

SENATE BILL NO. 237

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS LEMAN, Phillips

Introduced: 1/10/94

Referred: STA, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to offenses involving delivery of firearms to minors and to
2 offenses involving possession of dangerous instruments, including firearms, by
3 minors."

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 * Section 1. AS 11.61.210 is amended by adding new subsections to read:

6 (d) In a prosecution under (a)(6) of this section involving the sale of a firearm,
7 it is a defense that, at the time of the sale, the person under 18 years of age was
8 accompanied by the person's parent or guardian.

9 (e) In a prosecution under (a)(6) of this section involving the sale of a firearm,
10 it is an affirmative defense that the sale was made to a person under 18 years of age
11 as to whom, at the time of the sale, the disabilities of minority had been removed
12 under AS 09.55.590 or under AS 25.20.020.

13 * Sec. 2. AS 11.61.220(a) is amended to read:

14 (a) A person commits the crime of misconduct involving weapons in the fifth

1 degree if the person

2 (1) knowingly possesses a deadly weapon, other than an ordinary
3 pocketknife or a defensive weapon, that is concealed on the person;

4 (2) knowingly possesses a loaded firearm on the person in any place
5 where intoxicating liquor is sold for consumption on the premises;

6 (3) being a person

7 (A) under 14 years of age, possesses a dangerous instrument:

8 or

9 (B) 14 or 15 years of age, or being a person 16 or 17 years
10 of age as to whom the disabilities of minority have not been removed
11 under AS 09.55.590 or AS 25.20.020 [AN UNEMANCIPATED MINOR
12 UNDER 16 YEARS OF AGE], possesses a

13 (i) dangerous instrument that is not a firearm; or

14 (ii) firearm without the consent of the person's [A]
15 parent or guardian [OF THE MINOR];

16 (4) knowingly possesses a firearm

17 (A) or a defensive weapon within the grounds of or on a
18 parking lot immediately adjacent to a public or private preschool, elementary,
19 junior high, or secondary school without the permission of the chief
20 administrative officer of the school or district or the designee of the chief
21 administrative officer, except that a person 21 years of age or older may
22 possess

23 (i) an unloaded firearm in the trunk of a motor vehicle
24 or encased in a closed container in a motor vehicle;

25 (ii) a defensive weapon; or

26 (B) within the grounds of or on a parking lot immediately
27 adjacent to a center, other than a private residence, licensed under
28 AS 47.35.010 - 47.35.075 or recognized by the federal government for the care
29 of children; or

30 (5) possesses or transports a switchblade or a gravity knife.

31 * Sec. 3. AS 11.61.220(g) is amended to read:

1 (g) Except as provided in (j) of this section, misconduct [MISCONDUCT]
2 involving weapons in the fifth degree is a class B misdemeanor.

3 * Sec. 4. AS 11.61.220 is amended by adding new subsections to read:

4 (h) The provisions of (a)(3) of this section do not apply to a person under 18
5 years of age in possession of a firearm if the person possesses the firearm

6 (1) at an established and lawfully operated range or target concession
7 for the purpose of firing at targets at the range or concession;

8 (2) while in attendance at a hunter safety course or firearm safety
9 course for the purpose of using the firearm in conjunction with lessons presented
10 during that course;

11 (3) while engaged in organized competition involving use of the
12 firearm, or while practicing for an organized competition in which the person plans to
13 participate;

14 (4) on premises owned by or leased by another with the consent of the
15 owner or lessee of those premises;

16 (5) while actually engaged in lawful

17 (A) hunting; or

18 (B) fishing, trapping, or other lawful outdoor activity if the
19 fishing, trapping, or other lawful outdoor activity necessarily involves the
20 carrying of a weapon for personal protection; or

21 (6) while traveling to or from any activity described in (1) - (5) of this
22 subsection.

23 (i) In a prosecution under (a)(3) of this section, it is a defense to a charge
24 brought

25 (1) under (a)(3)(A) of this section that the defendant possessed a
26 firearm and, at the time of possession, was accompanied by an adult;

27 (2) under (a)(3)(B)(ii) of this section that the defendant, at the time of
28 possession, was accompanied by the defendant's parent or guardian.

29 (j) A person convicted under (a)(3) of this section is guilty of a

30 (1) class B misdemeanor if the conviction is the person's first
31 conviction of the offense described in (a)(3) of this section and the person had not

1 been previously adjudicated a delinquent minor under AS 47.10.010 - 47.10.142 for
2 a violation of (a)(3) of this section;

3 (2) class A misdemeanor if, within the preceding seven years, the
4 person was convicted under (a)(3) of this section or under a law or ordinance of
5 another jurisdiction with elements substantially similar to those of the offenses
6 described in (a)(3) of this section, or was adjudicated a delinquent minor under
7 AS 47.10.010 - 47.10.142 if the delinquency finding is based upon a violation of (a)(3)
8 of this section or of a law or ordinance of another jurisdiction with elements
9 substantially similar to those of the offenses described in (a)(3) of this section.

10 * Sec. 5. AS 47.10.080(b) is amended to read:

11 (b) If the court finds that the minor is delinquent, it shall

12 (1) order the minor committed to the department for a period of time
13 not to exceed two years or in any event extend past the day the minor becomes 19,
14 except that the department may petition for and the court may grant in a hearing (A)
15 two-year extensions of commitment that do not extend beyond the child's 19th
16 birthday if the extension is in the best interests of the minor and the public; and (B)
17 an additional one-year period of supervision past age 19 if continued supervision is in
18 the best interests of the person and the person consents to it; the department shall place
19 the minor in the juvenile facility that the department considers appropriate and that
20 may include a juvenile correctional school, juvenile work camp, detention home, or
21 detention facility; the minor may be released from placement or detention and placed
22 on probation on order of the court and may also be released by the department, in its
23 discretion, under AS 47.10.200;

24 (2) order the minor placed on probation, to be supervised by the
25 department, and released to the minor's parents, guardian, or a suitable person; if the
26 court orders the minor placed on probation, it may specify the terms and conditions
27 of probation; the probation may be for a period of time, not to exceed two years and
28 in no event extend past the day the minor becomes 19, except that the department may
29 petition for and the court may grant in a hearing

30 (A) two-year extensions of supervision that do not extend
31 beyond the child's 19th birthday if the extension is in the best interests of the

1 minor and the public; and

2 (B) an additional one-year period of supervision past age 19 if
3 the continued supervision is in the best interests of the person and the person
4 consents to it;

5 (3) order the minor committed to the department and placed on
6 probation, to be supervised by the department, and released to the minor's parents,
7 guardian, other suitable person, or suitable nondetention setting such as a family home,
8 group care facility, or child care facility, whichever the department considers
9 appropriate to implement the treatment plan of the predisposition report; if the court
10 orders the minor placed on probation, it may specify the terms and conditions of
11 probation; the department may transfer the minor, in the minor's best interests, from
12 one of the probationary placement settings listed in this paragraph to another, and the
13 minor, the minor's parents or guardian, and the minor's attorney are entitled to
14 reasonable notice of the transfer; the probation may be for a period of time, not to
15 exceed two years and in no event extend past the day the minor becomes 19, except
16 that the department may petition for and the court may grant in a hearing

17 (A) two-year extensions of commitment that do not extend
18 beyond the child's 19th birthday if the extension is in the best interests of the
19 minor and the public; and

20 (B) an additional one-year period of supervision past age 19 if
21 the continued supervision is in the best interests of the person and the person
22 consents to it;

23 (4) order the minor to make suitable restitution in lieu of or in addition
24 to the court's order under (1), (2), or (3) of this subsection;

25 (5) order the minor committed to the department for placement in an
26 adventure based education program established under AS 47.21.020 with conditions
27 the court considers appropriate concerning release upon satisfactory completion of the
28 program or commitment under (1) of this subsection if the program is not satisfactorily
29 completed; [OR]

30 (6) in addition to an order under (1) - (5) of this subsection, if the
31 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or

1 11.71.040(a)(4), order the minor to perform 50 hours of community service; for
2 purposes of this paragraph, "community service" includes work

3 (A) on a project identified in AS 33.30.901; or

4 (B) that, on the recommendation of the city council or
5 traditional village council, would benefit persons within the city or village who
6 are elderly or disabled; or

7 (7) in addition to an order under (1) - (5) of this subsection, if the
8 delinquency finding is based on the minor's violation of AS 11.61.220(a)(3), revoke
9 the minor's driver's license, privilege to drive, or privilege to obtain a driver's
10 license for a period of

11 (A) one year, if the delinquency finding is based on the
12 minor's first violation of AS 11.61.220(a)(3); and

13 (B) two years and, in addition, order the minor to perform
14 100 hours of community service, if the delinquency finding is based on the
15 minor's second or subsequent violation of AS 11.61.220(a)(3); for purposes
16 of this subparagraph, "community service" includes work described in
17 (6)(A) - (B) of this subsection.

18 * Sec. 6. APPLICABILITY. This Act applies to offenses committed on or after the
19 effective date of this Act. In AS 11.61.220(j)(2), added by sec. 4 of this Act, reference to
20 previous or earlier convictions or adjudications of delinquency under AS 47.10.010 -
21 47.10.142 does not include convictions or adjudications of delinquency under
22 AS 11.61.220(a)(3) as it read before its amendment by sec. 2 of this Act.