.55.015(g) for
21 conviction of a felony may apply for and receive a replacement identification card
22 whose magnetic reader strip has been encoded to show that the person is ineligible to
23 purchase a handgun. The department shall charge a fee for replacement of an
24 identification card under this subsection. The fee shall be set by regulation and must
25 cover the department's costs in issuing the replacement identification card.

26 * **Sec. 6.** AS 18.65 is amended by adding a new section to read:

27 **ARTICLE 3A. MAGNETIC CODE STRIP HANDGUN PERMIT.**

28 **Sec. 18.65.340. MAGNETIC CODE STRIP HANDGUN PERMIT SYSTEM.**

29 (a) The department shall develop a computerized data base of prohibited persons who
30 have been

31 (1) convicted of a felony under the laws of this state, another state, or

1 the federal government; or

2 (2) adjudicated mentally incompetent and five years have not elapsed
3 since the date of the person's restoration to capacity by court order.

4 (b) Before issuing a driver's license under AS 28.15.111 or an identification
5 card under AS 18.65.310, the department shall review the computerized data base
6 under (a) of this section to determine if the person is a prohibited person. If the
7 person is a prohibited person, the department shall encode the magnetic reader strip
8 on the driver's license or identification card with indications of the conviction or
9 adjudication so that, when the license or card is inserted into a magnetic code reader,
10 the code reader will respond with a red light that means the person is a prohibited
11 person and is not eligible to purchase a handgun. If the person is not a prohibited
12 person, the department shall encode the magnetic reader strip so that, when the license
13 or card is inserted into a magnetic code reader, the code reader will respond with a
14 green light meaning that the person is eligible to purchase a handgun. The
15 identification of a person as not being a prohibited person under this section and the
16 issuance of the driver's license or identification card encoded so that the license or
17 card will read green shall be considered to be a handgun permit under 18 U.S.C.
18 922(s)(1)(C).

19 (c) The department shall supply magnetic code readers that can read the
20 magnetic reader strip on driver's licenses and identification cards issued by this state
21 to federally licensed firearms dealers to determine if a person is eligible to purchase
22 a firearm.

23 (d) If a person believes the computerized data base developed under (a) of this
24 section incorrectly identifies the person as a prohibited person, the person may file
25 with the department a written challenge to the accuracy of the data base. Upon
26 receiving a written challenge, the department shall, within five days of receiving the
27 challenge, supply the person with a statement of, and the basis for, the identification
28 as a prohibited person. The person may submit information that may correct, clarify,
29 or supplement the records relating to the person, and the department shall, within five
30 days of receipt of the information, based upon that information either correct, clarify,
31 or supplement the records or notify the person why the information is not being

1 corrected, clarified, or supplemented.

2 (e) A peace officer may utilize a magnetic code reader to read a driver's
3 license or identification during a traffic stop or other law enforcement contact with a
4 person for the purpose of determining if a person is a prohibited person.

5 (f) In this section,

6 (1) "department" means the Department of Public Safety;

7 (2) "federally licensed firearms dealer" means a person licensed by the
8 federal government to sell firearms at retail;

9 (3) "prohibited person" means a person who has been

10 (A) convicted of a felony under the laws of this state, another
11 state, or the federal government; or

12 (B) adjudicated mentally incompetent and five years have not
13 elapsed since the date of the person's restoration to capacity by court order.

14 * Sec. 7. AS 28.15.111(a) is amended to read:

15 (a) Upon successful completion of the application and all required
16 examinations, and upon payment of the required fee, the department shall issue to
17 every qualified applicant a driver's license indicating the type or general class of
18 vehicles that the licensee may drive. The license must display (1) a distinguishing
19 number assigned to the license; (2) the licensee's full name, address, date of birth,
20 brief physical description, and color photograph; (3) either a facsimile of the signature
21 of the licensee or a space upon which the licensee must write the licensee's usual
22 signature with pen and ink; (4) a holographic symbol intended to prevent illegal
23 alteration or duplication; [AND] (5) for a qualified applicant who is under age 21, the
24 words "UNDER 21"; and (6) a magnetic reader strip encoded with the information
25 required under AS 18.65.340. A license is not valid until signed by the licensee. If
26 facilities are not available for the taking of the photograph required under this section,
27 the department shall endorse on the license, the words "valid without photograph."

28 * Sec. 8. AS 28.15.111 is amended by adding a new subsection to read:

29 (c) A person whose driver's license is seized under AS 12.55.015(g) for
30 conviction of a felony may apply for and receive a replacement license, to the extent
31 the person is not ineligible or prohibited from possessing a license under another

1 provision of law. The magnetic reader strip of the replacement license must be
2 encoded to show that the person is ineligible to purchase a handgun. The department
3 shall charge a fee for replacement of a license under this subsection. The fee shall
4 be set by regulation and must cover the department's costs in issuing the replacement
5 license.

6 * Sec. 9. The requirement that all driver's licenses and identification cards issued by the
7 Department of Public Safety have a magnetic reader strip under sec. 7 of this Act applies to
8 all driver's licenses and identification cards issued by the Department of Public Safety after
9 the effective date of this section, regardless of whether the license or card is a new,
10 replacement, or reinstated license or identification card.

11 * Sec. 10. Within two years of the effective date of this section, the Department of Public
12 Safety shall have achieved a currency rate of entry of felony criminal case dispositions from
13 the previous five-year period into the computer data base created under AS 18.65.340(a) of
14 at least 80 percent.

15 * Sec. 11. Sections 1 and 2 of this Act take effect two years after the effective date of
16 secs. 3 - 10 of this Act.