

**HB**

**400**

# SENATE COMMITTEE REPORT

DATE: 3/27/06

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered CS FOR HOUSE BILL NO. 400(FIN)

## HB 400 CONFISCATION OF FIREARMS

"An Act relating to confiscation of firearms during disaster emergencies."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

|                          |                          |
|--------------------------|--------------------------|
| <b>CS Senate Bill:</b>   |                          |
| <input type="checkbox"/> | Same Title               |
| <input type="checkbox"/> | New Title                |
| <b>SCS House Bill:</b>   |                          |
| <input type="checkbox"/> | Same Title               |
| <input type="checkbox"/> | Technical Title Change   |
| <input type="checkbox"/> | New Title w/ SCR # _____ |

**NEW FISCAL NOTE(S):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
|------------|------|--------|--------|------|-----|
|            |      |        |        |      |     |
|            |      |        |        |      |     |
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**PREVIOUS FISCAL NOTE(S):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
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|            |      |        |        |      |     |
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|            |      |        |        |      |     |
|            |      |        |        |      |     |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS:  | DO PASS | DO NOT PASS | NO REC | AMEND |
|----------------------------------|---------|-------------|--------|-------|
| <i>[Signature]</i>               | X       |             |        |       |
| <i>[Signature]</i>               |         |             | X      |       |
| <i>[Signature]</i>               | X       |             |        |       |
| <i>[Signature]</i>               | X       |             |        |       |
| <b>CHAIR:</b> <i>[Signature]</i> | ✓       |             |        |       |

AMENDMENT #1

OFFERED IN THE SENATE

TO: CSHB 400(FIN)

1 Page 1, line 7, through page 2, line 1:

2 Delete all material and insert.

3 "Sec. 26.23.205. Confiscation of firearms. (a) A person convicted of official  
4 misconduct under AS 11.56.850, or interference with constitutional rights under  
5 AS 11.76.110, as a result of confiscating, attempting to confiscate, or ordering the  
6 confiscations of a firearm, under color of law, during a disaster emergency,

7 (1) forfeits any appointed government position and, if under the  
8 jurisdiction of the Alaska Police Standards Council, is subject to revocation of the  
9 person's police certification;

10 (2) is subject to impeachment under art. II, sec. 20, Constitution of the  
11 State of Alaska; or

12 (3) is subject to having the person's elected municipal office declared  
13 vacant under AS 29.20.170 or 29.20.280.

14 (b) This section does not apply if the person is acting as a private citizen who  
15 has been directed to confiscate a firearm by another whom the person reasonably  
16 believes to be a peace officer or active member of the armed forces or militia.

17 (c) A conviction described in (a) of this section is an offense involving a  
18 violation of the oath of office for purposes of AS 29.20.170 or 29.20.280."

# ALASKA STATE HOUSE OF REPRESENTATIVES



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Session

(907)-465-3719  
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State Capitol  
Room 204

## REPRESENTATIVE JOHN COGHILL

CS HB 400

*"An Act relating to confiscation of firearms during disaster emergencies"*

### SPONSOR STATEMENT

*"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed."* (Second Amendment to the United States Constitution - ratified December, 1791)

The wisdom of this Amendment comes not from seeing what future threats to a free State might be, but knowing that the right of the people to keep and bear arms will insure the security of that free State.

In the chaos following Hurricane Katrina, various government agencies, made systematic attempts to sweep New Orleans of guns, even if it meant entering the homes of law abiding gun owners. National Guard, federal, state, or local law enforcement personnel should not be allowed to confiscate lawfully owned and lawfully carried firearms.

CS to House Bill 400(JUD) changes the penalty imposed on individuals that violate the provisions of this bill. The amendments approved by House Finance (CSHB 400(FIN) clarify that before an elected official or individual in a governmental position forfeits their office or position they are convicted of official misconduct under AS 11.56.850 or interfere with constitutional rights under AS 11.76.110. The Alaska Police Standards Council will enforce sanctions against police officers under their jurisdiction.

CS to House Bill 400(JUD) made a minor change in the title.

This bill will insure that law-abiding citizens are not disarmed by the government during a time when they may need their firearms the most.

(24-LS1543/X)

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## REPRESENTATIVE JOHN COGHILL

CS HB 400(FIN)

"An Act relating to confiscation of firearms in disaster emergencies."

### SECTIONAL

#### Section 1

Sec. 26.23.200 places limitation on the authority, and responsibility set out in AS 26.23.010 – 26.23.220 Disasters. This bill adds a new section that states there is no authority granted or implied under the Alaska Disaster Act that:

(5) authorizes the confiscation of a firearm lawfully owned, possessed, or carried by law-abiding citizens. (*grammatical change.*)

In this section, "confiscation" has the meaning given in Black's Law Dictionary "*seizure of property for the public treasury.*"

#### Section 2

Sec. 26.23.205 describes the penalty for:

**Confiscation of firearms.** A person forfeits any office or governmental position if the person is convicted of official misconduct under AS 11.56.850 or interference with constitutional rights under AS 11.76.110 as a result of confiscating, attempting to confiscate, or ordering the confiscation of a firearm, under color of law, during a disaster emergency. However, a person does not violate this section if the person is acting as a private citizen who has been directed by another whom the person reasonably believes to be a peace officer or active member of the armed forces or militia, to assist in confiscating a firearm. An officer under the jurisdiction of the Alaska Police Standards Council who forfeits office or position under this section is also subject to revocation of the officer's certification. (*Prior to forfeiture of position or office, this change insures that the person has been given due process and found guilty under AS 11.76.110 or AS 11.56.850.*)

(24-LS1543/X)

CS FOR HOUSE BILL NO. 400(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/9/06

Referred: Rules

Sponsor(s): REPRESENTATIVES COGHILL, Lynn, Dahlstrom, Wilson, Anderson, Thomas, Holm, Foster, Kelly, Meyer, Croft, Neuman, LeDoux, Chenault, Guttenberg, Stoltze, Crawford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to confiscation of firearms during disaster emergencies."

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

3 \* Section 1. AS 26.23.200 is amended by adding a new paragraph to read:

4 (5) authorizes the confiscation of a firearm lawfully owned, possessed,  
5 or carried by a law-abiding citizen.

6 \* Sec. 2. AS 26.23 is amended by adding a new section to read:

7 Sec. 26.23.205. Confiscation of firearms. A person forfeits any office or  
governmental position if the person is convicted of official misconduct under  
AS 11.56.850 or interference with constitutional rights under AS 11.76.110 as a result  
of confiscating, attempting to confiscate, or ordering the confiscation of a firearm,  
under color of law, during a disaster emergency. However, a person does not violate  
12 this section if the person is acting as a private citizen who has been directed by another  
13 whom the person reasonably believes to be a peace officer or active member of the  
14 armed forces or militia, to assist in confiscating a firearm. An officer under the  
15 jurisdiction of the Alaska Police Standards Council who forfeits office or position

*Amend should not  
be introduced for  
11/10/06*

*- permanent*

1

under this section is also subject to revocation of the officer's certification.

*and shall not be considered for rehire <sup>which</sup> ~~shall not be~~ ~~re~~*

# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 400(JUD)  
(H) Publish Date: 2/21/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Military and Veterans' Affairs  
Title: Confiscation of Firearms RDU: Military and Veterans Affairs  
Sponsor: Military & Veterans Affairs Component: Homeland Security & Emergency Management  
Requester: \_\_\_\_\_ Component No.: 2657

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES        | FY 2007    | FY 2008    | FY 2009    | FY 2010    | FY 2011    | FY 2012    |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services             | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Travel                        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Contractual                   | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Supplies                      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Equipment                     | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Land & Structures             | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Grants & Claims               | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Miscellaneous                 | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| <b>TOTAL OPERATING</b>        | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
| <b>CAPITAL EXPENDITURES</b>   | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
| <b>CHANGE IN REVENUES ( )</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**FUND SOURCE** (Thousands of Dollars)

|   |            |            |            |            |            |            |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                   | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1003 GF Match                           | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1004 GF                                 | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1005 GF/Program Receipts                | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| 1037 GF/Mental Health                   | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Other (Specify Type--Do not abbreviate) | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

|           |     |     |     |     |     |     |
|-----------|-----|-----|-----|-----|-----|-----|
| Full-time | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Part-time | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Temporary | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: John Cramer  
Division: Administrative Services Division  
Approved by: Craig E. Campbell, Commissioner  
Agency: Department of Military & Veterans' Affairs

Phone: (907) 465-4602  
Date/Time: 2/13/06 9:15 AM  
Date: 2/13/2006