

HB 1044

# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 15, 1991

FURTHER REFERRALS:

Date of Committee Action: 4-10-91

The FINANCE Committee considered:

HB 104

HOUSE BILL NO. 104

WEAPONS OFFENSES

"An Act defining defensive weapons and prohibiting their possession and use in certain circumstances; and amending the criminal laws relating to misconduct involving weapons."

**RECOMMENDATIONS:**

be replaced with CS HB 104 (Juo)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) PUB. SAFETY, COURT, CORRECTIONS LAW

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	
<i>Ronald J. Laro</i>	✓	<i>Gilbert P. Macken</i>		✓	
<i>PAUL E. OLL</i>	✓				
<i>Barry Sharp</i>	✓				
<i>[Signature]</i>	✓				
<i>Jan Brown</i>	✓				
<i>Mark Baker</i>					
<i>Mike Savane</i>					
<i>Demora H. Barnes</i>	✓				

*Mike Savane* *Gilbert P. Macken*  
 CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 104 (JUDICIARY)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/15/91  
Referred: Finance

Sponsor(s): REPRESENTATIVES DONLEY, Ulmer, Barnes, C.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act defining defensive weapons and prohibiting their possession and use in certain  
2 circumstances; and amending the criminal laws relating to misconduct involving weapons."

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

4 \* Section 1. AS 11.41.500(a) is amended to read:

5 (a) A person commits the crime of robbery in the first degree if the person violates  
6 AS 11.41.510 and, in the course of violating that section or in immediate flight thereafter, that  
7 person or another participant

8 (1) is armed with a deadly weapon or represents by words or other conduct that  
9 either that person or another participant is so armed;

10 (2) uses or attempts to use a dangerous instrument or a defensive weapon or  
11 represents by words or other conduct that either that person or another participant is armed with  
12 a dangerous instrument or a defensive weapon; or

13 (3) causes or attempts to cause serious physical injury to any person.

14 \* Sec. 2. AS 11.56.300(a) is amended to read:

1 (a) One commits the crime of escape in the first degree if, without lawful authority, one  
2 removes oneself from official detention by means of a deadly weapon or a defensive weapon.

3 \* Sec. 3. AS 11.56.375(a) is amended to read:

4 (a) A person commits the crime of promoting contraband in the first degree if the person  
5 violates AS 11.56.380 and the contraband is

6 (1) a deadly weapon or a defensive weapon;

7 (2) an article that is intended by the defendant to be used as a means of  
8 facilitating an escape; or

9 (3) a controlled substance.

10 \* Sec. 4. AS 11.61.200(a) is amended to read:

11 (a) A person commits the crime of misconduct involving weapons in the first degree if  
12 the person

13 (1) knowingly possesses a firearm capable of being concealed on one's person  
14 or a removable rifle magazine capable of containing more than five cartridges after having  
15 been convicted of a felony by a court of this state, a court of the United States, or a court of  
16 another state or territory;

17 (2) knowingly sells or transfers a firearm capable of being concealed on one's  
18 person or a removable rifle magazine capable of containing more than five cartridges to a  
19 person who has been convicted of a felony by a court of this state, a court of the United States,  
20 or a court of another state or territory;

21 (3) manufactures, possesses, transports, sells, or transfers a prohibited weapon;

22 (4) knowingly sells or transfers a firearm to another whose physical or mental  
23 condition is substantially impaired as a result of the introduction of an intoxicating liquor or  
24 controlled substance [DRUG] into that other person's body;

25 (5) removes, covers, alters, or destroys the manufacturer's serial number on a  
26 firearm with intent to render the firearm untraceable;

27 (6) possesses a firearm on which the manufacturer's serial number has been  
28 removed, covered, altered, or destroyed, knowing that the serial number has been removed,  
29 covered, altered, or destroyed with the intent of rendering the firearm untraceable;

30 (7) violates AS 11.46.320 and, during the violation, possesses on the person a  
31 firearm when the person's physical or mental condition is impaired as a result of the

1 introduction of an intoxicating liquor or controlled substance into the person's body  
2 [WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR DRUG];

3 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining unlawfully on  
4 premises or in a propelled vehicle in violation of a provision of an order issued under  
5 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a defensive  
6 weapon or a deadly weapon, other than an ordinary pocketknife; [OR]

7 (9) communicates in person with another in violation of AS 11.61.120(a)(6) and,  
8 during the communication, possesses on the person a defensive weapon or a deadly weapon,  
9 other than an ordinary pocketknife; or

10 (10) resides in a dwelling knowing that there is a firearm capable of being  
11 concealed on one's person, a prohibited weapon, or a removable rifle magazine capable of  
12 containing more than five cartridges in the dwelling if the person has been convicted of a  
13 felony by a court of this state, a court of the United States, or a court of another state or  
14 territory, unless the person has written authorization to live in a dwelling in which there  
15 is a weapon or magazine described in this paragraph from a court of competent jurisdiction  
16 or from the head of the law enforcement agency of the community in which the dwelling  
17 is located.

18 \* Sec. 5. AS 11.61.200(b) is amended to read:

19 (b) It is an affirmative defense to a prosecution under (a)(1), (2), or (10) [(a)(1) OR (2)]  
20 of this section that

21 (1) the person convicted of the prior offense on which the action is based received  
22 a pardon for that conviction;

23 (2) the underlying conviction upon which the action is based has been set aside  
24 under AS 12.55.085 or as a result of post-conviction proceedings; or

25 (3) a period of 10 [FIVE] years or more has elapsed between the date of the  
26 person's unconditional discharge on the prior offense and the date of the violation of (a)(1), (2),  
27 or (10) of this section, and the prior conviction did not result from a violation of AS 11.41  
28 or of a similar law of the United States or of another state or territory [POSSESSION,  
29 SALE, OR TRANSFER OF THE FIREARM].

30 \* Sec. 6. AS 11.61.200(e) is amended to read:

31 (e) As used in this section,

1 (1) "prohibited weapon" means any

2 (A) explosive, incendiary, or noxious gas

3 (i) mine or device that is designed, made, or adapted for the  
4 purpose of inflicting serious physical injury or death;

5 (ii) rocket, other than an emergency flare, having a propellant  
6 charge of more than four ounces;

7 (iii) bomb; or

8 (iv) grenade;

9 (B) device designed, made, or adapted to muffle the report of a firearm;

10 (C) [METAL KNUCKLES;

11 (D) SWITCHBLADE OR GRAVITY KNIFE;

12 (E)] firearm that is capable of shooting more than one shot automatically,  
13 without manual reloading, by a single function of the trigger; or

14 (D) [(F)] rifle with a barrel length of less than 16 inches, shotgun with a  
15 barrel length of less than 18 inches, or firearm made from a rifle or shotgun which, as  
16 modified, has an overall length of less than 26 inches;

17 (2) "unconditional discharge" has the meaning ascribed to it in AS 12.55.185.

18 \* Sec. 7. AS 11.61.210(a) is amended to read:

19 (a) A person commits the crime of misconduct involving weapons in the second degree  
20 if the person

21 (1) possesses on the person, or in the interior of a vehicle in which the person  
22 is present, a firearm when the person's physical or mental condition is impaired as a result  
23 of the introduction of an intoxicating liquor or a controlled substance into the person's body  
24 [WHILE UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR DRUG] in  
25 circumstances other than described in AS 11.61.200(a)(7);

26 (2) discharges a firearm from, on, or across a highway; [OR]

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

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

30 (5) manufactures, sells, or transfers a switchblade or a gravity knife.

31 \* Sec. 8. AS 11.61.220(a) is amended to read:

1 (a) A person commits the crime of misconduct involving weapons in the third degree if  
2 the person

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

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

7 (3) being an unemancipated minor under 16 years of age, possesses a firearm  
8 without the consent of a parent or guardian of the minor;

9 (4) knowingly possesses a firearm

10 (A) within the grounds of or on a parking lot immediately adjacent  
11 to a public or private preschool, elementary, junior high, or secondary school,  
12 without the permission of the chief administrative officer of the school or district or  
13 the designee of the chief administrative officer, except that a person 18 years of age  
14 or older may possess an unloaded firearm in the trunk of a motor vehicle or encased  
15 in a closed container in a motor vehicle; or

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

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

20 \* Sec. 9. AS 11.61.220(c) is amended to read:

21 (c) The provisions of (a)(1), ~~[AND]~~ (2), and (4) of this section do not apply to a peace  
22 officer acting within the scope and authority of the officer's employment.

23 \* Sec. 10. AS 11.81.900(b) is amended by adding a new paragraph to read:

24 (58) "defensive weapon" means an electric stun gun, or a device to dispense  
25 mace or a similar chemical agent, that is not designed to cause death or serious physical injury.

26 \* Sec. 11. AS 11.61.215 is repealed.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

No. 1

Bill Version: CSHB 104(JUD)

(H) Publish Date: 3/15/91

Revision Date: \_\_\_\_\_  
Title: An Act defining definsive weapons & prohibiting their possession & use  
Sponsor: Rep. Donley  
Requestor: House Judic. Comm.

Department Affected: Public Safety  
BRU: Alaska State Troopers  
Component: Detachment

COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)  
No substantial fiscal impact on the Alaska State Troopers is expected.

Prepared by: Gayle A. Horetski Phone: 465-4322  
Division: Commissioner's Office Date: February 8, 1991  
Approved by Commissioner: G. A. Horetski, Dep. Comm.  
Agency: Department of Public Safety Date: 2-8-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 2

Bill Version: CSHB 104(JUD)

(H) Publish Date: 3/15/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act defining defensive weapons BRU: Trial Courts  
and prohibiting their possession... Components: \_\_\_\_\_  
 Sponsor: Donley  
 Requestor: Judiciary Committee COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)  
  
 No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *[Signature]* Phone: 264-8228  
 Division: Alaska Court System Date: 02/08/91

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]*  
 Agency: Alaska Court System Date: 02/08/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

lo. 3  
 Bill Version: CSHB 104(JUD)  
 (H) Publish Date: 3/15/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Corrections  
 Title: An act defining defensive weapons BRU: \_\_\_\_\_  
and prohibiting their possession Component: \_\_\_\_\_  
 Sponsor: Rep. Donley  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Tom Sutton, Director *Tom Sutton* Phone: 465-3376  
 Division: Administrative Services Date: 2-10-91  
 Approved by Commissioner: *Steve Thomas*  
 Agency: Department of Corrections Date: \_\_\_\_\_

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

No. 4

Bill Version: CSHB 104 (JUD)

(H) Publish Date: 3/15/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Department of Law

Title: "An Act defining defensive weapons  
...misconduct involving weapons." BRU: Prosecution

Component: Criminal Justice Litigation

Sponsor: Representative Donlev

Requestor: House Judiciary

COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

*Richard I. Pegues*

Prepared By: Richard I. Pegues, Director Phone: 465-3672

Division: Administrative Services Date: February 11, 1991

Approved by Commissioner: Charles E. Cole, Attorney General

Agency: Department of Law Date: February 11, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 104

HB 104 makes various changes to state laws defining defensive weapons prohibiting their possession and use in certain circumstances, and amends criminal laws relating to misconduct involving weapons.

These changes include making it a crime for felons to possess semi-automatic firearms; making it a crime to sell a semi-automatic firearm to a felon; prohibiting felons from living where firearms and prohibited weapons are located during the period that they are banned from possessing these weapons; and adding "butterfly knives" to the list of prohibited knives.

The bill also makes it a crime to possess firearms on school grounds; makes the ban on felons possessing concealable firearms, semi-automatic firearms, and prohibited weapons permanent when the felon's conviction was for a violent crime; otherwise, increasing to ten years the period of time during which felons are banned from possessing these weapons.

The bill also increases the level of offense to a class B felony for felons to possess (for some period of time following conviction) concealable firearms and prohibited weapons; reduces the penalty for selling or possessing metal knuckles, or for selling switchblades and other prohibited knives, from a class C felony to a class A misdemeanor; and reduces the penalty for possessing switchblades and other prohibited knives from a class C felony to a class B misdemeanor.

Because the bill's provisions will serve overall to prevent crime, it is the Department of Law's view that the bill will not cause a fiscal impact for the department.

SECTIONAL ANALYSIS - CSHB 104 (JUDICIARY)

Section 1. Clarifies that first degree robbery is committed when a defensive weapon (defined in bill section 10 as an electric stun gun or device designed to dispense substances such as mace) is used or attempted to be used.

Section 2. Clarifies that first degree escape is committed when a defensive weapon is used or attempted to be used.

Section 3. Clarifies that it is illegal to bring defensive weapons into correctional institutions.

Section 4. (1) Makes it illegal for convicted felons to have a removable rifle magazine capable of containing more than five cartridges; (2) replaces undefined term "drug" with defined term "controlled substance"; (3) clarifies definition of "under the influence" for purposes of the weapons statute; (4) clarifies that it is illegal to possess defensive weapons during a violation of a domestic violence restraining order; (5) makes it illegal for a convicted felon to knowingly live in a dwelling in which there is a weapon that the felon is prohibited from possessing without authorization from a court or the head of the local police agency.

Section 5. Extends the period of time during which most felons are prohibited from having firearms from five years to ten years, and permanently prohibits felons convicted of committing a violent crime from having firearms.

Section 6. Removes metal knuckles, switchblades, and gravity knives from the list of prohibited weapons (these weapons will remain prohibited under bill sections 7 and 8).

Section 7. (1) Prohibits a person from possessing firearms in the interior of a vehicle while intoxicated; (2) reduces penalty for possessing or selling metal knuckles from a C felony to an A misdemeanor; (3) reduces penalty for selling switchblades and gravity knives from a C felony to an A misdemeanor.

Section 8. (1) Clarifies that it is not illegal to carry a defensive weapon concealed on the person; (2) prohibits kids under the age of 18 from having guns on school property without permission from the school principal but allows adults to have guns on school property in the trunk of a car, in a closed container, or with the permission of the principal; (3) reduces the penalty for possessing switchblades and gravity knives from a C felony to a B misdemeanor.

Section 9. Makes a technical change to conform with section 8.

Section 10. Defines "defensive weapon".

Section 11. Repeals statute to conform to section 4 amendment.

BILL NO: CSHB 104(JUD)

DATE: 3/26/91

TITLE: Relating to Misconduct  
Involving Weapons

CONTACT: Gayle A. Horetski  
Deputy Commissioner  
465-4322

DEPARTMENT OF  
PUBLIC SAFETY

POSTER

CSHB 104(JUD) makes numerous changes in Alaska's firearms laws. The Department of Public Safety supports this bill, but offers the following comment.

Section 4 of the bill makes it a class "C" felony offense for a convicted felon to possess "a removable rifle magazine capable of containing more than five cartridges". In an earlier draft of this bill, this section prohibited a felon from possessing "a semi-automatic firearm". The Department of Public Safety believes it makes more sense to prohibit the possession by felons of such dangerous firearms, rather than to prohibit possession of a component piece of the firearm. Under the present draft, possession of an empty rifle magazine by a felon would be a class C felony. This seems anomalous, especially as the mere possession of devices such as metal knuckles, switchblades, and gravity knives is being decreased from a class C felony to a class A misdemeanor in this bill. The Department believes this bill would be strengthened considerably by the substitution of "or a semi-automatic firearm" for the new language shown at page 2, lines 14 and 18 and at page 3, lines 11 and 12. As stated above, the Department of Public Safety supports the other aspects of CSHB 104(JUD).



Richard L. Burton  
Commissioner

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

February 26, 1991

The Honorable Dave Donley, Chair  
House Judiciary Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: HB 104 (Defensive Weapons/Misconduct Inv. Weapons)

Dear Representative Donley:

You have asked us to address three issues that arose at the House Judiciary Committee hearing on February 22, 1991, relating to HB 104 ("An Act defining defensive weapons and prohibiting their possession and use in certain circumstances; and amending the criminal laws relating to misconduct involving weapons"). Our responses are as follows.

First, the Committee requested proposed language that would make it a crime for a person to possess a firearm in a motor vehicle while under the influence of an intoxicating liquor or drug. This is not a crime under existing law because the statute, AS 11.61.210(a)(1), only prohibits an intoxicated person from possessing a firearm "on the person." We suggest the following amendment to AS 11.61.210(a)(1), at page 3, line 21, of HB 104:

(1) possesses on the person or in a motor vehicle a firearm ....

Second, the Committee expressed interest in language that would create a limited exception to the proposed prohibition against possessing firearms on school grounds to allow parents or other adults to possess firearms in their vehicles when picking children up from school. We suggest that HB 104 be amended at page 4, line 13, to add language as follows:

the designee of the chief administrative officer except that a person 18 years of age or older may possess an unloaded firearm in the trunk of a motor vehicle or encased in a locked container within the vehicle; or ....

Third, the Committee requested more information about "butterfly knives." Our court of appeals has addressed knives as

The Honorable Dave Donley

February 26, 1991  
Page 2

prohibited weapons on several occasions. In State v. Weaver, 736 P.2d 781 (Alaska App. 1987), the court noted:

The pertinent characteristics which a switchblade and a gravity knife have in common are that they are easily concealed and quickly brought to bear. These characteristics are indicative of knives which are used as weapons rather than tools. Some utility knives are quickly brought to bear, such as a fishing knife or hunting knife in a sheaf, but are not easily concealed. ... An ordinary pocket knife may be concealed upon the person.... However, an ordinary pocketknife is incapable of being quickly brought to bear.

736 P.2d at 782-83 (footnote omitted). In State v. Strange, 785 P.2d 563, 565 (Alaska App. 1990), the court recited testimony presented at a superior court hearing that butterfly knives are "primarily used in the martial arts and in combat." The knives can be "easily concealed on the body and [can] quickly be brought to bear by a series of wrist movements utilizing centrifugal or inertial force." Id.

When speaking informally with the owner of a local weapons shop, I was advised that there is no utilitarian purpose to the butterfly knife in Alaska. According to that weapons dealer, their foremost purpose seems to be to "impress people," most often "other kids." I also spoke with Investigator Johnston of the Alaska State Troopers office in Anchorage, who is a weapons expert. He similarly voiced the opinion that butterfly knives are principally used in this state by "kids" and mostly to impress or intimidate each other. Officer Jennings of the Juneau Police is a weapons expert in this community and he indicates that butterfly knives are most useful for "stabbing" and "slashing," in part because of their double-edged blade.

If you have any further questions that we may be able to answer, please do not hesitate to call upon us.

Very truly yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By: Margaret O. Knuth  
Margaret O. Knuth  
Assistant Attorney General

MOK:mm-027

# STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX N  
JUNEAU, ALASKA 99811-1200  
PHONE: 465-4322

February 21, 1991

The Honorable Dave Donley  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

RE: HB 104, An Act Relating to  
Weapons

Dear Representative Donley:

At the House Judiciary Committee meeting regarding HB 104 last week, a representative of the National Rifle Association suggested that state law be amended so that it would no longer be against the law for a person to possess metal knuckles, a switch blade knife, or a gravity knife. You asked me to let you know the position of the Department of Public Safety regarding this proposal.

Briefly stated, the Department of Public Safety opposes the "decriminalization" of these weapons. These weapons are not tools, as are fishing/hunting knives. Neither are they ordinary pocket knives that could be used as letter openers or fingernail parers. These are dangerous weapons because they can be folded or closed and concealed on the person, but can be brought into play instantly through the pressing of a mechanical spring switch or by a flick of the wrist. A person may seem unarmed, yet in a heartbeat become dangerously armed. The act of producing a mechanical knife from some concealed place and activating the mechanism itself involves a high degree of intimidation.

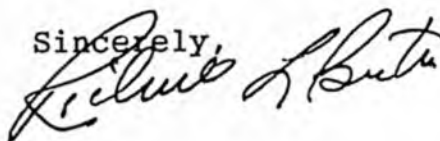
The Department of Public Safety supports the present bill's inclusion of a butterfly knife as a form of prohibited weapon; butterfly knives are merely another, more complex, form of gravity knife. We also encourage you to add "throwing star" to the list of prohibited weapons. Throwing stars are discs approximately three or four inches in diameter, of the weight and thickness of an average knife blade. They are cut into "star" shapes and have six to eight points. The points are sharp, and if the star is

February 21, 1991

thrown, it spins, "frisbee" style. The star can be thrown short distances with some accuracy. The points are sharp, and the star "sticks" when thrown. Such a weapon could be very dangerous, and we are aware of no legitimate sporting or recreational use for such a device.

I hope this will be of assistance to the Committee during its consideration of HB 104.

Sincerely,



Richard L. Burton  
Commissioner

cc: Lori Nottingham  
Governor's Office

Margo Knuth  
Department of Law

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE  
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OFFICE OF SPECIAL PROSECUTIONS  
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1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

February 11, 1991

The Honorable Dave Donley, Chair  
House Judiciary Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: HB 104 ("Use and Possession of Defensive and Deadly Weapons")

Dear Representative Donley:

By letter dated January 31, 1991, you have asked us whether we believe there are any "legal, constitutional, policy, or practical problems" with the above-referenced bill. You have also asked whether we support or oppose the bill.

We do not believe that there are any legal or constitutional problems with this bill and we support most of its provisions. There are some, however, as to which we either have no objection or we take no position. Furthermore, there are two proposed amendments that we find troublesome.

We support:

clarifying the law on "defensive weapons"

making it a crime (class B felony) for felons to possess (for some period of time following conviction) semi-automatic firearms

making it a crime (class C felony) to sell a semi-automatic firearm to a felon

prohibiting felons from living where firearms and prohibited weapons are located during the period that they are banned from possessing these weapons

adding "butterfly knives" to the list of prohibited knives

These proposals address "gaps" in existing law and are consistent with the intent of our current laws.

We have no objection to:

making it a crime (class B misdemeanor) to possess firearms on school grounds

making the ban on felons possessing concealable firearms, semi-automatic firearms, and prohibited weapons permanent when the felon's conviction was for a violent crime

otherwise, increasing to ten years the period of time during which felons are banned from possessing these weapons

We take no position with respect to:

increasing the level of offense to a class B felony for felons to possess (for some period of time following conviction) concealable firearms and prohibited weapons

reducing the penalty for selling or possessing metal knuckles, or for selling switchblades and other prohibited knives, from a class C felony to a class A misdemeanor

reducing the penalty for possessing switchblades and other prohibited knives from a class C felony to a class B misdemeanor

We are concerned, however, by the bill's proposals that weaken existing law regulating the possession of firearms by intoxicated persons. AS 11.61.200(a)(1) makes it a misdemeanor to possess a firearm while under the influence of an intoxicating liquor or drug. AS 11.61.200(a)(7) makes it a felony to commit criminal trespass while intoxicated and in possession of a firearm. HB 104 proposes changing each statute's requirement that the person be "under the influence of an intoxicating liquor or drug" to instead require that the person's "physical or mental condition [be] substantially impaired as a result of the introduction of an intoxicating liquor or a controlled substance into the person's body."

It is more difficult for the state to prove that a person's condition is "substantially impaired" than it is to prove that the person is "under the influence," which is defined in AS 11.61.215 as occurring when the person's "physical or mental abilities are impaired so that the person no longer has the ability to possess a firearm with the caution characteristic of a sober person of ordinary prudence under the same or similar circumstances." It is not apparent to us why this change is being

The Honorable Dave Donley

February 11, 1991  
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proposed and, in the absence of additional information, we oppose the change.

Once again, however, we support most of this bill's provisions, believing that they will help prevent crime and improve our justice system. Thank you for the opportunity to comment on this bill. If you have any further questions that we may be able to answer, please do not hesitate to call upon us.

Very truly yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By: Margaret O. Knuth  
Margaret O. Knuth  
Assistant Attorney General

MOK:me-018



NATIONAL RIFLE ASSOCIATION OF AMERICA  
INCORPORATED 1871

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RUPE ANDREWS  
FIELD REPRESENTATIVE  
ALASKA

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907/789-7422

March 13, 1991

Representative Dave Donley  
Chairman, House Judiciary Committee  
Alaska House of Representatives  
Capitol Building  
Juneau, AK 99801

Dear Representative Donley:

This letter is to express the support of the National Rifle Association for CSHB-104. I have appreciated the close working relationship with your committee and staff in the markup and committee discussions of CSHB-104.

My personal thanks to you and staffer Ms. Laurie Otto for your sincere consideration of the NRA's input to this statute. I believe that you have accomplished the goal of the Judiciary Committee in strengthening the weapons statute and the penalties for violation.

Sincerely,

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Rupe Andrews, Field Representative, Alaska