

CS FOR SENATE BILL NO. 237(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/27/94
Referred: Finance

Sponsor(s): SENATORS LEMAN, Phillips

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the possession of firearms by minors and to offenses
2 involving weapons."

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

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

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

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

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

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

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

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

5 (3) being an unemancipated minor [UNDER 16 YEARS OF AGE],
6 possesses a firearm without the consent of a parent or guardian of the minor;

7 (4) knowingly possesses a firearm

8 (A) or a defensive weapon within the grounds of or on a
9 parking lot immediately adjacent to a public or private preschool, elementary,
10 junior high, or secondary school without the permission of the chief
11 administrative officer of the school or district or the designee of the chief
12 administrative officer, except that a person 21 years of age or older may
13 possess

14 (i) an unloaded firearm in the trunk of a motor vehicle
15 or encased in a closed container in a motor vehicle:

16 (ii) a defensive weapon; or

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

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

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

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

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

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

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

30 (2) while in attendance at a hunter safety course or firearm safety
31 course for the purpose of using the firearm in conjunction with lessons presented

1 during that course;

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

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

7 (5) while actually engaged in lawful

8 (A) hunting; or

9 (B) fishing, trapping, or other lawful outdoor activity if the
10 fishing, trapping, or other lawful outdoor activity necessarily involves the
11 carrying of a weapon for personal protection; or

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

14 (i) A person convicted under (a)(3) of this section is guilty of a

15 (1) class B misdemeanor if the conviction is the person's first
16 conviction of the offense described in (a)(3) of this section and the person had not
17 been previously convicted under a law or ordinance of another jurisdiction with
18 elements substantially similar to those of an offense described in (a)(3) of this section
19 or adjudicated a delinquent minor under AS 47.10.010 - 47.10.142 for a violation of
20 (a)(3) of this section;

21 (2) class A misdemeanor if, within the preceding seven years, the
22 person was convicted under (a)(3) of this section or under a law or ordinance of
23 another jurisdiction with elements substantially similar to those of an offense described
24 in (a)(3) of this section, or the person was adjudicated a delinquent minor either under
25 AS 47.10.010 - 47.10.142 if the delinquency finding is based upon a violation of (a)(3)
26 of this section or under a law of another jurisdiction authorizing adjudication of
27 delinquency for the violation of a law or ordinance of that jurisdiction with elements
28 substantially similar to those of an offense described in (a)(3) of this section.

29 * Sec. 5. AS 47.10.010 is amended by adding a new subsection to read:

30 (e) The procedures prescribed in AS 47.10.020 - 47.10.090 and the Alaska
31 Delinquency Rules do not apply when a minor who is at least 14 years of age at the

1 time of the alleged offense is charged with an offense, the minor is alleged to have
2 used a firearm in the commission of the offense, and the minor has been previously
3 adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as
4 a result of an offense that, in this or another jurisdiction, involves the use of a firearm
5 in the commission of the offense. The minor shall be charged, prosecuted, and
6 sentenced in the superior court in the same manner as an adult. In this subsection,
7 "firearm" has the meaning given in AS 11.81.900.

8 * Sec. 6. AS 47.10.080(b) is amended to read:

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

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

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

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

31 (B) an additional one-year period of supervision past age 19 if

1 the continued supervision is in the best interests of the person and the person
2 consents to it;

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

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

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

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

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

28 (6) in addition to an order under (1) - (5) of this subsection, if the
29 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
30 11.71.040(a)(4), order the minor to perform 50 hours of community service; for
31 purposes of this paragraph, "community service" includes work

1 (A) on a project identified in AS 33.30.901; or
2 (B) that, on the recommendation of the city council or
3 traditional village council, would benefit persons within the city or village who
4 are elderly or disabled; or

5 (7) in addition to an order under (1) - (5) of this subsection, if the
6 delinquency finding is based on the minor's violation of AS 11.61.220(a)(3), revoke
7 the minor's driver's license, privilege to drive, or privilege to obtain a driver's
8 license, subject to reinstatement under AS 28.15.211(d), for a period of not less
9 than

10 (A) 90 days, if the delinquency finding is based on the
11 minor's first violation of AS 11.61.220(a)(3); and

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

17 * Sec. 7. APPLICABILITY. (a) Sections 1 - 6 of this Act apply to offenses committed
18 on or after the effective date of this Act.

19 (b) In

20 (1) AS 11.61.220(i), added by sec. 4 of this Act, reference to previous
21 convictions or adjudications of delinquency under AS 47.10.010 - 47.10.142 does not include
22 convictions or adjudications of delinquency under AS 11.61.220(a)(3) as it read before its
23 amendment by sec. 2 of this Act;

24 (2) AS 47.10.010(e), added by sec. 5 of this Act, reference to previous
25 convictions or adjudications of delinquency does not include convictions or adjudications of
26 delinquency involving the minor that occurred before the effective date of this Act;

27 (3) AS 47.10.080(b)(7), added by sec. 6 of this Act, reference to the minor's
28 second or subsequent violation of AS 11.61.220(a)(3) does not include a violation of
29 AS 11.61.220(a)(3) as it read before its amendment by sec. 2 of this Act.