

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8785 HOUSE STATE AFFAIRS

4. My date of birth is June 3, 1954. I do not have a husband or wife now living. I am not related to Gene by the fourth degree of consanguinity or closer, whether of the whole or half blood, computed according to the rules of the civil law.

5. The application we submitted for filing was completed and our signatures affirmed before D. Charlene Doris, deputy clerk, according to law. At the time of filing, we identified ourselves to the satisfaction of the licensing officer, and neither of us was under the influence of intoxicating liquor or otherwise incapable of understanding the seriousness of the proceeding.

DATED AT ANCHORAGE, ALASKA this ___ day of _____,
1995.

JAY BRAUSE

SUBSCRIBED and sworn to before me this ___ day of _____, 1995.

Notary Public in and for Alaska
My Commission expires: _____

Law Offices of
ROBERT H. WAGSTAFF
First National Bank Building
425 G Street, Suite 610 • Anchorage, Alaska 99501
Telephone (907) 377-8611 • Facsimile (907) 258-7329

2 - Affidavit of Jay Brause

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

JAY BRAUSE and GENE DUGAN,)
)
 Plaintiffs,) CASE NO. _____
)
 vs.)
)
 BUREAU OF VITAL STATISTICS,)
 ALASKA DEPARTMENT OF HEALTH &)
 SOCIAL SERVICES, and the STATE)
 OF ALASKA.)
)
 _____ Defendants.)

AFFIDAVIT OF GENE DUGAN

STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

GENE DUGAN, being first duly sworn, states as follows:

1. I am a plaintiff in this case. I make this affidavit upon personal knowledge and belief.

2. I have lived in Alaska and in the Municipality of Anchorage since 1978. In that year, I met my co-plaintiff Jay Brause. Since 1979, we have shared our lives as a couple.

3. On August 4, 1994, Jay and I went to the Vital Statistics office in the Alaska State Courthouse in Anchorage. We submitted for filing an application for a marriage license. We were told by the person who accepted the application for filing that it was denied because we were of the same sex. We were given a memorandum from the Presiding Judge of the Superior Court, a true copy of which is Exhibit 1 to the complaint in this case. We were not given any other reason for the denial of our application for a marriage license.

1 - Affidavit of Gene Dugan

Law Offices of
ROBERT H. WAGSTAFF
 First National Bank Building
 425 G Street, Suite 610 • Anchorage, Alaska 99501
 Telephone (907) 277-8611 • Facsimile (907) 258-7129

4. My date of birth is December 10, 1951. I do not have a husband or wife now living. I am not related to Jay by the fourth degree of consanguinity or closer, whether of the whole or half blood, computed according to the rules of the civil law.

5. The application we submitted for filing was completed and our signatures affirmed before D. Darlene Doris, deputy clerk, according to law. At the time of filing, we identified ourselves to the satisfaction of the licensing officer, and neither of us was under the influence of intoxicating liquor or otherwise incapable of understanding the seriousness of the proceeding.

DATED AT ANCHORAGE, ALASKA this ___ day of _____,
1995.

GENE DUGAN

SUBSCRIBED and sworn to before me this ___ day of _____, 1995.

Notary Public in and for Alaska
My Commission expires: _____

Law Offices of
ROBERT H. WAGSTAFF

First National Bank Building

425 G Street, Suite 610 • Anchorage, Alaska 99501
Telephone (907) 277-8611 • Facsimile (907) 258-7329

2 - Affidavit of Gene Dugan

BACKGROUND: The Attorneys

Robert H. Wagstaff (lead counsel) was born in Kansas City, Missouri and graduated from Dartmouth College and the University of Kansas School of Law. He was admitted to the Alaska Bar in 1968. Mr. Wagstaff has personally argued over 50 cases before the Supreme Court of the State of Alaska including the landmark privacy case of Ravin v. State of Alaska which decriminalized the private possession and use of marijuana by adults. He has personally argued two cases before the United States Supreme Court: Davis v. Alaska (1974) involving the right of the defendant to cross-examination when accused by a juvenile witness and Hicklin v. Orbeck (1978) in which the United States Supreme Court held that the Alaska Hire law requiring oil and gas employers to first hire and last fire Alaska residents violated the privilege and immunities clause of the federal constitution. Mr. Wagstaff is a former member of the National Board of Directors of the American Civil Liberties Union in New York and was president of the Alaska Bar Association in 1988.

Erik LeRoy (cooperating counsel) graduated from the Evergreen State College and the University of Wisconsin Law School. He has practiced commercial and bankruptcy law in Alaska since 1983. He has climbed extensively in Alaska and the Western United States. He is an avid amateur cabinetmaker and boatbuilder. He has been married for 13 years and he and his wife have two children and live in Anchorage.

STATEMENT: Jay Brause and Gene Dugan, the plaintiffs

WE BELIEVE that the denial of legal recognition of same-sex couples by the State of Alaska is illegally discriminatory, unconstitutionally limiting marriage benefits to opposite-sex couples, while depriving a whole class of persons those important benefits. Our Constitution was designed specifically to protect such civil rights.

If opposite-sex couples who planned to be married were denied the right to marry by the state, they would speak out against such injustice. So must we.

ONE.

WE BELIEVE that love, economic partnership, and commitment are the bedrock of marriage—not the sex of the partners or their potential to procreate.

WE BELIEVE the proof of our relationship of 16 years and that of many other same-sex couples secures our demand for marriage as rightful and legitimate.

WE BELIEVE that with the rights accrued with marriage there are corresponding responsibilities. We recognize that we are first responsible for our partner's physical and emotional health, financial welfare, and relationship to family, friends, and community. In fact, it is these responsibilities that keep many people—heterosexual and homosexual—from forming committed (married) relationships. We claim the right to become responsible marriage partners in our society.

TWO.

WE BELIEVE that the legacy of prohibiting same-sex marriage has been destructive to same-sex partnering in our society and that the double-standard of commending heterosexual marriage while condemning homosexual marriage must give way to equal treatment and support for both forms of relationships.

WE BELIEVE we are part of a larger movement in history working toward full recognition and integration of gay and lesbian persons into a society that supports these individuals becoming the best persons they may become.

THREE.

WE BELIEVE that religious and cultural justification for depriving law-abiding adults of equal treatment in the law to be abhorrent to the democratic exercise of liberty and equality.

WE BELIEVE there must be a formal recognition of two separate constructs in recognizing marriage in our society: that of legal rights and responsibilities bestowed by the state and that of the moral imperative bestowed by religion. To confuse these two distinct and legally separate constructs is a consistent fallacy of those who believe a state-approved marriage is necessarily tied to a religious one.

LAST.

WE BELIEVE that marriage, while difficult, is still the best tool society has in assisting the stable, harmonious conduct of human sexual, emotional, and economic needs. Alternatives to marriage may exist, but these alternatives are untested as to whether they will work as well or better for the majority of people.

This said, we support the examination of other forms of relationships, while we more fully support marriage; that, in fact, is why we have brought this action for ourselves, our gay and lesbian friends and our entire community.

STATEMENT: Robert Wagstaff, lead counsel for lawsuit

I am participating in this lawsuit because I believe more than anything else that all persons are created equal under law. Our Constitution prohibits the government from denying rights and benefits because of (un)popularity. The benefits and privileges given some must be extended to all regardless of who they are. Jay Brause and Gene Dugan's relationship is one of choice, one of validity, and is legitimate. They are entitled to the same benefits of others similarly situated.

BACKGROUND: The Plaintiffs

JAY BRAUSE and GENE DUGAN are life-partners of 16 years, who first met in the Alaska Gay Community Center in Anchorage in September, 1978. Like many other people who fall in love, they decided to recognize their relationship in a religious ceremony. That ceremony was co-celebrated by Jay's father, the Rev. Floyd Brause, a Lutheran minister, on August 4, 1979. It was understood that this ceremony was not a state-recognized marriage. In 1986, Brause and Dugan began their effort to become legally married in the State of Alaska.

Dugan and Brause are employed in Anchorage by Out North as artistic director and managing director, respectively. They are non-profit administrators as well as community activists who are best known for building a professional contemporary arts organization with an international reputation for works that speak to the experiences of diverse communities.

Gene Dugan, an Alaskan since 1978, was born in Brooklyn, New York on December 10, 1951, and raised on Long Island. He received his Masters degree in drama from the University of Essex in England, and was a cultural worker in England before being employed by Alaska Repertory Theatre, Arts Alaska, Alaska State Theatre Association, and Rural Alaska Community Action Program. He received a national award from the Department of Defense for his work as a stage director at Fort Richardson, Alaska. The founder of Out North, he has directed Alaska premieres of new plays such as My Children! My Africa! and Reckless, and the West Coast premieres of Keely and Du and Slavs! Last December he spoke to the annual conference of the National Performance Network on the challenges of presenting openly gay and lesbian performance artists in a conservative environment.

Jay Brause, an Alaskan resident since 1959, was born in Brainerd, Minnesota on June 3, 1954, and raised in Anchorage. He studied music at the University of Alaska Fairbanks, and political science at the University of Alaska Anchorage. He worked for the Center for the Arts in Purchase, New York, Alaska Repertory Theatre, the Center for Alcohol and Addiction Studies UAA, and the U. S. Census. He has been a human service administrator and is the editor and co-author of several public policy studies and research papers; most importantly, the first state-wide evaluation of Alaska's Lesbian and Gay population in 1985 as well as a Municipality of Anchorage sponsored study of sexual orientation discrimination patterns in housing and employment in 1989. He served on the national board of the American Civil Liberties Union, and most recently participated on an international panel on the economic effects of censorship at playRites'95 in Calgary, Alberta, Canada.

They are also known nationally for their stand on artistic censorship. In 1993 Dugan and Brause received an award at the Museum of Modern Art in New York from the Robert Sterling Clark Foundation, the Nathan Cummings Foundation, the Joyce Mertz-Gilmore Foundation, the Rockefeller Foundation, and the Andy Warhol Foundation for their "contribution to upholding the principle of freedom of expression in American life."

BACKGROUND: Affidavits Summary

Jay Brause and Gene Dugan have lived in Alaska 35 and 17 years, respectively, and have shared their lives as a couple since 1979.

On August 4, 1994, Jay Brause and Gene Dugan went to the Vital Statistics office of the Alaska State Courthouse in Anchorage and applied for a marriage license. That license was denied by an agent of the State of Alaska solely on the basis of their being of the same sex.

The birthdates of Jay Brause and Gene Dugan are June 3, 1954 and December 10, 1951, respectively, and each is not otherwise legally barred from being married under the laws of the State of Alaska. The application was witnessed by Jay's brother, Corey Brause; sister-in-law, JoAnne Brause; and mother and father, Lucille and Floyd Brause.

The clerk affirmed the applicants' signatures and filed their marriage license application for no future action.

Because of this denial, the applicants undertook finding legal representation to bring suit against the State of Alaska in order to secure their desired right to marry.

BACKGROUND: Lawsuit Summary

The plaintiffs are Jay Brause, 35 year resident of Alaska, and Gene Dugan, 17 year resident of Alaska. They bring the lawsuit in the public interest.

The defendant is the Bureau of Vital Statistics, Department of Health and Social Services, in the State of Alaska.

On August 4, 1994, Messrs. Dugan and Brause's application for marriage was denied by defendant's agent solely on the grounds that the plaintiffs were of the same sex. The plaintiffs otherwise qualify for marriage under the laws of Alaska.

The claim is made that such denial of marriage license is unconstitutional in Alaska law because it violates the Alaska Constitution's provisions for right to privacy (§ 22, Article I), equal protection and the due process of law (§ 1, 3 and 7, respectively, Article I).

Plaintiffs have no adequate or complete remedy to redress the wrongs stated in this complaint and ask:

1. to declare the denial to marry because the applicant couple is of the same sex unconstitutional;
2. to prohibit the defendant and his agents the ability to deny application for a marriage license solely because the applicant couple is of the same sex;
3. to award costs and attorney fees to plaintiffs as public interest litigants;
4. to award such further relief as may be just and proper.

STATEMENT OF SUPPORT: Floyd and Lucille Brause, parents of Jay Brause

Exactly a year ago we accompanied Jay and Gene in their attempt to obtain a Marriage License and be legally declared a married couple. As an ordained Lutheran pastor and father of Jay, I have always abhorred the discrimination directed against minorities and I have waged private and public battles against those who would limit the rights of fellow human beings. We, as parents, have seen and experienced Jay's and Gene's love and commitment to each other, and in our eyes their long and compatible union should be legally validated. The injustice of the discrimination against homosexuals is a travesty which must be dealt with in the legal system of our free land. All human beings deserve to be treated equally whether they are homosexual or heterosexual.

STATEMENT OF SUPPORT: Alaskans for Marriage, Melissa Green, President 566-1663

Alaskans for Marriage fully supports Gene and Jay in their laudable effort to remove discriminatory limitations on marriage and its benefits. We formed this organization to ensure that costs of the lawsuit will get paid during what will likely be a lengthy legal process. Gene and Jay are in this for the long haul; Alaskans for Marriage will be behind them all the way.

STATEMENT OF SUPPORT: Alaska Civil Liberties Union, Rachel King, Exec. Dir.

(attached)

ALASKA

CIVIL LIBERTIES UNION/FOUNDATION

An Affiliate of the American Civil Liberties Union

P. O. Box 201844 Anchorage, AK 99620-1844

Phone: 1-907-258-0044 Fax: 1-907-258-0288

Contact: Rachel King
Executive Director
258-0044

ALASKA CIVIL LIBERTIES UNION SUPPORTS SAME SEX MARRIAGE

The Alaska Civil Liberties Union supports the legal action taken by Jay Brause and Gene Dugan to secure marriage rights in recognition of their long-term relationship. The Alaska Civil Liberties Union, an affiliate of the American Civil Liberties Union, believes that discrimination based on sexual orientation, like that based on race, alienage, age, national origin, political persuasion, religion, disability or gender, denies individuals equal protection of the laws. The AkCLU also believes that an individual's right to privacy includes private sexual behavior between consenting adults.

The AkCLU supports legal recognition of lesbian and gay relationships, including the right to marry. Such recognition is imperative for the complete legal equality of lesbian and gay individuals. Rights or benefits available to married couples such as insurance benefits, should be extended to those lesbian and gay couples who are similarly situated to married couples, except for their marital status. Rights or benefits available to unmarried heterosexual couples should of course be extended to lesbian and gay couples.

"We fully support Jay and Gene's action and are behind them 100%," said Rachel King, Executive Director of the AkCLU. "Jay and Gene are taking a courageous first step to securing the right to marry for gay and lesbian couples.

Discrimination against gays, lesbians and bisexuals continues in all facets of life in Alaska and will only change when their relationships are given the same legal recognition as heterosexuals."

The ACLU has supported same sex marriage cases in other parts of the country, most recently filing an *amicus curiae* brief in support of the Hawaii case, *Boehr v. Lewin*.

END

Some of the Rights that come with Marriage in Alaska

The State of Alaska attaches legal significance to the marriage relationship. State and federal laws award spouses numerous rights simply because of their status as a party to a marriage. The following is a list of some of those rights.

1. Right to file wrongful death action AS 9 55.580
2. Right to notice and consent in adoption proceeding AS 25 23.050
3. Spouse's right of intestate succession AS 13 11 010
4. Intestate succession to Alaska Native Corporation stock AS 13 16.705; 13.11.012
5. Right to authorize anatomical gifts AS 13 50.010
6. Right to revocation of will with marriage annulment AS 13.11.185
7. Surviving spouse's homestead allowance AS 13 11.125
8. Surviving spouse's elective share of estate AS 13 11 070
9. Surviving, omitted spouse's rights AS 13 11 110
10. Applicability of Uniform Disposition of Community Property rights at death AS 13.41.005
11. Surviving spouse's exemptions AS 13.11.130
12. Surviving spouse's family allowance AS 13 11.135
13. Right of notice of guardianship proceedings AS 13 26 135
14. Right to appointment as guardian AS 13 26 145
15. Child custody AS 25.24.150
16. Residency of spouse determining right to Permanent Fund Dividend AS 43.23.015
17. Actions between spouses respecting property AS 25 15 020
18. Authority to act as attorney in fact AS 25 15 040
19. Right to adopt AS 25.023.020
20. Violation of bigamy statute AS 11 51.140
21. Both spouses join in conveyance of family home AS 34 15.010
22. Spouse's services excluded from definition of employee AS 23 30 525
23. Right of first refusal under gasoline product leasing act AS 45 50.825
24. Right to effectuate insurance upon spouse AS 21 42.090
25. Criminal nonsupport rights AS 11 51 120
26. Worker Compensation rights upon spouse's death AS 23 30.215
27. Spouse's right to compensation for permanent partial disability AS 23 30.195
28. Spouse's interest in public employee retirement system AS 39.35.455
29. Spouse's interest in qualified domestic relation orders and retirement plans AS 39.35.455
30. Old age survivor insurance AS 39 30 20
31. Beneficiary public employee group health and life insurance AS 39.30.090
32. Public employee family leave AS 39 20 305; 23 10.500
33. Public employee leave of absence AS 39 20 310
34. Payments due to deceased public employees AS 39 20.360
35. Spouse's interest in supplemental employee benefits AS 39.30 160
36. Spouse's interest in public employee special hazard insurance AS 39.30.130
37. Spouse's interest in public employee's deferred compensation program AS 39.45.010
38. Federal income tax applications
39. Nondischargeability in bankruptcy of spousal support 11 U.S.C. §523 (a) (5)
40. Right to consent to adoption AS 25.23 040

Important Legal Documents Attached:
Brause & Dugan v. State of Alaska

(Action against the State because a Marriage License was denied to same-sex applicants. ~~29~~ pages follow.)

18

FAX 258-2916

Dear MIA _____:

(Rep. ROOSEVELT)

We'll be filing this complaint at 10am on Friday, August 4 at the office of the Clerk of the Court in Anchorage.

If you want to talk with us or with our attorney, that will be a good time to do it.

— Gene & Jay, plaintiffs 566-1663

Robert H. Wagstaff, lead counsel 277-8611

This information is not to be released in any form before Noon, August 4, 1995. Thank-you.

SB308

Senator Loren Leman
Alaska State Legislature
Juneau

Senator Leman;

We support you bill to de-legitimize same-sex marriages. That took guts--
Good work! Please pass this one to the other sponsors.

L. Bruce & Judy

L. Bruce and Judy Bowler
PO Box 244, Juneau, Ak 99802

MAR 20 1996

Compliments of
Senator Loren Leman

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 31, 1995

Representative Norman Rokeberg
Alaska House of Representatives
Room 110 State Capitol
Juneau, AK 99811-1182

Re: Whether current Alaska law
allows same-sex marriages

Dear Representative Rokeberg:

You have asked for our opinion on whether HB 227, a bill that you have introduced and that would amend the Alaska marriage code (AS 25.05) to specify that only a man and a woman can marry, would change the current law. It is our opinion that your bill would not change the law.

In our conversations with your staff we indicated that our opinion rested on our belief that the common law in Alaska would not allow same-sex marriages. On further research, however, our opinion now rests on our belief that a court would construe the Alaska Marriage Code (AS 25.05) as allowing only marriages between a man and a woman, notwithstanding the current, sex-neutral language of the code.

When first enacted in 1963, the Alaska Marriage Code (AS 25.05) did specifically restrict marriage to a man and a woman. Sec. 1, ch. 58, SLA 1963 (enacting AS 25.05.011). The references to "man" and "woman" were deleted, and replaced with sex-neutral language, in 1974. Sec. 92, ch. 127, SLA 1974. However, chapter 127 was the bill of the revisor of statutes, submitted under AS 01.05.036. That bill is generally limited to technical changes,

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Representative Norman Rokeberg
Re: Whether current Alaska law
allows same-sex marriages

March 31, 1995

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and is not supposed to make major substantive changes in the law¹. Thus we believe that, if a court were confronted with the question, it would rule that AS 25.05.011 still implicitly contains the requirement that only members of different sexes may marry, because of the way in which the current sex-neutral language was adopted.²

Our conclusion is bolstered by the fact that the marriage code still uses the terms "husband" and "wife" in several places to refer to the parties to a marriage. See AS 25.05.041(b); 25.05.051. Had the legislature intended, either in 1974 or 1975, to authorize same-sex marriages, it would presumably have replaced these terms.

The Washington Court of Appeals reached a similar conclusion in Singer v. Hara, 522 P.2d 1187, 1189 (Wash. App.

¹ Revisor's bills encompass many subjects, and, if they contain substantive changes in the law, they might well violate the single-subject requirement of article II, section 13 of the Alaska constitution. Instead, revisor's bills are exempted from the single-subject requirement by the portion of section 13 exempting bill "codifying, revising, or rearranging existing laws."

Using hindsight, we would have to say that the 1974 revisor's bill should not have amended AS 25.05.011 in the way that it did. First, the change to sex-neutral language can be viewed as making a major substantive change in the law, inappropriate for a revisor's bill. Second, the bill did make an unquestionably substantive change in the law (albeit not a major one), establishing an age of consent of 19 for both sexes, instead of the previous 19 for men and 18 for women (a change that presumably resulted from the 1972 amendment to article I, section 3 of the Alaska constitution to prohibit sex discrimination). Give the title of the bill - "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes" - this change was not in our opinion appropriate.

² The sex-neutral language was retained when AS 25.05.011(a) was amended in 1975, to change the age set out in that statute. Sec. 1, ch. 28, SLA 1975. However, because the sex-neutral language was not changed, we do not believe that a court would view the 1975 amendment as making the substantive change that a revisor's bill cannot. The title of the 1975 bill amending AS 25.05.011(a), "An Act relating to the capacity of persons to consent to marriage," does not reflect an intent to change the law to allow same-sex marriages.

Representative Norman Rokeberg
Re: Whether current Alaska law
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March 31, 1995
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1974). Like AS 25.05.011(a), the Washington statute at issue in Singer, RCW 26.04.010, provided that "persons" may marry. The court, however, noted that, prior to 1970, the statute referred to males and females, and that these terms were eliminated when the age of consent was made the same for both sexes. The court also noted that 1972 amendments to Washington's community property laws retained references to "husband" and "wife." It concluded that, in light of these facts, the legislature had not intended to authorize same-sex marriage.

Three other courts have concluded that same-sex marriages are not authorized under sex-neutral statutes like AS 25.05.011(a) because of the use of the word "marriage." Baker v. Nelson, 191 N.W.2d 185 (Minn. 1971), appeal dismissed, 409 U.S. 810 (1972); Jones v. Hallahan, 501 S.W.2d 588 (Ky. 1973); Adams v. Howerton, 673 F.2d 1036 (9th Cir.), cert. denied, 458 U.S. 1111 (1982). These courts all looked at the dictionary definition of "marriage," which invariably refers to a relationship between a man and a woman, or between members of opposite sexes. They concluded that the use of the word indicated legislative intent to limit the ability to marry to a man and a woman.

To our knowledge, there are no published judicial decisions holding that a statute like AS 25.05.011(a) allows same-sex marriages. Therefore we believe it quite likely that the Alaska courts would follow the decisions discussed above and rule that the Alaska marriage code does not authorize same-sex marriages.³

³ The well-known, recent Hawaii case of Baehr v. Lewin, 852 P.2d 44 (Hawaii 1993), rests on constitutional grounds, not on statutory interpretation; the statute challenged explicitly limited marriage to a man and a woman. Whether or not AS 25.05 is interpreted to allow same-sex marriages is of course a totally different issue from whether a ban on same-sex marriages is constitutional.

Representative Norman Rokeberg
Re: Whether current Alaska law
allows same-sex marriages

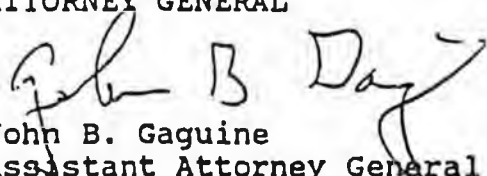
March 31, 1995
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Please feel free to contact us if you have further questions.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


John B. Gaguine
Assistant Attorney General

cc: Pat Pourchot ✓
Legislative Liaison
Office of the Governor

Deborah Behr
Assistant Attorney General
Department of Law

RECEIVED
MAR 18 1996
Ans'd. *M*

HC 32 Box 6507
Wasilla, AK 99654
13 March 1996

Representative Norman Rokeberg
Room 110, Alaska State Legislature
Juneau, AK 99801-1182

Dear Representative Rokeberg:

Re: HB 227 - An Act Relating to Persons Who May Marry

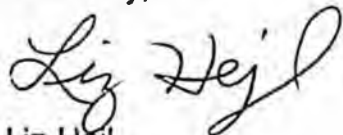
I appreciate your introducing this legislation and wish to support your efforts to protect the marriage laws in Alaska. I have enclosed a copy of the article I referred to in our phone conversation. It appeared in the February 26, 1996 issue of "Washington Watch" published by Family Research Council.

I have contacted Representative Con Bunde and Representative Cynthia Toohey and requested that this Bill be added to the agenda of items to be addressed by the HESS committee that they co-chair. I have also requested that they support this Bill.

I will be passing this information onto other members of the community, and will be watching the progress through our local Legislative Information Office. Please contact me if I can be of further assistance to get this Bill passed.

Thank you for serving your fellow Alaskans.

Sincerely,



Liz Hejl

cc: Lyda Green
Scott Ogan

Enclosure

WASHINGTON WATCH®

SMUT: OUT-OF-LINE ONLINE

In a sweeping victory for families, Congress recently passed the Telecommunications Act of 1996, including provisions protecting children from computer pornography. The Telecom Act extends current child protection laws to cyberspace, using the court-approved "indecent" standard to keep patently offensive material away from minors. The cyberporn provisions punish only knowing violations, while preserving existing electronic mail privacy laws.

The significance of the new law's computer porn section cannot be overstated. It represents a once-in-a-generation opportunity to set ground rules for the next great communications medium. Pornographers have been flooding this promising technology, and the new Telecom Act comes not a moment too soon.

ACLU Logs In

The American Civil Liberties Union has filed suit to strike down the computer pornography section as unconstitutional. Clearly, the ACLU is fighting a losing battle. Time and again, the courts have upheld the constitutionality of "indecent" restrictions in other contexts, most recently regarding dial-a-porn services. FRC will file its own brief in response to the ACLU challenge.

The battle now shifts to the Clinton administration, whose resolve in defending the law is questionable. Last April, President Clinton voiced concern that children "may be exposed to things on computer, which in some ways are more powerful, more raw and more inappropriate than those things from which we protect them when they walk in a 7-Eleven." Clinton declared, "I do not believe in any way, shape or form that we should be able to do on e-mail, or through the electronic super-highway anything beyond what we could elsewhere. I think the First Amendment has to be uniform in its application."

However, in recent days the Clinton administration has appeared to re-

tract from this resolve. The floundering is reminiscent of the notorious *Knox* case, where the administration tried to weaken the federal child pornography law it was bound to defend. Although Congress rebuffed that attempt, fear remains that the administration might try a similar tactic again.

Objections to the new cyberporn law have less to do with free speech than with arrogance and greed. The "online elite" know that if this new medium is to be

ACLU FIGHTS A LOSING BATTLE

truly open to a diverse community, all members of that community will deserve respect, including children. Even with the new law, parents must be ever vigilant in ensuring that cyberporn remains off-limits to their children.

Nixing PX Porn

FRC continues to fight pornography on other fronts. Last month at the Supreme Court, FRC filed a legal brief in *Alliance for Community Media v. F.C.C.*, a case challenging the regulation of pornographic programs on cable television access channels. The challenged law would simply give private cable operators the ability to limit indecent programs. It would relieve operators of the current law requiring them to show everything, no matter how offensive. In their lawsuit, the plaintiffs charge that restoring a cable operator's right to decide against airing indecent programs amounts to indirect government censorship. FRC supports the right of private cable operators to reject "nude talk shows" and "amateur porn hours" on access channels. Oral argument at the Supreme Court was set for Feb. 21.

Pornography in the military has been another flashpoint. For years, the U.S. military has been the nation's largest porn purveyor, stocking military exchanges with tax-free smut worth millions of dollars. Not surprisingly, in recent years the military has been plagued by sexual misconduct and assault. New Jersey Rep. Christopher Smith is drafting a bill to prohibit the sale of pornography at military facilities worldwide.

What You Can Do

Over the last few months, tremendous progress has occurred in the fight against pornography, thanks largely to grassroots support. Your continued involvement will help keep these gains intact. Insist that child protection laws apply consistently to all areas of society, including the Internet. Urge your members of Congress to support the pending Smith bill on military porn.

.....

FOR CURRENT
LEGISLATIVE INFORMATION DIAL
1-202-783-HOME. MESSAGE
UPDATED EVERY FRIDAY.

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POLICY UPDATE

Wedding Buns

Acting before Hawaiian courts mandate homosexual "marriage," which may occur in July, pro-family activists nationwide are working to protect the definition of marriage.

In California, the state assembly voted 41 to 31 on Jan. 31 to prohibit the recognition of same-sex relationships as marriage. A tougher vote is expected in the liberal Senate. Utah enacted a law in 1995 that defines marriage as the union of "one man and one woman" and bars recognition of same-sex nuptials. Other states considering such measures: Alabama, Alaska, Colorado, Georgia, Hawaii, Illinois, Iowa, New Mexico, Oregon, Rhode Island, South Carolina, Tennessee, Virginia and Washington. In Maine, a marriage protection bill was introduced but withdrawn after a lesbian legislator withdrew her own homosexual rights bill. In Nebraska, a bill legalizing same-sex marriages has been introduced.

At the national level, a federal bill is being written to reinforce the "one-man, one-woman" definition in all policies, including Social Security and the military. The tentative title is the De-

fense of Marriage Act (DOMA), and a sponsor was being sought at press time.

The gravity of the situation cannot be overstated. If homosexual "marriage" becomes law in Hawaii and is imposed on all other states through the Full Faith and Credit Clause of the Constitution, businesses will be forced to subsidize homosexuality, schoolchildren will be taught that homosexuality is equivalent to marital sex, and churches will be pushed into a religious "ghetto," where pressure will mount for conformity to civil law. Redefining marriage would redefine the family, giving homosexuals an uncontested "right" to adopt children.

Citizens can do two things to preserve marriage: 1) contact your state legislators and urge them to support current legislation or to introduce a bill protecting marriage; 2) ask your congressman and U.S. Senators to cosponsor the eventual federal bill. The Capitol Hill switchboard number is (202) 225-3121 or (202) 224-3121. For more information, contact the National Campaign to Protect Marriage (513) 733-8908.

POLICY UPDATE II

Wobbling on Welfare

The promise to "end welfare as we know it" remains a popular talking point, but on Jan. 9 President Clinton vetoed the welfare bill passed by congressional Republicans.

The nation's Governors have now advanced their own welfare reform package, and regrettably they have chosen to abandon serious attempts to reduce illegitimacy. The House and Senate agreed last year to prohibit states from using federal funds to increase welfare payments to women who bear additional children while on welfare, but would have allowed states to opt out of the prohibition.

While erasing the focus on illegitimacy, the Governors proposed adding an extra \$4 billion in child care funding. Their recommendation would increase spending on day care 49% more than current law, without spending a penny on abstinence programs to help reduce out-of-wedlock births. The emphasis on child care is ironic, since the Governors also moved to weaken the work requirements passed by congressional Republicans.

In a letter to House colleagues, Congressman Jim Talent (R-Mo.) argued that the last time Congress adopted a welfare plan proposed by the Governors, a Democrat from Arkansas rode to the White House partly on the strength of his pledge to fix the mess. If the Congress listens to the Governors' advice this year, it will have committed itself to spending over half a trillion dollars to subsidize fatherlessness through cash benefits, day care, job training, and other services.

A recent FRC poll shows that three out of four Americans believe that welfare encourages illegitimacy and, by a ratio of two to one, that reducing illegitimacy is more important than merely encouraging single mothers to support themselves. A hefty 84% of Americans support a family cap, and an overwhelming majority believe that work requirements should focus last on mothers with preschool-aged children. Both provisions would help reduce the Governors' incentive to capture new federal dollars for child care — and would allay our concerns about leaving children, yet again, at the mercy of public institutions.

BULLETIN BOARD

• Gary Bauer on the Road

March 2-Addresses Coral Ridge Ministries' "Reclaiming America" conference, Ft. Lauderdale, Fla.

March 5-Keynote speaker for seminar sponsored by the Christian Life Commission, Southern Baptist Convention, Washington, D.C. Seminar theme is "Christians in the Public Square: Faith in Practice."

March 12-Addresses crisis pregnancy center dinner, Auburn, Ala.

March 28-Addresses Evangelical Child and Family Agency, Racine, Wis.

March 29-Addresses crisis pregnancy center dinner, Hampton, Va.

• FRC in Action

Feb. 15 - FRC hosted a national drug abuse prevention strategy meeting to guide future policy and solicit support from presidential candidates. Twelve nationally acknowledged drug abuse prevention experts will attend. FRC will host a national drug abuse conference later this year.

Feb. 20-Senior Policy Adviser Chuck Donovan participated in a summit entitled "A Nation Connected: Defining the Public Interest in the Information Superhighway," sponsored by the American Library Association at the Annenberg Center, Rancho Mirage, Calif.

March 4-FRC's Military Readiness Project goes to court again. FRC filed a brief in the case of *Philips v. Perry* which will be heard in federal court in Seattle. FRC will also file an amicus brief with the U.S. Court of Appeals, Eighth Circuit, in the case of *Richenberg v. Perry*.

May 26-30-Special Assistant to the President Robert Morrison will attend the 2nd PanAmerican Conference on Family and Education, in Toronto, Ontario. For more information, contact P.O. Box 372 Don Mills, Ontario, Canada M3C 2S7. Tel: 416-733-7677, Fax: 416-224-9494, E-mail: hawthorn@mail.cy-conx.com.

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Alaska should ban same-sex marriages

While Hawaii argues its case in court against issuing marriage licenses to same sex couples and California flirts with the issue by setting up "domestic partner registries," legislators here have been considering a bill that would outlaw such marriages in Alaska.

On Thursday, the Senate approved the legislation, Senate Bill 308, by a 16-3 margin.

Juneau Democrat and Senate Minority Leader Jim Duncan, who opposes same-sex marriages, voted against the bill because, he said, such marriages already are prohibited by state law.

"We're really correcting a nonproblem," he said. "I really think this causes a controversy that doesn't need to be caused."

But proponents argue the bill is necessary because it extends the prohibition to include marriages in other states.

Anchorage Sen. Loren Leman, who supports the measure, said, "It's important that be clearly stated as Alaska public policy."

Similar legislation is being considered in 15 other states because of the Hawaii court case that could legalize same-sex marriages. Three already have passed such laws.

Opponents claim the bill is an anti-gay proposal, while supporters say it reaffirms the moral value of traditional marriages - those entered into by one man and one woman - and provides protection against lawsuits like the one in Hawaii.

Daniel Collison of the Southeast Alaska Gay and Lesbian Alliance said the measure was an attempt to legislate sexual preference.

"Does Senator Leman think that I and every other gay man and lesbian are going to go back into the closet and maintain the front of a heterosexual relationship?" Collison

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In 1960, be

As I ponder the start of yet another baseball season, what is left of my mind drifts back to the fall of 1960, when I was a student at Harold C. Crittenden Junior High ("Where the Leaders of Tomorrow Are Developing the Acne of Today").

The big baseball story that year was the World Series between the New York Yankees and the Pittsburgh Pirates. Today, for sound TV viewership reasons, all World Series games are played after most people, including many of the players, have gone to bed. But in 1960 the games had to be played in the daytime, because the electric light had not been invented yet. Also, back then the players and owners had not yet discovered the

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"Does Senator Leman think that I and every other gay man and lesbian are going to go back into the closet and maintain the front of a heterosexual relationship?" Collison said. "The reality is more gay men and lesbians are coming out of the closet."

Every adult individual has a right to express his or her own sexual preference within certain limits. It is the matter of a state-sanctioned practice with which we have a concern.

The Juneau Empire supports this bill. For more than 200 years, this country's marriage laws have undergirded traditional one man-one woman marriages. In the 19th century, adherents to the Mormon faith practiced polygamy; that practice, however, was contrary to American tradition and laws were written to ban it. Even today, polygamy persists in other religions and cultures, but it remains banned in the United States. While religious freedom is an American tenet, courts and the Congress have limited certain practices when they are not deemed to be in the best interest of the family or society in general.

Likewise, the tradition of one man-one woman marriages is a strongly held one in this country. National polls have indicated nearly two-thirds of the American public opposes same-sex marriages. While others may differ from our views, we are not obligated to embrace their beliefs and practices, or make them a part of our legal system. Tradition is an integral part of our body of laws; those laws reflect the majority culture and the state has a right - no, an obligation - to write legislation that undergirds and protects it.

Alaska should continue to protect and reinforce the tradition of one man-one woman marriage; it is in the best interest of the larger culture. We urge the House to follow the Senate's example and pass this bill.

DOONESBURY®

BY GARRY TRUDEAU



A I ponder the start of another baseball season, what is left of my mind drifts back to the fall of 1960, when I was a student at Harold C. Crittenden Junior High ("Where the Leaders of Tomorrow Are Developing the Acne of Today").

The big baseball story that year was the World Series between the New York Yankees and the Pittsburgh Pirates. Today, for sound TV viewership reasons, all World Series games are played after most people, including many of the players, have gone to bed. But in 1960 the games had to be played in the daytime, because the electric light had not been invented yet. Also, back then the players and owners had not yet discovered the marketing benefits of sporadically canceling entire seasons.

The result was that in those days young people were actually interested in baseball, unlike today's young people, who are much more interested in basketball, football, soccer and downloading dirty pictures from the Internet. But in my youth, baseball ruled. Almost all of us boys played in Little League, a character-building experience that helped me develop a personal relationship with God.

"God," I would say, when I was standing in deep right field - the coach put me in right field only because it was against the rules to put me in Sweden, where I would have done less damage to the team - "please please PLEASE don't let the ball come to me."

But of course God enjoys a good

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Hot night

Menopause is not for sissies. As the raging furnace surges inside, oppressive flashes of fire suffocate the victim until she longs for removable skin. Fireworks explode inside her body and steam pours from every pore. Perspiration drenches bed and spouse. Extricating herself from fiery flannel sheets, she throws off the down comforter, desperate for a refrigerator to sit in.

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

Senate Judiciary
3-25-96 1:30pm
SB308

Senate HESS
3-18-96 9:02am
SB308

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SB308

Senate HESS
3-18-96 9:02am
SB308

HB

338

SB

177

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-4271



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House Of Representatives

House District 34

CSHB 338 () Version "G" Concealed Handgun Revisions 2/21/96

Ignore all previous drafts and amendments! Draft Version G makes the following changes to the **current statute**:

Section 1 provides an affirmative defense against prosecution for misconduct involving weapons in the fourth degree (possessing a deadly weapon on school grounds) by allowing a licensee to carry a concealed handgun on school grounds within a propelled vehicle, other than a school bus, as long as the defendant did not exit the propelled vehicle.

Section 2 provides an affirmative defense against prosecution for misconduct involving weapons in the fifth degree (possessing a deadly weapon where intoxicating liquor is sold for consumption on the premises) by allowing a licensee to carry a concealed handgun into a place where intoxicating liquor is sold for consumption on the premises as long as the defendant did not consume intoxicating liquor there and did not consume intoxicating liquor at any time during the previous eight hours.

It also clarifies current statute which provides an affirmative defense if the possession occurred on business premises owned or leased by the defendant or in the course of the defendant's employment for the owner or lessee of the premises.

Section 3 requires the Department of Public Safety to provide each applicant with a copy of state laws and regulations relating to concealed handguns.

Section 4 gives the Department of Public Safety a total of 30 days (instead of 15 days after receipt of background check information) to either approve or reject an application.

Section 5 amends qualifications for obtaining a permit. It returns to the original list of disqualifying misdemeanors in current statute. It also changes the residency requirement from one year to 90 days.

Section 6 changes the Department of Public Safety's requirement to provide each applicant with a copy of state laws and regulations relating to just concealed handguns (rather than relating to all firearms).

Section 7 adds a new subsection allowing an honorably retired peace officer to apply for and receive a permit within one year of retirement without having to demonstrate competency. This applies only to the initial application, not to subsequent renewals.

Section 8 adds a new section allowing the Department of Public Safety to enter into reciprocity agreements with other states. Applicants from qualifying states must meet Alaska's qualifications and pay a fee not to exceed Alaska's initial application fee.

Section 9 lowers the application fee cap to \$65 and the renewal fee cap to \$30.

Section 10 changes the list of places where a licensee may NOT carry a concealed handgun, to include only:

1. All places prohibited by federal law (all federal facilities and federal courts, airplanes, and some national parks).
2. State courthouses or courtrooms.

3. Residences, businesses, or meetings where notice prohibiting concealed handguns is conspicuously posted.
4. School grounds except within the licensee's vehicle.
5. Municipalities or villages that have opted out.

Section 11 changes the penalties for carrying a concealed handgun into a prohibited place.

The first offense is a violation, punishable by a fine.

The second offense is a class B misdemeanor.

The third and any subsequent offense are class A misdemeanors (two Class A misdemeanors cause revocation of the license), EXCEPT:

Section 12 adds a new subsection making it a class A misdemeanor to carry a concealed handgun in public while consuming intoxicating liquor or within eight hours after consuming an intoxicating liquor.

Section 13 repeals penalties for late renewal of a permit.

9-LS1157G ✓
Luckhaupt
2/20/96

CS FOR HOUSE BILL NO. 338()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Foster, Kelly

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to permits to carry concealed handguns."

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

3 * Section 1. AS 11.61.210 is amended by adding a new subsection to read:

4 (e) In a prosecution under (a)(7) of this section, it is an affirmative defense
5 that the defendant, at the time of possession, was the holder of a valid permit to carry
6 a concealed handgun under AS 18.65.700 - 18.65.790, the deadly weapon was a
7 concealed handgun as defined in AS 18.65.790, and the possession

8 (1) occurred within a propelled vehicle, other than a school bus, and
9 the defendant did not exit the propelled vehicle; and

10 (2) did not occur in a municipality or established village in which the
11 possession of a concealed handgun is prohibited under AS 18.65.780 - 18.65.785.

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

13 (d) In a prosecution under (a)(2) of this section, it is

14 (1) an affirmative defense that the defendant, at the time of
15 possession, was the holder of a valid permit to carry a concealed handgun under

1 AS 18.65.700 - 18.65.790, the loaded firearm was a concealed handgun as defined
 2 in AS 18.65.790, the defendant did not consume an intoxicating liquor at the place
 3 where the possession occurred and did not consume an intoxicating liquor at any
 4 time during the eight hours before the possession, and the possession did not
 5 occur in a municipality or established village in which the possession of concealed
 6 handguns is prohibited under AS 18.65.780 - 18.65.785;

7 (2) a defense that the defendant, at the time of possession, was on
 8 business premises

9 (A) [(1) ON BUSINESS PREMISES] owned by or leased by the
 10 defendant; or

11 (B) [(2) ON BUSINESS PREMISES] in the course of the
 12 defendant's employment for the owner or lessee of those premises.

13 * Sec. 3. AS 18.65.700(a) is amended to read:

14 (a) The department shall issue a permit to carry a concealed handgun to a person
 15 who

16 (1) applies in person at an office of the Alaska State Troopers;

17 (2) qualifies under AS 18.65.705;

18 (3) submits a completed application on a form provided by the
 19 department, that provides the information required under AS 18.65.705 and 18.65.710
 20 and is executed under oath; with each application form provided by the department,
 21 the department shall provide a copy of the state laws and regulations relating to
 22 concealed handguns;

23 (4) submits two complete sets of fingerprints on federal bureau of
 24 investigation approved fingerprint cards that are of sufficient quality so that the
 25 fingerprints may be processed; the fingerprints must be taken by a person, group, or
 26 agency approved by the department; the department shall maintain a list of persons,
 27 groups, or agencies approved to take fingerprints and shall provide the list to the public
 28 upon request;

29 (5) submits evidence of competence with handguns as provided in
 30 AS 18.65.715;

31 (6) provides two frontal view color photographs of the person taken
 32 within the preceding 30 days that include the head and shoulders of the person and are

1 of a size specified by the department;

2 (7) shows a valid Alaska driver's license or identification card at the time
3 of application;

4 (8) does not suffer a physical infirmity that prevents the safe handling
5 of a handgun; and

6 (9) pays the application fee required by AS 18.65.720.

7 * Sec. 4. AS 18.65.700(b) is amended to read:

8 (b) The department shall either approve or reject an application for a permit to
9 carry a concealed handgun under (a) of this section within 30 [15] days of receipt of
10 [PERMIT ELIGIBILITY INFORMATION FROM THE FEDERAL BUREAU OF
11 INVESTIGATION OR OTHER AGENCY NECESSARY TO MAKE A
12 DETERMINATION CONCERNING] the application. [THE DEPARTMENT SHALL
13 REQUEST PERMIT ELIGIBILITY INFORMATION UNDER THIS SUBSECTION
14 WITHIN FIVE DAYS OF THE RECEIPT OF THE APPLICATION.] The department
15 shall notify the applicant in writing of the reason for a rejection.

16 * Sec. 5. AS 18.65.705 is amended to read:

17 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is
18 qualified to receive and hold a permit to carry a concealed handgun if the person

19 (1) is 21 years of age or older;

20 (2) is eligible to own or possess a firearm under the laws of this state
21 and under federal law;

22 (3) has not been convicted of and is not currently charged under a
23 complaint, information, indictment, or presentment with a felony under the laws of this
24 state or a similar law of another jurisdiction;

25 (4) has not been convicted, within the five years immediately preceding
26 the application, of, and is not currently charged under a complaint, information,
27 indictment, or presentment with, any of the following misdemeanor offenses or similar
28 laws of another jurisdiction:

29 (A) AS 11.41.230, 11.41.250, 11.41.270;

30 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

31 (C) AS 11.51.130;

32 (D) AS 11.56.330, 11.56.340, former AS 11.56.350, 11.56.380,

1 11.56.545, 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800,
2 11.56.805;

3 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

4 or

5 (F) AS 11.71.050, 11.71.060;

6 (5) has not been convicted of two or more class A misdemeanors of this
7 state or similar laws of another jurisdiction within the five years immediately preceding
8 the application;

9 (6) has not within the 10 years immediately preceding the application
10 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;

11 (7) is not now suffering, and has not within the five years immediately
12 preceding the application suffered, from a mental illness as defined in AS 47.30.915;

13 (8) has not been adjudicated as mentally incapacitated by a court of this
14 state, another state, territory, or jurisdiction, or of the United States, unless the
15 guardianship or similar arrangement has been closed or terminated and five years have
16 elapsed since the closure or other termination;

17 (9) is a resident of the state and has been for the 90 days [ONE YEAR]
18 immediately preceding the application for a permit;

19 (10) has not been discharged from the armed forces of the United States
20 under dishonorable conditions;

21 (11) is not an alien who is residing in the United States illegally or a
22 former citizen of the United States who has renounced the person's citizenship;

23 (12) is not an unlawful user of, or addicted to, a controlled substance;

24 (13) is not now the subject of an injunction under AS 25.35.010 -
25 25.35.020 unless the injunction has been dissolved or has expired;

26 (14) is not now in and has not in the three years immediately preceding
27 the application been ordered by a court to complete an alcohol treatment program;

28 (15) is not now in and has not in the three years immediately preceding
29 the application entered a substance abuse treatment program; and

30 (16) has demonstrated competence with handguns as provided in
31 AS 18.65.715.

32 * Sec. 6. AS 18.65.710(a)(3) is amended to read:

1 (3) a statement that the applicant has been furnished with a copy of the
2 state laws and regulations relating to concealed handguns [AS 18.65.700 -
3 18.65.790], has read those sections, and understands them;

4 * Sec. 7. AS 18.65.715 is amended by adding a new subsection to read:

5 (e) Notwithstanding (a) of this section, an honorably retired peace officer who
6 applies for a permit to carry a concealed handgun within one year of the officer's
7 retirement shall be presumed by the department to have satisfied the demonstration of
8 competency required of an applicant for a permit. A demonstration of competency under
9 this section for an honorably retired peace officer

10 (1) is for any action type or caliber;

11 (2) only applies to the initial demonstration of competency; to renew a
12 concealed handgun permit, an honorably retired peace officer must demonstrate
13 competency as provided in (b) of this section.

14 * Sec. 8. AS 18.65 is amended by adding a new section to read:

15 Sec. 18.65.718. RECIPROCITY FOR HOLDERS OF CONCEALED
16 HANDGUN PERMITS FROM OTHER STATES. (a) The department may enter into
17 agreements with other states to provide reciprocity for holders of concealed handgun
18 permits issued by another state to be permitted to carry a concealed handgun in Alaska
19 provided the other state allows holders of concealed handgun permits issued under
20 AS 18.65.700 - 18.65.790 to be permitted to carry concealed handguns in the other state.
21 An agreement under this section, at a minimum, must provide that for a person issued
22 a concealed handgun permit by another state to be reciprocally permitted in this state to
23 carry a concealed handgun the person must submit

24 (1) an application executed under oath that provides information that is
25 substantially similar to that required under AS 18.65.710, including the statement
26 required under AS 18.65.710(a)(3);

27 (2) sufficient information to verify that the person holds a concealed
28 handgun permit in the reciprocal state and to allow the department to register that permit;
29 and

30 (3) a reciprocal application fee that may not exceed the fee set for the
31 application and initial issuance of a permit under AS 18.65.720.

32 (b) A person receiving a reciprocal permit under this section may carry a

1 concealed handgun in the same manner and to the same extent as a person issued a
2 permit under AS 18.65.700. Following issuance of the permit, all aspects concerning the
3 regulation of the permit and the permittee are controlled by AS 18.65.700 - 18.65.790.

4 * Sec. 9. AS 18.65.720 is amended to read:

5 Sec. 18.65.720. FEES. The department shall charge a nonrefundable fee for the
6 processing of the application for and initial issuance of a permit, renewal of a permit, or
7 replacement of a permit. The fees shall be set by regulation and must be based on the
8 actual costs incurred by the department. However, the fee for the processing of an
9 application and initial issuance of a permit may not exceed \$65 [\$125] and the fee for
10 renewal of a permit or replacement of a permit may not exceed \$30 [\$60].

11 * Sec. 10. AS 18.65.755(a) is amended to read:

12 (a) A permittee may not carry a concealed handgun into or possess a concealed
13 handgun within

14 (1) [A LAW ENFORCEMENT OR CORRECTIONAL FACILITY;

15 (2)] or on school grounds or a school bus other than while in a
16 propelled vehicle, other than a school bus, and the permittee does not exit the
17 vehicle; in this paragraph, "school grounds" has the meaning given in AS 11.71.900;

18 (2) [(3)] a courthouse or a courtroom of this state, unless the permittee

19 (A) is a judge; or

20 (B) has been authorized to possess a concealed handgun by a
21 judge presiding at that courthouse or courtroom;

22 (3) [(4) A BUILDING HOUSING ONLY STATE OR FEDERAL
23 OFFICES OR THE OFFICES OF A POLITICAL SUBDIVISION OF THE STATE,
24 EXCEPT AS AUTHORIZED UNDER (3) OF THIS SUBSECTION;

25 (5) AN OFFICE OF THE STATE, FEDERAL GOVERNMENT, OR OF
26 A POLITICAL SUBDIVISION OF THE STATE THAT IS NOT LOCATED IN A
27 BUILDING DESCRIBED IN (4) OF THIS SUBSECTION;

28 (6) A PASSENGER LOADING OR UNLOADING AREA OF AN
29 AIRLINE TERMINAL;

30 (7) A VESSEL OF THE ALASKA MARINE HIGHWAY SYSTEM;

31 (8) A FACILITY PROVIDING SERVICES TO VICTIMS OF
32 DOMESTIC VIOLENCE OR SEXUAL ASSAULT;

1 (9)] a residence where notice that carrying a concealed handgun is
2 prohibited has been given by the posting of a conspicuous notice or by oral statement
3 by the resident to the permittee;

4 (4) [(10)] a meeting of a business, charitable, or other organization or
5 entity where notice that carrying a concealed handgun is prohibited has been given by
6 the posting of conspicuous notice;

7 (5) [(11)] a [FINANCIAL INSTITUTION; IN THIS PARAGRAPH,
8 "FINANCIAL INSTITUTION" MEANS A BANK, SAVINGS BANK, SAVINGS
9 ASSOCIATION, CREDIT UNION, OR OTHER INSTITUTION REGULATED BY
10 THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT UNDER
11 AS 06;

12 (12) ANOTHER] place where the possession of a deadly weapon or
13 firearm is prohibited by federal law; or

14 (6) [(13)] a municipality or established village that has prohibited the
15 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

16 * Sec. 11. AS 18.65.755(c) is amended to read:

17 (c) In addition to any other penalty provided by law, a person who violates (a)
18 of this section is guilty of a violation punishable as provided in AS 12.55.035 for the
19 first offense, a class B misdemeanor for the second offense, and a class A
20 misdemeanor for the third or subsequent offense.

21 * Sec. 12. AS 18.65.755 is amended by adding new subsections to read:

22 (d) A permittee may not carry a concealed handgun in public while consuming
23 an intoxicating liquor or within eight hours after consuming an intoxicating liquor.

24 (e) A person who violates (d) of this section is guilty of a class A misdemeanor.

25 * Sec. 13. AS 18.65.725(c) is repealed.

Attached are the current statutes dealing with

OFFENSES INVOLVING WEAPONS.

(All are misdemeanors or felonies.)

Sec. 11.61.190. Misconduct involving weapons in the first degree. (a) A person commits the crime of misconduct involving weapons in the first degree if the person uses or attempts to use a firearm during the commission of an offense under AS 11.71.010 — 11.71.040.

(b) Misconduct involving weapons in the first degree is a class A felony. (§ 10 ch 79 SLA 1992)

Sec. 11.61.195. Misconduct involving weapons in the second degree. (a) A person commits the crime of misconduct involving weapons in the second degree if the person knowingly

(1) possesses a firearm during the commission of an offense under AS 11.71.010 — 11.71.040; or

(2) violates AS 11.61.200(a)(1) and is within the grounds of or on a parking lot immediately adjacent to

(A) a public or private preschool, elementary, junior high, or secondary school without the permission of the chief administrative officer of the school or district or the designee of the chief administrative officer; or

(B) a center, other than a private residence, licensed under AS 47.33 or AS 47.35 or recognized by the federal government for the care of children.

(b) Misconduct involving weapons in the second degree is a class B felony. (§ 10 ch 79 SLA 1992; am § 1 ch 124 SLA 1994; am § 2 ch 130 SLA 1994)

Effect of amendments. — The first 1994 amendment, effective January 1, 1996, substituted "AS 47.35" for "AS 47.35.010 — 47.35.075" in subparagraph (a)(2)(B).

The second 1994 amendment, effective January 1, 1995, substituted "AS 47.33 or AS 47.35.010 — 47.35.070" for "AS 47.35.010 — 47.35.075" in subparagraph (a)(2)(B).

Editor's notes. — Until January 1, 1996, subparagraph (a)(2)(B) reads as follows: "(B) a center, other than a private residence, licensed under AS 47.33 or AS 47.35.010 — 47.35.070 or recognized by the federal government for the care of children."

Sec. 11.61.200. Misconduct involving weapons in the third degree. (a) A person commits the crime of misconduct involving weapons in the third degree if the person

(1) knowingly possesses a firearm capable of being concealed on one's person after having been convicted of a felony or adjudicated a delinquent minor for conduct that would constitute a felony if committed by an adult by a court of this state, a court of the United States, or a court of another state or territory;

(2) knowingly sells or transfers a firearm capable of being concealed on one's person to a person who has been convicted of a felony by a court of this state, a court of the United States, or a court of another state or territory;

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

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

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

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

(7) violates AS 11.46.320 and, during the violation, possesses on the person a firearm when the person's physical or mental condition is impaired as a result of the introduction of an intoxicating liquor or controlled substance into the person's body;

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

(9) communicates in person with another in violation of AS 11.56.740 and, during the communication, possesses on the person a defensive weapon or a deadly weapon, other than an ordinary pocketknife;

(10) resides in a dwelling knowing that there is a firearm capable of being concealed on one's person or a prohibited weapon in the dwelling if the person has been convicted of a felony by a court of this state, a court of the United States, or a court of another state or territory, unless the person has written authorization to live in a dwelling in which there is a concealable weapon described in this paragraph from a court of competent jurisdiction or from the head of the law enforcement agency of the community in which the dwelling is located; or

(11) discharges a firearm from a propelled vehicle while the vehicle is being operated.

(b) It is an affirmative defense to a prosecution

(1) under (a)(1) of this section that

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

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

(C) a period of 10 years or more has elapsed between the date of the person's unconditional discharge on the prior offense or a adjudication of juvenile delinquency and the date of the violation of (a)(1) of this section, and the prior conviction or adjudication of juvenile delin-

ency did not result from a violation of AS 11.41 or of a similar law of the United States or of another state or territory;

(2) under (a)(2) or (10) of this section that

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

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

(C) a period of 10 years or more has elapsed between the date of the person's unconditional discharge on the prior offense and the date of the violation of (a)(2) or (10) of this section, and the prior conviction did not result from a violation of AS 11.41 or of a similar law of the United States or of another state or territory.

(c) It is an affirmative defense to a prosecution under (a)(3) of this section that the manufacture, possession, transportation, sale, or transfer of the prohibited weapon was in accordance with registration under 26 U.S.C. 5801-5872 (National Firearms Act).

(d) It is an affirmative defense to a prosecution under (a)(11) of this section that the person was using a firearm while hunting, trapping, or fishing in a manner not prohibited by statute or regulation.

(e) The provisions of (a)(3) and (11) of this section do not apply to a peace officer acting within the scope and authority of the officer's employment.

(f) As used in this section,

(1) "prohibited weapon" means any

(A) explosive, incendiary, or noxious gas

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

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

(iii) bomb; or

(iv) grenade;

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

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

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

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

(g) Misconduct involving weapons in the third degree is a class C felony. (§ 7 ch 166 SLA 1978; am § 1 ch 63 SLA 1990; am § 1 ch 189

SLA 1990; am §§ 4 — 6 ch 59 SLA 1991; am § 3 ch 64 SLA 1991; am §§ 11 — 14 ch 79 SLA 1992; am §§ 2, 3 ch 113 SLA 1994)

Revisor's notes. — Paragraphs (a)(8) and (9) of this section were enacted as (a)(7) and (8) respectively. Renumbered in 1990.

Subsection (d) enacted as (g). Relettered in 1992, at which time former subsections (d)-(f) were relettered as (e)-(g), respectively.

Effect of amendments. — The first 1990 amendment added paragraph (a)(7).

The second 1990 amendment added paragraphs (a)(8) and (a)(9).

The first 1991 amendment, effective September 16, 1991, rewrote the section.

The second 1991 amendment, effective September 16, 1991, in paragraph (a)(9), substituted "violation of AS 11.66.740" for "violation of AS 11.61.120(a)(6)."

The 1992 amendment, effective September 14, 1992, substituted "third degree" for "first degree" near the beginning of subsection (a) and in subsection (g); added

paragraph (a)(11) and made related stylistic changes; inserted "and (11)" in subsection (e); and added subsection (d).

The 1994 amendment, effective September 1, 1994, in subsection (a), inserted "or adjudicated a delinquent minor for conduct that would constitute a felony if committed by an adult" in paragraph (1); and, in subsection (b), added the paragraph (1) designation, redesignated former paragraphs (1)-(3) as subparagraphs (1)(A)-(1)(C), deleted internal references in two places, inserted "or adjudication of juvenile delinquency" twice in subparagraph (1)(C), added paragraph (2), and made a related stylistic change.

Editor's notes. — Section 16(2), ch. 113, SLA 1994 provides that the amendments to (a) and (b) of this section by §§ 2 and 3, ch. 113, SLA 1994 apply "to offenses committed on or after September 1, 1994."

NOTES TO DECISIONS

I. General Consideration.

I. GENERAL CONSIDERATION.

Gravity knife.

Butterfly knives and balisong knives are not gravity knives. *State v. Strange*, 785 P.2d 563 (Alaska Ct. App. 1990).

Weapon as collateral for debt. — The legislature did not intend to permit felons to possess prohibited weapons as collateral for debt, nor did it intend to immunize knowing possession of a weapon for the time necessary to pawn it. *Baker v. State*, 781 P.2d 1368 (Alaska Ct. App. 1989).

Proof of prior convictions despite concession. — The government need not accept the accused's proposed concession to an element of an offense, and a trial

judge cannot altogether bar the prosecution from introducing evidence to prove a necessary element of its case, even when the element is undisputed or conceded. Thus, in a trial for possession of a concealed weapon by a felon, the trial judge could not bar the state from presenting evidence of the defendant's prior felony convictions, even though the defendant conceded that he was a felon. *State v. McLaughlin*, 860 P.2d 1270 (Alaska Ct. App. 1993).

Applied in *Hansen v. State*, 824 P.2d 1384 (Alaska Ct. App. 1992).

Cited in *Kinnish v. State*, 777 P.2d 1179 (Alaska Ct. App. 1989); *Weasolic v. State*, 837 P.2d 130 (Alaska Ct. App. 1992).

Sec. 11.61.210. Misconduct involving weapons in the fourth degree. (a) A person commits the crime of misconduct involving weapons in the fourth degree if the person

(1) possesses on the person, or in the interior of a vehicle in which the person is present, a firearm when the person's physical or mental condition is impaired as a result of the introduction of an intoxicating

quor of a controlled substance into the person's body in circumstances other than described in AS 11.61.200(a)(7);

- (2) discharges a firearm from, on, or across a highway;
- (3) discharges a firearm with reckless disregard for a risk of damage to property or a risk of physical injury to a person;
- (4) manufactures, possesses, transports, sells, or transfers metal knuckles;
- (5) manufactures, sells, or transfers a switchblade or a gravity knife;

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

(7) other than a preschool, elementary, junior high, or secondary school student, knowingly possesses a deadly weapon or a defensive weapon, without the permission of the chief administrative officer of the school or district or the designee of the chief administrative officer, within the buildings of, on the grounds of, or on the school parking lot of a public or private preschool, elementary, junior high, or secondary school or while participating in a school-sponsored event, except that a person 21 years of age or older may possess

(A) a deadly weapon, other than a loaded firearm, in the trunk of a motor vehicle or encased in a closed container in a motor vehicle;

(B) a defensive weapon;

(C) an unloaded firearm if the person is traversing school premises in a rural area for the purpose of entering public or private land that is open to hunting and the school board with jurisdiction over the school premises has elected to have this exemption apply to the school premises; in this subparagraph, "rural" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks or with a population of 1,500 or less that is connected by road or rail to Anchorage or Fairbanks; or

(8) being a preschool, elementary, junior high, or secondary school student, knowingly possesses a deadly weapon or a defensive weapon, within the buildings of, on the grounds of, or on the school parking lot of a public or private preschool, elementary, junior high, or secondary school or while participating in a school-sponsored event, except that a student may possess a deadly weapon, other than a firearm as defined under 18 U.S.C. 921, or a defensive weapon if the student has obtained the prior permission of the chief administrative officer of the school or district or the designee of the chief administrative officer for the possession.

(b) [Repealed, § 4 ch 63 SLA 1990.]

(c) The provisions of (a)(7) of this section do not apply to a peace officer acting within the scope and authority of the officer's employment.

(d) Misconduct involving weapons in the fourth degree is a class A misdemeanor. (§ 7 ch 166 SLA 1978; am §§ 21, 22 ch 102 SLA 1980;

am §§ 2, 4 ch 63 SLA 1990; am § 7 ch 59 SLA 1991; am §§ 15, 16 ch 79 SLA 1992; am §§ 1, 2 ch 33 SLA 1995)

Revisor's notes. — Subsection (c) was enacted as (d). Relettered in 1995. Subsection (d) was formerly (b); relettered as (c) in 1980 and relettered again in 1995.

Effect of amendments. — The 1990 amendment added "in circumstances other than described in AS 11.61.200 (a)(7)" at the end of paragraph (a)(1) and repealed subsection (b).

The 1991 amendment, effective September 15, 1991, in subsection (a), rewrote

paragraph (1) and added paragraphs (4) and (5).

The 1992 amendment, effective September 14, 1992, substituted "fourth degree" for "second degree" near the beginning of subsection (a) and in subsection (d); and added paragraph (a)(6) and made related stylistic changes.

The 1995 amendment, effective August 17, 1995, added paragraph (a)(7), made a related stylistic change, and added subsection (c).

NOTES TO DECISIONS

"Firearm". — A pellet pistol, which operates by the use of compressed air, does not qualify as a firearm because the weapon does not propel a shot through some sort of explosive means. *Kinnish v.*

State, 777 P.2d 1179 (Alaska Ct. App. 1989).

Cited in *State v. Jeske*, 823 P.2d 6 (Alaska Ct. App. 1991).

Sec. 11.61.215. Intoxication as applicable to possession of a firearm. [Repealed, § 11 ch 59 SLA 1991.]

Sec. 11.61.220. Misconduct involving weapons in the fifth degree. (a) A person commits the crime of misconduct involving weapons in the fifth degree if the person

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

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

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

(4) knowingly possesses a firearm within the grounds of or on a parking lot immediately adjacent to a center, other than a private residence, licensed under AS 47.33 or AS 47.35 or recognized by the federal government for the care of children; or

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

(b) In a prosecution under (a)(1) of this section, it is an affirmative defense that the defendant, at the time of possession, was

(1) in the defendant's dwelling or on land owned or leased by the defendant appurtenant to the dwelling;

(2) actually engaged in lawful hunting, fishing, trapping, or other lawful outdoor activity that necessarily involves the carrying of a weapon for personal protection; or

(3) the holder of a valid permit to carry a concealed handgun under AS 18.65.700 — 18.65.790, the deadly weapon concealed was a hand-

gun as defined in AS 18.65.790, and the possession did not occur in a municipality or established village in which the possession of concealed handguns is prohibited under AS 18.65.780 — 18.65.785.

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

(d) In a prosecution under (a)(2) of this section, it is a defense that the defendant, at the time of possession, was

(1) on business premises owned by or leased by the defendant; or

(2) on business premises in the course of the defendant's employment for the owner or lessee of those premises.

(e) For purposes of this section, a deadly weapon on a person is concealed if it is covered or enclosed in any manner so that an observer cannot determine that it is a weapon without removing it from that which covers or encloses it or without opening, lifting, or removing that which covers or encloses it; a deadly weapon on a person is not concealed if it is an unloaded firearm encased in a closed container designed for transporting firearms.

(f) For purposes of (a)(2) and (e) of this section, a firearm is loaded if the

(1) firing chamber, magazine, clip, or cylinder of the firearm contains a cartridge; and

(2) chamber, magazine, clip, or cylinder is installed in or on the firearm.

(g) Misconduct involving weapons in the fifth degree is a class B misdemeanor. (§ 7 ch 166 SLA 1978; am § 23 ch 102 SLA 1980; am §§ 8, 9 ch 59 SLA 1991; am §§ 17, 18 ch 79 SLA 1992; am §§ 1 — 3 ch 67 SLA 1994; am § 2 ch 124 SLA 1994; am § 3 ch 130 SLA 1994; am § 3 ch 33 SLA 1995)

Effect of amendments. — The 1991 amendment, effective September 15, 1991, in subsection (a), inserted "or a defensive weapon" in paragraph (1), added paragraphs (4) and (5), and made stylistic changes; and in subsection (c), inserted, "and (4)."

The 1992 amendment, effective September 14, 1992, substituted "fifth degree" for "third degree" near the beginning of subsection (a) and in subsection (g); and, in paragraph (a)(4), inserted "or a defensive weapon" in two places.

The first 1994 amendment, effective October 1, 1994, added paragraph (b)(3) and made related stylistic changes; added "; a deadly weapon on a person is not concealed if it is an unloaded firearm encased in a closed container designed for transporting firearms" at the end of subsection (e); and, in subsection (f), inserted an in-

ternal reference in the introductory language, added the paragraph (1) designation, added paragraph (2), and made a related stylistic change.

The second 1994 amendment, effective January 1, 1996, substituted "AS 47.55" for "AS 47.35.010 — 47.35.076" in paragraph (a)(4).

The third 1994 amendment, effective January 1, 1995, substituted "AS 47.33 or AS 47.35.010 — 47.35.076" for "AS 47.35.010 — 47.35.076" in paragraph (a)(4).

The 1995 amendment, effective August 17, 1995, in paragraph (a)(4), deleted former subparagraph (A), relating to possession of defensive weapons within the grounds of or on a parking lot immediately adjacent to a school, and deleted the former subparagraph (B) designation.

Editor's notes. — Until January 1,

1996, subparagraph (a)(4) reads as follows: "licensed under AS 47.35.010 — 47.35.076 or recognized by the federal government for the care of the children."

NOTES TO DECISIONS

Constitutionality. — This section was not unconstitutionally vague, as applied to a defendant charged with carrying a long-bladed knife in a briefcase in violation of paragraph (a)(1), since it is clear that the phrase "on the person" encompasses purses, briefcases, and other hand-carried containers. *De Nardo v. State*, 819 P.2d 903 (Alaska Ct. App. 1991).

"On the person". — The phrase "on the person" is broad enough, without the additional word "about", to encompass weapons concealed either in clothing or in purses, briefcases, or other hand-carried

containers. *De Nardo v. State*, 819 P.2d 903 (Alaska Ct. App. 1991).

Conviction reversed for disqualified judge. — Alleged drug dealer's conviction for carrying a concealed firearm was reversed because trial judge's failure to recuse himself resulted in a violation of AS 22.20.020(a)(6), where in his former role as district attorney, judge had personally prosecuted defendant in an unrelated matter within the previous two years. *Mustafoski v. State*, 867 P.2d 824 (Alaska Ct. App. 1994).

Cited in *Kinnish v. State*, 777 P.2d 1179 (Alaska Ct. App. 1989).

Sec. 11.61.240. Criminal possession of explosives.

NOTES TO DECISIONS

Double jeopardy. — The statutes which proscribe attempted murder, possession of explosives, and arson differ markedly in the conduct which they prohibit and in the specific societal interests

which they seek to preserve, and multiple sentences for the three offenses do not violate double jeopardy. *Machado v. State*, 797 P.2d 677 (Alaska Ct. App. 1990).

Chapter 66. Offenses Against Public Health and Decency.

Article

2. Gambling Offenses (§ 11.66.280)
3. Adult Entertainment Business (§ 11.66.300)

Article 2. Gambling Offenses.

Section

280. Definitions

Cross references. — For exemption from AS 11.66.200 — 11.66.280 of gambling conducted by cruise ships, that was effective from May 19, 1995 through Sep-

tember 29, 1996, see § 1(b), ch. 31, SLA 1995 in the Temporary and Special Acts pamphlet.

Sec. 11.66.280. Definitions. In AS 11.66.200 — 11.66.280, unless the context requires otherwise,

(1) "contest of chance" means a contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree

11.56.370. Permitting an escape. (a) A public servant who is authorized by law to have charge of a person arrested for, charged with, or convicted of a crime commits the crime of permitting an escape if the public servant permits a person under his custody to escape.

Permitting an escape is a class C felony. (§ 6 ch 166 SLA 1978; ch 102 SLA 1980)

For history reports. — For a supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 29, 1980.

NOTES TO DECISIONS

construing former AS 11.56.375 concerning an officer's not exercising authority whereby a person escapes, see Larson v. State, 564 P.2d 365 (Alaska 1977).

11.56.375. Promoting contraband in the first degree. A person commits the crime of promoting contraband in the first degree if the person violates AS 11.56.380 and the contraband is a deadly weapon;

an article that is intended by the defendant to be used as a means of facilitating an escape; or a controlled substance. Promoting contraband in the first degree is a class C felony. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Reasonableness. — This section is a violation of an inmate's right to privacy if the fact that such right of privacy is substantially limited and the defendant acted to protect possession of the article in a correctional institution. State v. Resek, 759 P.2d 553 (Alaska Ct. App. 1988).

It is not unconstitutional in a correctional facility more restrictive than the general population. State v. Resek, 759 P.2d 553 (Alaska Ct. App. 1988).

The term "controlled substance" in this section includes marijuana. State v. Resek, 706 P.2d 706 (Alaska Ct. App. 1985).

Because neither this section nor AS 11.56.380, both of which outlaw the promotion of contraband, including controlled substances, in correctional facilities, defined "controlled substance," there was reference to the general definition in the revised code for guidance; as of January 1, 1983, the revised code clearly defined controlled substances to include marijuana. State v. Resek, 706 P.2d 706 (Alaska Ct. App. 1985).

Cited in Jennings v. State, 713 P.2d 1222 (Alaska Ct. App. 1986).

Sec. 11.56.380. Promoting contraband in the second degree. (a) A person commits the crime of promoting contraband in the second degree if the person

(1) introduces, takes, conveys, or attempts to introduce, take, or convey contraband into a correctional facility; or

(2) makes, obtains, possesses, or attempts to make, obtain, or possess anything that person knows to be contraband while under official detention within a correctional facility.

(b) Promoting contraband in the second degree is a class A misdemeanor. (§ 6 ch 166 SLA 1978)

NOTES TO DECISIONS

Marijuana included. — Because neither AS 11.56.375 nor this section, both of which outlaw the promotion of contraband, including controlled substances, in correctional facilities, defined "controlled substance," there was reference to the general definition in the revised code for guidance; as of January 1, 1983, the revised code clearly defined controlled substances to include marijuana. State v. Resek, 706 P.2d 706 (Alaska Ct. App. 1985). Quoted in Cleland v. State, 759 P.2d 553 (Alaska Ct. App. 1988).

Sec. 11.56.390. Definition. In AS 11.56.300 — 11.56.390, "contraband" means any article or thing which persons confined in a correctional facility are prohibited by law from obtaining, making, or possessing in that correctional facility. (§ 6 ch 166 SLA 1978)

Cross references. — For definition of terms used in this chapter, see AS 11.56.900; for definition of terms used in this title, see AS 11.81.900.

Article 4. Offenses Relating to Judicial and Other Proceedings.

Section	Section
510. Interference with official proceedings	545. Tampering with a witness in the second degree
520. Receiving a bribe by a witness or juror	590. Jury tampering
540. Tampering with a witness in the first degree	600. Misconduct by a juror
	610. Tampering with physical evidence
	620. Simulating legal process

Collateral references. — 58 Am. Jur. 2d, Obstructing Justice, §§ 1-9, 25-29. 67 C.J.S., Obstructing Justice, §§ 1-22. Obstruction of justice as "infamous offense" within constitutional provision in relation to presentment or indictment grand jury, 24 ALR 1015.

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56627
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-4271



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House Of Representatives

House District 34

PROPOSED AMENDMENTS TO CSHB338() VERSION "F"

2/17/96

- Amendment F.1 adds the condition that a licensee carrying a concealed handgun in a licensed restaurant or bar may not consume intoxicating liquor, and further that a licensee carrying a concealed handgun anywhere may not be impaired by alcohol.
- Amendment F.2 adds the condition that a licensee carrying a concealed handtgun may not exit a vehicle on school grounds while school is in session.
- Amendment F.3² Removes a section which conflicted with the list of misdemeanors in the bill. *P. Anderson*
- Amendment F.4² Adds back in the right to post signs prohibiting concealed handguns on the posted premises. Specifications for the signs are already in the concealed handgun law.
- Amendment F.5³ Reduces the penalty from a class B misdemeanor to a violation for carrying a concealed handgun into a prohibited area.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE JAMES

TO: CSHB 338(), "F" version, draft dated 2/6/96

1 Page 2, lines 3 - 4:

2 Delete "the possession occurred at a restaurant or eating place licensed under
3 AS 04.11.100. and"

4 Page 2, line 6, following "AS 18.65.780 - 18.65.785":

5 Insert ", and the defendant did not consume an intoxicating liquor at the place
6 where the possession occurred and was not impaired by the introduction of an
7 intoxicating liquor into the defendant's body"

8 Page 6, line 25, following "into":

9 Insert "or possess a concealed handgun within"

10 Page 6, line 27:

11 Delete "other than a restaurant or eating place licensed under AS 04.11.100"

12 Insert "unless the permittee does not consume an intoxicating liquor at the place
13 and the permittee is not impaired by the introduction of an intoxicating liquor into the
14 permittee's body"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE JAMES

TO: CSHB 338(), "F" version, draft dated 2/6/96

1 Page 1, lines 8 - 11:

2 Delete all material and insert:

3 "did not occur in a municipality or established village in which the possession of a
4 concealed handgun is prohibited under AS 18.65.780 - 18.65.785, and

5 (1) did not occur while the school was in session; or

6 (2) occurred within a propelled vehicle, other than a school bus, and

7 the defendant did not exit the propelled vehicle."

8 Page 6, lines 29 - 31:

9 Delete:

10 "(2) or on school grounds or a school bus other than while in a
11 propelled vehicle, other than a school bus, and the permittee does not exit the
12 vehicle; in this paragraph, "school grounds" has the meaning given in AS 11.71.900;"

13 Insert new material to read:

14 "(2) or on

15 (A) school grounds, while school is in session, other than
16 while in a propelled vehicle and the permittee does not exit the propelled
17 vehicle [OR A SCHOOL BUS]; in this paragraph, "school grounds" has the
18 meaning given in AS 11.71.900; or

19 (B) a school bus;"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE JAMES

TO: CSHB 338(), "F" version, draft dated 2/6/96

1 Page 4, lines 7 - 10:

2 Delete:

3 "(5) has not been convicted of two or more class A misdemeanors of
4 this state or similar laws of another jurisdiction within the five years immediately
5 preceding the application;

6 (6)"

7 Insert new material to read:

8 "(5) [HAS NOT BEEN CONVICTED OF TWO OR MORE CLASS
9 A MISDEMEANORS OF THIS STATE OR SIMILAR LAWS OF ANOTHER
10 JURISDICTION WITHIN THE FIVE YEARS IMMEDIATELY PRECEDING THE
11 APPLICATION;

12 (6)]"

13 Page 4, line 12:

14 Delete "(7)"

15 Insert "(6) [(7)]"

16 Page 4, line 14:

17 Delete "(8)"

18 Insert "(7) [(8)]"

19 Page 4, line 18:

20 Delete "(9)"

21 Insert "(8) [(9)]"

1 Page 4, line 20:

2 Delete "(10)"

3 Insert "(9) [(10)]"

4 Page 4, line 22:

5 Delete "(11)"

6 Insert "(10) [(11)]"

7 Page 4, line 24:

8 Delete "(12)"

9 Insert "(11) [(12)]"

10 Page 4, line 25:

11 Delete "(13)"

12 Insert "(12) [(13)]"

13 Page 4, line 27:

14 Delete "(14)"

15 Insert "(13) [(14)]"

16 Page 4, line 29:

17 Delete "(15)"

18 Insert "(14) [(15)]"

19 Page 4, line 31:

20 Delete "(16)"

21 Insert "(15) [(16)]"

22 Page 7, line 32:

23 Delete "AS 18.65.705(5) and 18.65.725(c) are"

24 Insert "AS 18.65.725(c) is"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE JAMES

TO: CSHB 338(), "F" version, draft dated 2/6/96

1 Page 7, line 4:

2 Delete "a [BUILDING]"

3 Insert "[A BUILDING]"

4 Page 7, lines 15 - 23:

5 Delete:

6 "(9) A RESIDENCE WHERE NOTICE THAT CARRYING A
7 CONCEALED HANDGUN IS PROHIBITED HAS BEEN GIVEN BY THE POSTING
8 OF A CONSPICUOUS NOTICE OR BY ORAL STATEMENT BY THE RESIDENT
9 TO THE PERMITTEE;

10 (10) A MEETING OF A BUSINESS, CHARITABLE, OR OTHER
11 ORGANIZATION OR ENTITY WHERE NOTICE THAT CARRYING A
12 CONCEALED HANDGUN IS PROHIBITED HAS BEEN GIVEN BY THE POSTING
13 OF CONSPICUOUS NOTICE;

14 (11) A FINANCIAL"

15 Insert new material to read:

16 "(9)] a residence where notice that carrying a concealed handgun is
17 prohibited has been given by the posting of a conspicuous notice or by oral statement
18 by the resident to the permittee;

19 (5) [(10)] a meeting of a business, charitable, or other organization or
20 entity where notice that carrying a concealed handgun is prohibited has been given
21 by the posting of conspicuous notice;

22 (6) [(11)] a [FINANCIAL"

- 1 Page 7, line 30:
- 2 Delete "(5)"
- 3 Insert "(7)"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE JAMES

TO: CSHB 338(), "F" version, draft dated 2/6/96

1 Page 7, following line 31:

2 Insert a new bill section to read:

3 **** Sec. 12. AS 18.65.755(c) is amended to read:**

4 (c) In addition to any other penalty provided by law, a person who violates
5 this section is guilty of a violation punishable as provided in AS 12.55.035 [CLASS
6 B MISDEMEANOR]."

7 Renumber the following bill section accordingly.

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-9006



While In Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives

House District 34

February 7, 1996

New Committee Substitute for HB 338 (Concealed Handguns): Version 9-LS1157/F dated 2/6/96

1. Change Cap on the application fee to: \$ _____
Change Cap on the renewal fee to: \$ _____
2. Places where concealed handguns may NOT be carried:

Those places where firearms are prohibited by federal law,

Areas that have opted out,

State Court Facilities,

Bars (establishments serving only alcohol) but OK in restaurants which serve liquor,

OK to carry on person in vehicle on school grounds, but licensee is prohibited from disembarking from vehicle while carrying.
3. List of misdemeanors to include those dealing with violence and weapons (see attached).
4. Return residency requirement to 90 days.
5. Reciprocity: The Department may enter into agreements with other states. Licensees from approved states must REGISTER their permits, and they must get a copy of State laws and certify they have read and will abide by them.
6. Retired police officers may be granted a permit without training requirements if they apply within one year of retirement and pay the license fee. After receiving a permit, they are subject to all existing revocation and renewal requirements.
7. Page 2, line 19, change "firearms" to "concealed handguns".
8. Return to original statute (old HB 351) prohibition on miniature handguns and derringers.
9. Return to original statute (old HB 351) training requirements, including need to qualify on specified caliber and action type.
10. Return to original statute (old HB 351) requirements for fingerprints and background check.

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56622
North Pole, Alaska 99705
(907) 488-0862

House District 34



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3745

House Of Representatives

SPONSOR STATEMENT

HB 338, CONCEALED HANDGUN REVISIONS

After the passage of House Bill 351 in 1994, providing for the issuance of concealed handgun permits, we heard many comments from prospective applicants and license holders that

1. the process needed to be simplified,
2. the cost needed to be lowered, and
3. most of all, the list of places where a concealed handgun could be carried needed to be less restrictive.

People were discovering that, after subjecting themselves to the lengthy and expensive process of obtaining a concealed handgun permit, they were very limited in where they were allowed to carry their concealed handguns.

Those individuals willing to undergo the rigorous training courses and background checks required to acquire a concealed handgun permit in Alaska must be assumed to be among our most law-abiding, trustworthy, and conscientious citizens. They should not have to be constantly leaving their handguns behind in order to conduct a normal day's business in our state. HB 338 would alleviate this problem.

9-LS1157AF
Luckhaupt
2/6/96

CS FOR HOUSE BILL NO. 338()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Foster, Kelly

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to permits to carry concealed handguns."

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

3 * Section 1. AS 11.61.210 is amended by adding a new subsection to read:

4 (e) In a prosecution under (a)(7) of this section, it is an affirmative defense
5 that the defendant, at the time of possession, was the holder of a valid permit to carry
6 a concealed handgun under AS 18.65.700 - 18.65.790, the deadly weapon was a
7 concealed handgun as defined in AS 18.65.790, and the possession

8 (1) occurred within a propelled vehicle, other than a school bus, and
9 the defendant did not exit the propelled vehicle; and

10 (2) did not occur in a municipality or established village in which the
11 possession of a concealed handgun is prohibited under AS 18.65.780 - 18.65.785.

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

13 (d) In a prosecution under (a)(2) of this section, it is

14 (1) an affirmative defense that the defendant, at the time of

1 possession, was the holder of a valid permit to carry a concealed handgun under
2 AS 18.65.700 - 18.65.790, the loaded firearm was a concealed handgun as defined
3 in AS 18.65.790, the possession occurred at a restaurant or eating place licensed
4 under AS 04.11.100, and the possession did not occur in a municipality or
5 established village in which the possession of concealed handguns is prohibited
6 under AS 18.65.780 - 18.65.785;

7 (2) a defense that the defendant, at the time of possession, was on
8 business premises

9 (A) [(1) ON BUSINESS PREMISES] owned by or leased by the
10 defendant; or

11 (B) [(2) ON BUSINESS PREMISES] in the course of the
12 defendant's employment for the owner or lessee of those premises.

13 * Sec. 3. AS 18.65.700(a) is amended to read:

14 (a) The department shall issue a permit to carry a concealed handgun to a person
15 who

16 (1) applies in person at an office of the Alaska State Troopers;

17 (2) qualifies under AS 18.65.705;

18 (3) submits a completed application on a form provided by the
19 department, that provides the information required under AS 18.65.705 and 18.65.710
20 and is executed under oath; with each application form provided by the department,
21 the department shall provide a copy of the state laws and regulations relating to
22 concealed handguns;

23 (4) submits two complete sets of fingerprints on federal bureau of
24 investigation approved fingerprint cards that are of sufficient quality so that the
25 fingerprints may be processed; the fingerprints must be taken by a person, group, or
26 agency approved by the department; the department shall maintain a list of persons,
27 groups, or agencies approved to take fingerprints and shall provide the list to the public
28 upon request;

29 (5) submits evidence of competence with handguns as provided in
30 AS 18.65.715;

31 (6) provides two frontal view color photographs of the person taken
32 within the preceding 30 days that include the head and shoulders of the person and are

1 of a size specified by the department;

2 (7) shows a valid Alaska driver's license or identification card at the time
3 of application;

4 (8) does not suffer a physical infirmity that prevents the safe handling
5 of a handgun; and

6 (9) pays the application fee required by AS 18.65.720.

7 * Sec. 4. AS 18.65.700(b) is amended to read:

8 (b) The department shall either approve or reject an application for a permit to
9 carry a concealed handgun under (a) of this section within 30 [15] days of receipt of
10 [PERMIT ELIGIBILITY INFORMATION FROM THE FEDERAL BUREAU OF
11 INVESTIGATION OR OTHER AGENCY NECESSARY TO MAKE A
12 DETERMINATION CONCERNING] the application. [THE DEPARTMENT SHALL
13 REQUEST PERMIT ELIGIBILITY INFORMATION UNDER THIS SUBSECTION
14 WITHIN FIVE DAYS OF THE RECEIPT OF THE APPLICATION.] The department
15 shall notify the applicant in writing of the reason for a rejection.

16 * Sec. 5. AS 18.65.705 is amended to read:

17 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is
18 qualified to receive and hold a permit to carry a concealed handgun if the person

19 (1) is 21 years of age or older;

20 (2) is eligible to own or possess a firearm under the laws of this state
21 and under federal law;

22 (3) has not been convicted of and is not currently charged under a
23 complaint, information, indictment, or presentment with a felony under the laws of this
24 state or a similar law of another jurisdiction;

25 (4) has not been convicted, within the five years immediately preceding
26 the application, of, and is not currently charged under a complaint, information,
27 indictment, or presentment with, any of the following misdemeanor offenses or similar
28 laws of another jurisdiction:

29 (A) AS 11.41.230, 11.41.250, 11.41.270;

30 (B) AS 11.46.484(a)(7) [AS 11.46.315, 11.46.320, 11.46.330,
31 11.46.430, 11.46.484];

32 (C) AS 11.51.130;

1 (D) AS 11.56.380 [AS 11.56.330, 11.56.340, FORMER
2 AS 11.56.350, 11.56.380, 11.56.545,] 11.56.700, 11.56.710, 11.56.740, 11.56.780,
3 [11.56.790,] 11.56.800 [, 11.56.805];

4 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

5 or

6 (F) AS 11.71.050, 11.71.060;

7 ~~(5) has not been convicted of two or more class A misdemeanors of this~~
8 ~~state or similar laws of another jurisdiction within the five years immediately preceding~~
9 ~~the application;~~

10 (6) has not within the 10 years immediately preceding the application
11 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;

12 (7) is not now suffering, and has not within the five years immediately
13 preceding the application suffered, from a mental illness as defined in AS 47.30.915;

14 (8) has not been adjudicated as mentally incapacitated by a court of this
15 state, another state, territory, or jurisdiction, or of the United States, unless the
16 guardianship or similar arrangement has been closed or terminated and five years have
17 elapsed since the closure or other termination;

18 (9) is a resident of the state and has been for the 90 days [ONE YEAR]
19 immediately preceding the application for a permit;

20 (10) has not been discharged from the armed forces of the United States
21 under dishonorable conditions;

22 (11) is not an alien who is residing in the United States illegally or a
23 former citizen of the United States who has renounced the person's citizenship;

24 (12) is not an unlawful user of, or addicted to, a controlled substance;

25 (13) is not now the subject of an injunction under AS 25.35.010 -
26 25.35.020 unless the injunction has been dissolved or has expired;

27 (14) is not now in and has not in the three years immediately preceding
28 the application been ordered by a court to complete an alcohol treatment program;

29 (15) is not now in and has not in the three years immediately preceding
30 the application entered a substance abuse treatment program; and

31 (16) has demonstrated competence with handguns as provided in
32 AS 18.65.715.

1 * Sec. 6. AS 18.65.710(a)(3) is amended to read:

2 (3) a statement that the applicant has been furnished with a copy of the
3 state laws and regulations relating to concealed handguns [AS 18.65.700 -
4 18.65.790], has read those sections, and understands them;

5 * Sec. 7. AS 18.65.715 is amended by adding a new subsection to read:

6 (e) Notwithstanding (a) of this section, an honorably retired peace officer who
7 applies for a permit to carry a concealed handgun within one year of the officer's
8 retirement shall be presumed by the department to have satisfied the demonstration of
9 competency required of an applicant for a permit. A demonstration of competency under
10 this section for an honorably retired peace officer

11 (1) is for any action type or caliber;

12 (2) only applies to the initial demonstration of competency; to renew a
13 concealed handgun permit, an honorably retired peace officer must demonstrate
14 competency as provided in (b) of this section.

15 * Sec. 8. AS 18.65 is amended by adding a new section to read:

16 Sec. 18.65.718. RECIPROCITY FOR HOLDERS OF CONCEALED
17 HANDGUN PERMITS FROM OTHER STATES. (a) The department may enter into
18 agreements with other states to provide reciprocity for holders of concealed handgun
19 permits issued by another state to be permitted to carry a concealed handgun in Alaska
20 provided the other state allows holders of concealed handgun permits issued under
21 AS 18.65.700 - 18.65.790 to be permitted to carry concealed handguns in the other state.
22 An agreement under this section, at a minimum, must provide that for a person issued
23 a concealed handgun permit by another state to be reciprocally permitted in this state to
24 carry a concealed handgun the person must submit

25 (1) an application executed under oath that provides information that is
26 substantially similar to that required under AS 18.65.710, including the statement
27 required under AS 18.65.710(a)(3);

28 (2) sufficient information to verify that the person holds a concealed
29 handgun permit in the reciprocal state and to allow the department to register that permit;
30 and

31 (3) a reciprocal application fee that may not exceed the fee set for the
32 application and initial issuance of a permit under AS 18.65.720.

1 (b) A person receiving a reciprocal permit under this section may carry a
2 concealed handgun in the same manner and to the same extent as a person issued a
3 permit under AS 18.65.700. Following issuance of the permit, all aspects concerning the
4 regulation of the permit and the permittee are controlled by AS 18.65.700 - 18.65.790.

5 * Sec. 9. AS 18.65.720 is amended to read:

6 Sec. 18.65.720. FEES. The department shall charge a nonrefundable fee for the
7 processing of the application for and initial issuance of a permit, renewal of a permit, or
8 replacement of a permit. The fees shall be set by regulation and must be based on the
9 actual costs incurred by the department. However, the fee for the processing of an
10 application and initial issuance of a permit may not exceed \$65 [\$125] and the fee for
11 renewal of a permit or replacement of a permit may not exceed \$30 [\$60].

12 * Sec. 10. AS 18.65.740(a) is amended to read:

13 (a) A permit to carry a concealed handgun shall be immediately revoked by the
14 department when the permittee

15 (1) becomes disqualified to receive and hold a permit under
16 AS 18.65.705; or

17 (2) [IS CONVICTED OF TWO CLASS A MISDEMEANORS OF THIS
18 STATE OR SIMILAR LAWS OF ANOTHER JURISDICTION WITHIN A FIVE-
19 YEAR PERIOD IF AT LEAST ONE OF THE CONVICTIONS OCCURS AFTER THE
20 APPLICATION;

21 (3)] knowingly supplied a false or fraudulent answer, statement, or
22 document, or made a material misstatement or omission, in connection with an
23 application for a permit or renewal or replacement of a permit.

24 * Sec. 11. AS 18.65.755(a) is amended to read:

25 (a) A permittee may not carry a concealed handgun into

26 (1) a place where alcoholic beverages are sold for consumption on
27 the premises other than a restaurant or eating place licensed under AS 04.11.100
28 [A LAW ENFORCEMENT OR CORRECTIONAL FACILITY];

29 (2) or on school grounds or a school bus other than while in a
30 propelled vehicle, other than a school bus, and the permittee does not exit the
31 vehicle; in this paragraph, "school grounds" has the meaning given in AS 11.71.900;

32 (3) a courthouse or a courtroom of this state, unless the permittee

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Needs to be reworded

- (A) is a judge; or
- (B) has been authorized to possess a concealed handgun by a judge presiding at that courthouse or courtroom;
- (4) a [BUILDING HOUSING ONLY STATE OR FEDERAL OFFICES OR THE OFFICES OF A POLITICAL SUBDIVISION OF THE STATE, EXCEPT AS AUTHORIZED UNDER (3) OF THIS SUBSECTION;
- (5) AN OFFICE OF THE STATE, FEDERAL GOVERNMENT, OR OF A POLITICAL SUBDIVISION OF THE STATE THAT IS NOT LOCATED IN A BUILDING DESCRIBED IN (4) OF THIS SUBSECTION;
- (6) A PASSENGER LOADING OR UNLOADING AREA OF AN AIRLINE TERMINAL;
- (7) A VESSEL OF THE ALASKA MARINE HIGHWAY SYSTEM;
- (8) A FACILITY PROVIDING SERVICES TO VICTIMS OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT;
- (9) A RESIDENCE WHERE NOTICE THAT CARRYING A CONCEALED HANDGUN IS PROHIBITED HAS BEEN GIVEN BY THE POSTING OF A CONSPICUOUS NOTICE OR BY ORAL STATEMENT BY THE RESIDENT TO THE PERMITTEE;
- (10) A MEETING OF A BUSINESS, CHARITABLE, OR OTHER ORGANIZATION OR ENTITY WHERE NOTICE THAT CARRYING A CONCEALED HANDGUN IS PROHIBITED HAS BEEN GIVEN BY THE POSTING OF CONSPICUOUS NOTICE;
- (11) A FINANCIAL INSTITUTION; IN THIS PARAGRAPH, "FINANCIAL INSTITUTION" MEANS A BANK, SAVINGS BANK, SAVINGS ASSOCIATION, CREDIT UNION, OR OTHER INSTITUTION REGULATED BY THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT UNDER AS 06;
- (12) ANOTHER] place where the possession of a deadly weapon or firearm is prohibited by federal law; or
- (5) [(13)] a municipality or established village that has prohibited the possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

* Sec. 12. AS 18.65.705(5) and 18.65.725(c) are repealed.

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-4271



Wilder Bureau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House Of Representatives

House District 34

February 16, 1996

Legislative Research did an extensive search through Federal laws to find out where firearms are prohibited. The task turned out to be more difficult than expected.

Following is all they could find. They caution us that just because they did not find a location to be prohibited does not mean it is not!

To: From: ALASKA LEGISLATIVE

Federal law prohibits carrying firearms on airplanes.

FR Ch. I (1-1-91 Edition)

cy program. Form, content, ability.

security program required ill-

for the safety of persons traveling in air transportation; interstate air transportation; acts of criminal violence

Y; writing and signed by the holder or any person delegating authority in this matter; the items listed in paragraph of this section, as required and

approved by the Administration.

security program required must include the following, by that section:

procedures and a description of the facilities and equipment used to perform screening functions specified in § 108.9.

procedures and a description of the facilities and equipment used to perform the airplane and facilities functions specified in § 108.13. procedures used to comply with applicable requirements of regarding law enforcement of-

procedures used to comply with requirements of § 108.17 regarding use of X-ray systems.

procedures used to comply with requirements of § 108.19 regarding bomb and air piracy threats.

procedures used to comply with applicable requirements of

curriculum used to accomplish training required by § 108.23.

procedures and a description of the facilities and equipment used to comply with the requirements of regarding explosives detection

Each certificate holder having an approved security program shall--

maintain at least one complete copy of the approved security program in its principal business office;

maintain a complete copy or the pertinent portions of its approved security program or appropriate implementing instructions at each airport

Federal Aviation Administration, DOT

where security screening is being conducted;

(3) Make these documents available for inspection upon request of any Civil Aviation Security Inspector;

(4) Restrict the availability of information contained in the security program to those persons with an operational need-to-know; and

(5) Refer requests for such information by other persons to the Director of Civil Aviation Security of the FAA.

[Doc. No. 108, 46 FR 3786, Jan. 15, 1981, as amended by Amdt. 108-3, 50 FR 28893, July 16, 1985; Amdt. 108-7, 54 FR 33946, Sept. 3, 1989]

§ 108.9 Screening of passengers and property.

(a) Each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program to prevent or deter the carriage aboard airplanes of any explosive, incendiary, or a deadly or dangerous weapon on or about each individual's person or accessible property, and the carriage of any explosive or incendiary in checked baggage.

(b) Each certificate holder required to conduct screening under a security program shall refuse to transport--

(1) Any person who does not consent to a search of his or her person in accordance with the screening system prescribed in paragraph (a) of this section; and

(2) Any property of any person who does not consent to a search or inspection of that property in accordance with the screening system prescribed by paragraph (a) of this section.

(c) Except as provided by its approved security program, each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program for detecting explosives, incendiaries, and deadly or dangerous weapons to inspect each person entering a sterile area at each preboarding screening checkpoint in the United States for which it is responsible, and to inspect all accessible property under that person's control.

§ 108.10

[Doc. No. 108, 46 FR 3786, Jan. 15, 1981, as amended by Amdt. 108-4, 51 FR 1362, May 10, 1986; Amdt. 108-5, 52 FR 48500, Dec. 21, 1987]

§ 108.10 Prevention and management of hijackings and sabotage attempts.

(a) Each certificate holder shall--

(1) Provide and use a Security Coordinator on the ground and in flight for each international and domestic flight, as required by its approved security program; and

(2) Designate the pilot in command as the Inflight Security Coordinator for each flight, as required by its approved security program.

(b) Ground Security Coordinator. Each ground Security Coordinator shall carry out the ground Security Coordinator duties specified in the certificate holder's approved security program.

(c) Inflight Security Coordinator. The pilot in command of each flight shall carry out the Inflight Security Coordinator duties specified in the certificate holder's approved security program.

[Doc. No. 25719-50 FR 28893, July 16, 1985]

§ 108.11 Carriage of weapons.

(a) No certificate holder required to conduct screening under a security program may permit any person to have, nor may any person have, on or about his or her person or property, a deadly or dangerous weapon, either concealed or unconcealed, accessible to him or her while aboard an airplane for which screening is required unless--

(1) The person having the weapon is--

(i) An official or employee of the United States, or a State or political subdivision of a State, or of a municipality who is authorized by his or her agency to have the weapon; or

(ii) Authorized to have the weapon by the certificate holder and the Administrator and has successfully completed a course of training in the use of firearms acceptable to the Administrator.

(2) The person having the weapon needs to have the weapon accessible in connection with the performance of his or her duty from the time he or

From: ALASKA LEGISLATIVE RESEARCH AGENCY

she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned after deplaning.

(3) The certificate holder is notified—

(i) Of the flight on which the armed person intends to have the weapon accessible to him or her at least 1 hour, or in an emergency as soon as practicable, before departure; and

(ii) When the armed person is other than an employee or official of the United States, that there is a need for the weapon to be accessible to the armed person in connection with the performance of that person's duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned to him or her after deplaning.

(4) The armed person identifies himself or herself to the certificate holder by presenting credentials that include his or her clear, full-face picture, his or her signature, and the signature of the authorizing official of his or her service or the official seal of his or her service. A badge, shield, or similar may not be used as the sole means of identification.

(5) The certificate holder—

(i) Ensures that the armed person is familiar with its procedures for carrying a deadly or dangerous weapon aboard its airplane before the time the person boards the airplane;

(ii) Ensures that the identity of the armed person is known to each law enforcement officer and each employee of the certificate holder responsible for security during the boarding of the airplane; and

(iii) Notifies the pilot in command, other appropriate crewmembers, and any other person authorized to have a weapon accessible to him or her aboard the airplane of the location of each authorized armed person aboard the airplane.

(b) No person may, while on board an airplane operated by a certificate holder for which screening is not conducted, carry on or about that person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph does not apply to—

(1) Officials or employees of a municipality or a State, or of the United States, who are authorized to carry arms; or

(2) Crewmembers and other persons authorized by the certificate holder to carry arms.

(c) No certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any explosive, incendiary or a loaded firearm in checked baggage aboard an airplane. For the purpose of this section, a loaded firearm means a firearm which has a live round of ammunition, cartridge, detonator, or powder in the chamber or in a clip, magazine, or cylinder inserted in it.

(d) No certificate holder may knowingly permit any person to transport, nor may any person transport or tender for transport, any unloaded firearm in checked baggage aboard an airplane unless—

(1) The passenger declares to the certificate holder, either orally or in writing before checking the baggage, that any firearm carried in the baggage is unloaded;

(2) The firearm is carried in a container the certificate holder considers appropriate for air transportation;

(3) When the firearm is other than a shotgun, rifle, or other firearm normally fired from the shoulder position, the baggage in which it is carried is locked, and only the passenger checking the baggage retains the key or combination; and

(4) The baggage containing the firearm is carried in an area, other than the flightcrew compartment, that is inaccessible to passengers.

(e) No certificate holder may serve any alcoholic beverage to a person having a deadly or dangerous weapon accessible to him or her nor may such person drink any alcoholic beverage while aboard an airplane operated by the certificate holder.

(f) Paragraphs (a), (b), and (d) of this section do not apply to the carriage of firearms aboard air carrier flights conducted for the military forces of the Government of the United States when the total cabin load of the airplane is under exclusive

use by those military forces whose operating conditions are met:

(1) No firearm is loaded; and such firearms are locked in their open position; and

(2) The certificate holder by the unit commander or other person in charge of the flight before that weapons will be carried on the aircraft.

[Doc. No. 108, 46 FR 3786, Jan 10, 1981, amended by Amdt. 108-4, 51 FR 10, 1986]

§ 108.13 Security of airplanes

Each certificate holder conduct screening under program shall use the procedures described, and the facilities and equipment described, in its approved program to perform the control functions with respect to airplane operation for which a security program is required:

(a) Prohibit unauthorized persons from boarding the airplane.

(b) Ensure that baggage is checked in a manner that identifies the person responsible for the baggage and that identification is obtained from persons known to the certificate holder, including known shippers, shipping agents, and other persons handling cargo aboard the airplane.

(c) Ensure that cargo is handled in a manner that prevents unauthorized access.

(d) Conduct a security check of the airplane before placement and after it has been loaded.

§ 108.14 Transportation of Federal Air Marshals

(a) Each certificate holder shall carry Federal Air Marshal number and manner specified by the Administrator, on each scheduled public charter passenger aircraft designated by the Administrator.

(b) Each Federal Air Marshal may be carried on a first priority basis without charge while on duty, including repositioning flights.

(c) Each certificate holder shall assign the specific seat required for each Federal Air Marshal who is on duty.

Officials or employees of a municipality or a State, or of the United States, who are authorized to carry

firearms and other persons authorized by the certificate holder to do so.

A certificate holder may knowingly permit any person to transport, or any person to transport or for transport, any explosive, incendiary, or a loaded firearm in baggage aboard an airplane.

For the purpose of this section, a loaded firearm means a firearm which contains a round of ammunition, cartridge, or powder in the chamber or in a clip, magazine, or cylinder inserted in it.

A certificate holder may knowingly permit any person to transport, or any person to transport or for transport, any unloaded firearm in checked baggage aboard an airplane unless—

(1) The passenger declares to the certificate holder, either orally or in writing before checking the baggage, that the firearm carried in the baggage is unloaded;

(2) The firearm is carried in a container that the certificate holder considers suitable for air transportation;

(3) When the firearm is other than a rifle, or other firearm not stored from the shoulder position, the baggage in which it is carried is locked, and only the passenger whose baggage retains the key to the container; and

(4) The baggage containing the firearm is carried in an area, other than the crew compartment, that is inaccessible to passengers.

(5) A certificate holder may serve alcoholic beverage to a person who is not a deadly or dangerous weapon available to him or her nor may such person drink any alcoholic beverage aboard an airplane operated by a certificate holder.

Paragraphs (a), (b), and (d) of this section do not apply to the carriage of firearms aboard air carrier aircraft conducted for the military or the Government of the United States when the total cabin capacity of the airplane is under exclusive

use by those military forces if the following conditions are met:

(1) No firearm is loaded and all bolts to such firearms are locked in the open position; and

(2) The certificate holder is notified by the unit commander or officer in charge of the flight before boarding that weapons will be carried aboard the aircraft.

(Doc. No. 108, 46 FR 3786, Jan. 15, 1981, as amended by Amdt. 108-4, 51 FR 1362, Jan. 10, 1986)

§ 108.13 Security of airplanes and facilities.

Each certificate holder required to conduct screening under a security program shall use the procedures included, and the facilities and equipment described, in its approved security program to perform the following control functions with respect to each airplane operation for which screening is required:

(a) Prohibit unauthorized access to the airplane.

(b) Ensure that baggage carried in the airplane is checked in by a responsible agent and that identification is obtained from persons, other than known shippers, shipping goods or cargo aboard the airplane.

(c) Ensure that cargo and checked baggage carried aboard the airplane is handled in a manner that prohibits unauthorized access.

(d) Conduct a security inspection of the airplane before placing it in service and after it has been left unattended.

§ 108.14 Transportation of Federal Air Marshals.

(a) Each certificate holder shall carry Federal Air Marshals, in the number and manner specified by the Administrator, on each scheduled and public charter passenger operation designated by the Administrator.

(b) Each Federal Air Marshal shall be carried on a first priority basis and without charge while on official duty, including repositioning flights.

(c) Each certificate holder shall assign the specific seat requested by a Federal Air Marshal who is on official duty.

(Doc. No. 24714, 50 FR 27926, July 2, 1985)

§ 108.15 Law enforcement officers.

(a) At airports within the United States not governed by part 107 of this chapter, each certificate holder engaging in scheduled passenger or public charter passenger operations shall—

(1) If security screening is required for a public charter operation by § 108.5(a), or for a scheduled passenger operation by § 108.5(b) provide for law enforcement officers meeting the qualifications and standards, and in the number and manner specified, in part 107; and

(2) When using airplanes with a passenger seating configuration of 31 through 60 seats in a public charter operation for which screening is not required, arrange for law enforcement officers meeting the qualifications and standards specified in part 107 to be available to respond to an incident, and provide to its employees, including crewmembers, as appropriate, current information with respect to procedures for obtaining law enforcement assistance at that airport.

(b) At airports governed by part 107 of this chapter, each certificate holder engaging in scheduled or public charter passenger operations, when using airplanes with a passenger seating configuration of 31 through 60 seats for which screening is not required, shall arrange for law enforcement officers meeting the qualifications and standards specified in part 107 to be available to respond to an incident and provide to its employees, including crewmembers, as appropriate, current information with respect to procedures for obtaining this law enforcement assistance at that airport.

§ 108.17 Use of X-ray systems.

(a) No certificate holder may use an X-ray system within the United States to inspect carry-on or checked articles unless specifically authorized under a security program required by § 108.5 of this part or use such a system contrary to its approved security program. The Administrator authorizes certificate holders to use X-ray systems for inspecting carry-on or checked articles

Federal law prohibits carrying firearms into Federal facilities and Federal court facilities.

From:

ALASKA LEGISLATIVE RESEARCH AGENCY 3351

Rules and Regulations Governing Public Buildings and Grounds

June 1991

Federal Property Management Regulations Title 41, Code of Federal Regulations, Subpart 101-20.3

Authority. These rules and regulations are promulgated pursuant to Public Law 968, 80th Congress, approved June 1, 1948 (Title 40, U.S. Code 311c) and the Federal Property and Administrative Services Act of 1949 (Title 41, United States Statutes at Large, 377), as amended.

Applicability (41 CFR 101-20.300). These rules and regulations apply to all property under the charge and control of the General Services Administration and to all persons entering in or on such property. Each occupant agency shall be responsible for the observance of these rules and regulations.

Inspection (41 CFR 102-20.301). Packages, briefcases, and other containers in the immediate possession of visitors, employees, or other persons arriving on, working at, visiting, or departing from Federal property, are subject to inspection. A full search of a person and any vehicle driven or occupied by the person may accompany an arrest.

Admission to property (41 CFR 101-20.302). Property shall be closed to the public during other than normal working hours. The closing of property will not apply to that space in those instances where the Government has approved the after-normal-working-hours use of buildings or portions thereof for activities authorized by Subpart 101-20.4. During normal working hours, property shall be closed to the public only when announced requirements are in effect to ensure the orderly conduct of Government business. The decision to close the property shall be made by the designated official under the Occupant Emergency Program after consultation with the building manager and the nearest representative of the Law Enforcement Branch responsible for protection of the facility or the area. The designated official is defined in § 101-20.003(a) as the highest ranking official of the primary occupant agency, or the alternate highest ranking official or designee selected by mutual agreement by other occupant agency officials. When property, or a portion thereof, is closed to the public, admission to this property, or a portion, will be restricted to authorized persons who shall register upon entry to the property and shall, when requested, display Government or other identifying credentials in the Federal Protective Officer or other authorized individuals when entering, leaving, or while on the property. Failure to comply with any of the above applicable provisions is a violation of these regulations.

Preservation of property (41 CFR 100-20.303). The improper disposal of rubbish on property; the willful destruction of or damage to property; the theft of property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from or on a building or the discharging upon streets, thoroughfares, or any part of the

building, is prohibited.

Conformity with signs and directions (41 CFR 101-20.304). Persons in and on property shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the lawful directions of Federal Protective Officers and other authorized individuals.

Disturbance (41 CFR 101-20.305). Any loitering, disorderly conduct, or other conduct on property which creates loud or unusual noise or a nuisance which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees or which prevents the general public from obtaining the administrative services provided on the property in a timely manner, is prohibited.

Gambling (41 CFR 101-20.306). Participating in games for money or other personal property or the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on property is prohibited. This prohibition shall not apply to the vending or exchange of chances by licensed blind operators of vending facilities for any lottery set forth in a State law and authorized by section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107, et seq.).

Alcoholic beverages and narcotics (41 CFR 101-20.307). Operation of a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering upon the property, or while on the property, under the influence of or using or possessing any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine is prohibited. The prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a licensed physician. Entering upon the property, or being on the property, under the influence of alcoholic beverages is prohibited. The use of alcoholic beverages on property is prohibited except, upon occasion and on property upon which the head of the responsible agency or his or her designee has for appropriate official uses granted an exemption in writing. The head of the responsible agency or his or her designee shall provide a copy of all exemptions granted to the building manager and the Chief, Law Enforcement Branch, or other authorized officials, responsible for the security of the property.

Soliciting, vending, and debt collection (41 CFR 101-20.308). Soliciting alms, commercial or political soliciting, and vending of all kinds, currying or distributing commercial advertisements, or collecting

private debts on GSA-controlled property is prohibited. This rule does not apply to (a) national or local drives for funds for welfare, health, or other purposes as authorized by 5 CFR, Parts 110 and 950, Solicitation of Federal Civilian and Uniformed Services Personnel for Contributions to Private Voluntary Organizations, issued by the U.S. Office of Personnel Management under Executive Order 12353 of March 23, 1982, as amended, and sponsored or approved by the occupant agency; (b) cocoanuts or personal notices posted by employees on authorized bulletin boards; (c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95-454); and (d) lease, or its agents and employees, with respect to space leased for commercial, cultural, educational, or recreational use under the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 490(a)(16)). Public uses of GSA-controlled property may be used for other activities permitted in accordance with Subpart 101-20.4.

Posting and distributing materials (41 CFR 101-20.309). Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere on GSA-controlled property is prohibited, except as authorized in § 101-20.308 or when these displays are conducted as part of authorized Government activities. Distribution of materials, such as pamphlets, handbills, or flyers, is prohibited, except in the public area of the property as defined in § 101-20.003(d), unless conducted as part of authorized Government activities. Any person or organization proposing to distribute materials in a public area under this section shall first obtain a permit from the building manager under Subpart 101-20.4 and shall conduct distribution in accordance with the provisions of Subpart 101-20.4. Failure to comply with those provisions is a violation of these regulations.

Photographs for news, advertising, or essential purposes (41 CFR 101-20.310). Photographs may be taken in space occupied by a tenant agency only with the consent of the occupying agency concerned. Except when security regulations apply or a Federal court order or rule prohibits it, photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Subject to the foregoing prohibitions, photographs for advertising and commercial purposes may be taken only with written permission of an authorized official of the agency occupying the space where the photographs are to be taken.

Dogs and other animals (41 CFR 101-20.311). Dogs and other animals, except seeing eye dogs, other guide dogs, and animals used to guide or assist handicapped persons, shall not be brought upon

property for other than official purposes.

Vehicle and pedestrian traffic (41 CFR 101-20.312). (a) Drivers of all vehicles entering or while on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of Federal Protective Officers or other authorized individuals and all posted traffic signs. (b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants on property is prohibited; and (c) Except in emergencies, parking on property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, when warning signs are posted, shall be subject to removal at the owner's risk and expense. This paragraph may be supplemented from time to time with the approval of the Regional Administrator by the issuance and posting of such specific traffic directives as may be required, and when so issued such posted such directives shall have the same force and effect as if made a part thereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

Explosives (41 CFR 101-20.313). No person entering or while on property shall carry or possess explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes. (Weapons, see Title 18, U.S. Code Section 930.)

Non-discrimination (41 CFR 101-20.314). There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on the property.

Penalties and other laws (41 CFR 101-20.315). Whoever shall be found guilty of violating any rule or regulation in this Subpart 101-20.3 while on any property under the charge and control of the U.S. General Services Administration is subject to a fine of not more than \$50 or imprisonment of not more than 30 days, or both. (See Title 40, U.S. Code 311c.) Nothing in these rules and regulations shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to any area in which the property is situated (Sec. 205(c), 61 U.S. Statutes, 190, 40 U.S. Code 446(c)).



WARNING

Title 18, United States Code, Section 930 WEAPONS PROHIBITED

Federal law prohibits the knowing possession or the causing to be present of firearms or other dangerous weapons in Federal facilities and Federal court facilities by all persons not specifically authorized by Title 18, United States Code, Section 930(c). Violators shall be subject to fine and/or imprisonment for periods up to five (5) years.



U.S. General Services Administration

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Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(b) Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this section, nor place the person on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment, including that imposed for the crime in which the armor piercing ammunition was used or possessed. No person sentenced under this section shall be eligible for parole during the term of imprisonment imposed herein.

(Added Oct. 12, 1984, P. L. 98-473, Title II, Ch X, Part E, § 1006(a), 98 Stat. 2139; May 19, 1986, P. L. 99-308, § 108, 100 Stat. 460; Aug. 28, 1986, P. L. 99-408, § 8, 100 Stat. 921; Nov. 18, 1988, P. L. 100-690, Title VI, Subtitle G, § 6212, Title VII, Subtitle B, § 7060(b), 102 Stat. 4360, 4404.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

Act Aug. 28, 1986, P. L. 99-408 § 8(1) purported to amend subsec. (a) of this section by striking out "violence including" and by inserting "violence (including)"; however the amendment was executed to subsec. (a), para. (1), as so designated by Act May 19, 1986 and by substituting "(including)" for "including" following "drug trafficking crime," as added by such Act May 19, 1986, as the probable intent of Congress. The May 19, 1986 amendments were to have become effective 180 days after enactment on May 19, 1986 and so would not have been effective at the time Act Aug. 28, 1986 was enacted.

Amendments:

1986. Act May 19, 1986 (effective 180 days after enactment on 5/19/86, as provided by § 110(a) of such Act, which appears as 18 USCS § 921 note), in subsec. (a), designated the existing provisions as para. (1) and, in para. (1) as so designated, substituted "violence or drug trafficking crime," for "violence" wherever appearing, and added para. (2).

Act Aug. 28, 1986 (effective on enactment on 8/28/86, as provided by § 9 of such Act, which appears as 18 USCS § 921 note), in subsec. (a)(1), substituted "(including)" for "including" [see the Explanatory notes to this section] and substituted "device" for "device for", substituted "uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm" for "uses or carries any handgun loaded with armor-piercing ammunition as defined in subsection (b)", deleted "nor more than ten" following "five", and deleted "Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other terms of imprisonment including that imposed for the felony in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein." following "years."; and substituted subsec. (b) for one which read:

"(b) For purposes of this section—

"(1) 'armor-piercing ammunition' means ammunition which, when or if fired from any handgun used or carried in violation of subsection (a) under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December 1978, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978; and

"(2) 'handgun' means any firearm, including a pistol or revolver, originally designed to be fired by the use of a single hand."

1988. Act Nov. 18, 1988, in subsec. (a), in para. (1), substituted "trafficking crime" for "trafficking crime," wherever appearing, and substituted para. (2) for one which read:

"For purposes of this subsection, the term 'drug trafficking crime' means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))."

Other provisions:

State firearms laws and published ordinances to be provided to licensees; annual publication in Federal Register. For provisions requiring the Secretary to publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to 18 USCS §§ 921 et seq., and to publish same in the Federal Register, see Act May 19, 1986, P. L. 99-308, § 110(a), 100 Stat. 460, which appears as 18 USCS § 921 note.

CROSS REFERENCES

As to sentencing guidelines for this section, see the appendix entitled "Sentencing Guidelines for U.S. Courts" at the end of Title 18.

§ 930. Possession of firearms and dangerous weapons in Federal facilities

(a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

(b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) A person who kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.

(d) Subsection (a) shall not apply to—

(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

(46 U.S.C. App. 1901

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(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

(e)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection [(d)] (c).

(f) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

(g) As used in this section:

(1) The term "Federal facility" means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.

(2) The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(3) The term "Federal court facility" means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.

[(h)](g) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and notice of subsection [(e)] (d) shall be posted conspicuously at each public entrance to each Federal court facility, and no person shall be convicted of an offense under subsection (a) or [(e)] (d) with respect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a) or [(e)] (d), as the case may be.

(Added Nov. 18, 1988, P. L. 100-690, Title VI, Subtitle G, § 6215(a), 102 Stat. 4361; Nov. 29, 1990, P. L. 101-647, Title XXII, § 2205(a), 104 Stat. 4858; Sept. 13, 1994, P. L. 103-322, Title VI, § 60014, 108 Stat. 1973.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

The bracketed designation "(h)" has been inserted preceding the second subsec. (g) in order to maintain alphabetical continuity.

The bracketed subsection designations "(d)" and "(e)" have been inserted in the text of subsecs. (e)(2) and [(h)] (g) as the references probably intended by Congress pursuant to redesignations made by Act Sept. 13, 1994, P. L. 103-322.

Amendments:

1990. Act Nov. 29, 1990 (applicable to conduct engaged in after enactment of this Act, as provided by § 2205(b) of such Act, which appears as a note to this section), in subsec. (a), inserted "(other than a Federal court facility)", redesignated former subsecs. (d)-(f) as subsecs. (e)-(g), respectively; and added a new subsec. (d); in subsec. (f), as so redesignated, added para. (3); in subsec. (g), as so redesignated, inserted "and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility," "or (d)" and "or (d), as the case may be".

1994. Act Sept. 13, 1994 redesignated subsecs. (c)-(f) as subsecs. (d)-(g), respectively; in subsec. (a), substituted "(d)" for "(c)"; and added new subsec. (c).

Other provisions:

Effective date of Act Nov. 29, 1990 amendment of section. Act Nov. 29, 1990, P. L. 101-647, Title XXII, § 2205(b), 104 Stat. 4858, provides: "The amendments made by subsection (a) (amending this section) shall apply to conduct engaged in after the date of the enactment of this Act."

INTERPRETIVE NOTES AND DECISIONS

Jury was properly advised that in order to find that government had given "conspicuous notice" of prohibition against firearms possession, it must find that notice was "reasonably calculated to warn public," since "calculated" means "adapted, suited; proper," and did not imply that

government need only demonstrate that it made reasonable effort to notify public. United States v Linstedt 1993, CA9 Or) 997 F2d 665, 93 CDOS 5135, 93 Daily Journal DAR 8661.

CHAPTER 45. FOREIGN RELATIONS

Section

968, 969. [Repealed]

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1990. Act Nov. 29, 1990, P. L. 101-647, Title XII, § 1206(a), 104 Stat. 4833, amended the analysis of this chapter by deleting items 968 and 969 which read:

"968. Exportation of war materials to certain countries

"969. Exportation of arms, liquors and narcotics to Pacific Islands".

§ 3530 of Title XXXV of such Act, 104 Stat. 4924, purported to amend the analysis of this chapter by deleting item 968, however such amendment had already been made. See amendment note above.

Federal law prohibits carrying firearms in some National Parks.

§ 13.19

for specific park areas in subpart C of this part.

(b) *Picnicking.* Picnicking is permitted in park areas except where such activity is prohibited by the posting of appropriate signs.

§ 13.19 Weapons, traps and nets.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(b) Firearms may be carried within park areas in accordance with applicable Federal and State laws, except where such carrying is prohibited or otherwise restricted pursuant to § 13.30.

(c) Traps, bows and other implements authorized by State and Federal law for the taking of fish and wildlife may be carried within National Preserves only during those times when the taking of fish and wildlife is authorized by applicable law or regulation.

(d) In addition to the authorities provided in paragraphs (b) and (c) of this section, weapons (other than firearms) traps and nets may be possessed within park areas provided such weapons, traps or nets are within or upon a device or animal used for transportation and are unloaded and cased or otherwise packed in such a manner as to prevent their ready use while in a park area.

(e) Notwithstanding the provisions of this section, local rural residents who are authorized to engage in subsistence uses, including the taking of wildlife pursuant to § 13.48, may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal laws.

§ 13.20 Preservation of natural features.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park, Glacier Bay National Monument, and Katmai National Monument.

(b) *Renewable Resources.* The gathering or collecting, by hand and for per-

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sonal use only, of the following renewable resources is permitted:

(1) Natural plant food items, including fruits, berries and mushrooms, but not including threatened or endangered species;

(2) Driftwood and uninhabited sea-shells;

(3) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans; and

(4) Dead or downed wood for use in fires within park areas.

(c) *Rocks and Minerals.* Surface collection, by hand (including hand-held gold pans) and for personal recreational use only, of rocks and minerals is permitted: *Provided, however,* That (1) collection of silver, platinum, gemstones and fossils is prohibited, and (2) collection methods which may result in disturbance of the ground surface, such as the use of shovels, pick-axes, sluice boxes, and dredges, are prohibited.

(d) *Closure and Notice.* Under conditions where it is found that significant adverse impact on park resources, wildlife populations, subsistence uses, or visitor enjoyment of resources will result, the Superintendent shall prohibit the gathering or otherwise restrict the collecting of these items. Portions of a park area in which closures or restrictions apply shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection in the office of the Superintendent, or (2) designated by the posting of appropriate signs, or (3) both.

(e) *Subsistence.* Nothing in this section shall apply to local rural residents authorized to take renewable resources.

§ 13.21 Taking of fish and wildlife.

(a) *Subsistence.* Nothing in this section shall apply to the taking of fish and wildlife for subsistence uses.

(b) *Fishing.* Fishing is permitted in all park areas in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations to the extent they are not inconsistent with § 2.3 of this chapter.

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(b) State fishing licenses are not required in Big Bend, Crater Lake, Denali, Glacier, Isle Royale (inland waters only), Mammoth Cave, Mount Rainer, Olympic and Yellowstone National Parks.

(c) Except in emergencies or in areas under the exclusive jurisdiction of the United States, the superintendent shall consult with appropriate State agencies before invoking the authority of §1.5 for the purpose of restricting or closing park areas to the taking of fish.

(d) The following are prohibited:

(1) Fishing in fresh waters in any manner other than by hook and line, with the rod or line being closely attended.

(2) Possessing or using as bait for fishing in fresh waters, live or dead minnows or other bait fish, amphibians, nonpreserved fish eggs or fish roe, except in designated waters. Waters which may be so designated shall be limited to those where non-native species are already established. Scientific data indicate that the introduction of additional numbers or types of non-native species would not impact populations of native species adversely, and park management plans do not call for elimination of non-native species.

(3) Chumming or placing preserved or fresh fish eggs, fish roe, food, fish parts, chemicals, or other foreign substances in fresh waters for the purpose of feeding or attracting fish in order that they may be taken.

(4) Commercial fishing, except where specifically authorized by Federal statutory law.

(5) Fishing by the use of drugs, poisons, explosives, or electricity.

(6) Digging for bait, except in privately owned lands.

(7) Failing to return carefully and immediately to the water from which it was taken a fish that does not meet size or species restrictions or that the person chooses not to keep. Fish so released shall not be included in the catch or possession limit. *Provided*, That at the time of catching the person did not possess the legal limit of fish.

(8) Fishing from motor road bridges, from or within 200 feet of a public raft or float designated for water sports, or within the limits of locations designated as swimming beaches, surfing areas, or public boat docks, except in designated areas.

(e) Except as otherwise designated, fishing with a net, spear, or weapon in the salt waters of park areas shall be in accordance with State law.

(f) Authorized persons may check fishing licenses and permits; inspect creels, tackle and fishing gear for compliance with equipment restrictions; and inspect fish that have been taken for compliance with species, size and other taking restrictions.

(g) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

[48 FR 30282, June 30, 1983, as amended at 52 FR 35240, Sept. 18, 1987]

§2.4 Weapons, traps and nets.

(a) (1) Except as otherwise provided in this section and parts 7 (special regulations) and 13 (Alaska regulations), the following are prohibited:

- (i) Possessing a weapon, trap or net
- (ii) Carrying a weapon, trap or net
- (iii) Using a weapon, trap or net

(2) Weapons, traps or nets may be carried, possessed or used:

(i) At designated times and locations in park areas where:

(A) The taking of wildlife is authorized by law in accordance with §2.2 of this chapter;

(B) The taking of fish is authorized by law in accordance with §2.3 of this part.

(ii) When used for target practice at designated times and at facilities or locations designed and constructed specifically for this purpose and designated pursuant to special regulations.

(iii) Within a residential dwelling. For purposes of this subparagraph only, the term "residential dwelling" means a fixed housing structure which is either the principal residence of its occupants, or is occupied on a regular and recurring basis by its occupants as

an alternate home.

(3) Traps, nets, may be possessed, lodging or maintenance when considered temporary, packed, cased that will prevent

(b) Carrying a weapon in a other mode of ited, except that a loaded weapon when such vessel by machinery platform in and State law.

(c) The use in a manner that property is protected

(d) The superintendent permit to carry trap or net circumstances:

(1) When research activities in accordance with §2.5

(2) To carry a charge of pack for emergency

(3) For employing officials, their official duties

(4) To provide accessible land to a park area, access are otherwise possible.

Violation of any of a permit in paragraph is prohibited in the suspension of permit.

(e) Authorized local law enforcement carry firearms, their official duties

(f) The carrying a weapon, trap or net applicable Federal regulations prohibited.

(g) The regulations in this section apply, in addition to State law, on all lands

from motor road bridges, within 200 feet of a public raft, or other structures used for water sports, or other activities. Permits of locations des-ignating swimming beaches, surfing, and boat docks, except in those areas otherwise designated.

Weapons, traps, and nets, or other equipment of park areas shall be in accordance with State law.

Authorized persons may check traps and permits; inspect traps and fishing gear for compliance with equipment restrictions; and check fish that have been taken for compliance with species, size and other restrictions.

Regulations contained in this section, regardless of land owner-ship, apply to all lands and waters within a park area under the legislative jurisdiction of the United States.

Authority: 48 FR 30282, June 30, 1983, as amended at 52 FR 18450, Apr. 30, 1987; 52 FR 35240, Sept. 18, 1987.

§ 2.5 Traps and nets.

Weapons, traps, and nets, or other equipment of park areas shall be in accordance with State law.

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Weapons, traps, and nets, or other equipment of park areas shall be in accordance with State law.

an alternate residence or vacation home.

(3) Traps, nets and unloaded weapons may be possessed within a temporary lodging or mechanical mode of conveyance when such implements are rendered temporarily inoperable or are packed, cased or stored in a manner that will prevent their ready use.

(b) Carrying or possessing a loaded weapon in a motor vehicle, vessel or other mode of transportation is prohibited, except that carrying or possessing a loaded weapon in a vessel is allowed when such vessel is not being propelled by machinery and is used as a shooting platform in accordance with Federal and State law.

(c) The use of a weapon, trap or net in a manner that endangers persons or property is prohibited.

(d) The superintendent may issue a permit to carry or possess a weapon, trap or net under the following circumstances:

(1) When necessary to support research activities conducted in accordance with § 2.5.

(2) To carry firearms for persons in charge of pack trains or saddle horses for emergency use.

(3) For employees, agents or cooperating officials in the performance of their official duties.

(4) To provide access to otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible.

Violation of the terms and conditions of a permit issued pursuant to this paragraph is prohibited and may result in the suspension or revocation of the permit.

(e) Authorized Federal, State and local law enforcement officers may carry firearms in the performance of their official duties.

(f) The carrying or possessing of a weapon, trap or net in violation of applicable Federal and State laws is prohibited.

(g) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a

park area that are under the legislative jurisdiction of the United States.

[48 FR 30282, June 30, 1983, as amended at 49 FR 18450, Apr. 30, 1984; 52 FR 35240, Sept. 18, 1987]

§ 2.5 Research specimens.

(a) Taking plants, fish, wildlife, rocks or minerals except in accordance with other regulations of this chapter or pursuant to the terms and conditions of a specimen collection permit, is prohibited.

(b) A specimen collection permit may be issued only to an official representative of a reputable scientific or educational institution or a State or Federal agency for the purpose of research, baseline inventories, monitoring, impact analysis, group study, or museum display when the superintendent determines that the collection is necessary to the stated scientific or resource management goals of the institution or agency and that all applicable Federal and State permits have been acquired, and that the intended use of the specimens and their final disposal is in accordance with applicable law and Federal administrative policies. A permit shall not be issued if removal of the specimen would result in damage to other natural or cultural resources, affect adversely environmental or scenic values, or if the specimen is readily available outside of the park area.

(c) A permit to take an endangered or threatened species listed pursuant to the Endangered Species Act, or similarly identified by the States, shall not be issued unless the species cannot be obtained outside of the park area and the primary purpose of the collection is to enhance the protection or management of the species.

(d) In park areas where the enabling legislation authorizes the killing of wildlife, a permit which authorizes the killing of plants, fish or wildlife may be issued only when the superintendent approves a written research proposal and determines that the collection will benefit science or has the potential for improving the management and protection of park resources.

(e) In park areas where enabling legislation does not expressly prohibit the killing of wildlife, a permit authorizing the killing of plants, fish or wildlife

9-LS1157F
Luckhaupt
2/6/96

CS FOR HOUSE BILL NO. 338()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Foster, Kelly

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to permits to carry concealed handguns."

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

3 * Section 1. AS 11.61.210 is amended by adding a new subsection to read:

4 (e) In a prosecution under (a)(7) of this section, it is an affirmative defense
5 that the defendant, at the time of possession, was the holder of a valid permit to carry
6 a concealed handgun under AS 18.65.700 - 18.65.790, the deadly weapon was a
7 concealed handgun as defined in AS 18.65.790, and the possession

8 (1) occurred within a propelled vehicle, other than a school bus, and
9 the defendant did not exit the propelled vehicle; and

10 (2) did not occur in a municipality or established village in which the
11 possession of a concealed handgun is prohibited under AS 18.65.780 - 18.65.785.

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

13 (d) In a prosecution under (a)(2) of this section, it is

14 (1) an affirmative defense that the defendant, at the time of

1 possession, was the holder of a valid permit to carry a concealed handgun under
2 AS 18.65.700 - 18.65.790, the loaded firearm was a concealed handgun as defined
3 in AS 18.65.790, the possession occurred at a restaurant or eating place licensed
4 under AS 04.11.100, and the possession did not occur in a municipality or
5 established village in which the possession of concealed handguns is prohibited
6 under AS 18.65.780 - 18.65.785:

7 (2) a defense that the defendant, at the time of possession, was on
8 business premises

9 (A) [(1) ON BUSINESS PREMISES] owned by or leased by the
10 defendant; or

11 (B) [(2) ON BUSINESS PREMISES] in the course of the
12 defendant's employment for the owner or lessee of those premises.

13 * Sec. 3. AS 18.65.700(a) is amended to read:

14 (a) The department shall issue a permit to carry a concealed handgun to a person
15 who

16 (1) applies in person at an office of the Alaska State Troopers;

17 (2) qualifies under AS 18.65.705;

18 (3) submits a completed application on a form provided by the
19 department, that provides the information required under AS 18.65.705 and 18.65.710
20 and is executed under oath; with each application form provided by the department,
21 the department shall provide a copy of the state laws and regulations relating to
22 concealed handguns;

23 (4) submits two complete sets of fingerprints on federal bureau of
24 investigation approved fingerprint cards that are of sufficient quality so that the
25 fingerprints may be processed; the fingerprints must be taken by a person, group, or
26 agency approved by the department; the department shall maintain a list of persons,
27 groups, or agencies approved to take fingerprints and shall provide the list to the public
28 upon request;

29 (5) submits evidence of competence with handguns as provided in
30 AS 18.65.715;

31 (6) provides two frontal view color photographs of the person taken
32 within the preceding 30 days that include the head and shoulders of the person and are

1 of a size specified by the department;

2 (7) shows a valid Alaska driver's license or identification card at the time
3 of application;

4 (8) does not suffer a physical infirmity that prevents the safe handling
5 of a handgun; and

6 (9) pays the application fee required by AS 18.65.720.

7 * Sec. 4. AS 18.65.700(b) is amended to read:

8 (b) The department shall either approve or reject an application for a permit to
9 carry a concealed handgun under (a) of this section within 30 [15] days of receipt of
10 [PERMIT ELIGIBILITY INFORMATION FROM THE FEDERAL BUREAU OF
11 INVESTIGATION OR OTHER AGENCY NECESSARY TO MAKE A
12 DETERMINATION CONCERNING] the application. [THE DEPARTMENT SHALL
13 REQUEST PERMIT ELIGIBILITY INFORMATION UNDER THIS SUBSECTION
14 WITHIN FIVE DAYS OF THE RECEIPT OF THE APPLICATION.] The department
15 shall notify the applicant in writing of the reason for a rejection.

16 * Sec. 5. AS 18.65.705 is amended to read:

17 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is
18 qualified to receive and hold a permit to carry a concealed handgun if the person

19 (1) is 21 years of age or older;

20 (2) is eligible to own or possess a firearm under the laws of this state
21 and under federal law;

22 (3) has not been convicted of and is not currently charged under a
23 complaint, information, indictment, or presentment with a felony under the laws of this
24 state or a similar law of another jurisdiction;

25 (4) has not been convicted, within the five years immediately preceding
26 the application, of, and is not currently charged under a complaint, information,
27 indictment, or presentment with, any of the following misdemeanor offenses or similar
28 laws of another jurisdiction:

29 (A) AS 11.41.230, 11.41.250, 11.41.270;

30 (B) AS 11.46.484(a)(7) [AS 11.46.315, 11.46.320, 11.46.330,
31 11.46.430, 11.46.484];

32 (C) AS 11.51.130;

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(D) AS 11.56.380 [AS 11.56.330, 11.56.340, FORMER AS 11.56.350, 11.56.380, 11.56.545,] 11.56.700, 11.56.710, 11.56.740, 11.56.780, [11.56.790,] 11.56.800 [, 11.56.805];

(E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

or

(F) AS 11.71.050, 11.71.060;

(5) has not been convicted of two or more class A misdemeanors of this state or similar laws of another jurisdiction within the five years immediately preceding the application;

(6) has not within the 10 years immediately preceding the application been adjudicated a delinquent for a felony offense of this state or another jurisdiction;

(7) is not now suffering, and has not within the five years immediately preceding the application suffered, from a mental illness as defined in AS 47.30.915;

(8) has not been adjudicated as mentally incapacitated by a court of this state, another state, territory, or jurisdiction, or of the United States, unless the guardianship or similar arrangement has been closed or terminated and five years have elapsed since the closure or other termination;

(9) is a resident of the state and has been for the 90 days [ONE YEAR] immediately preceding the application for a permit;

(10) has not been discharged from the armed forces of the United States under dishonorable conditions;

(11) is not an alien who is residing in the United States illegally or a former citizen of the United States who has renounced the person's citizenship;

(12) is not an unlawful user of, or addicted to, a controlled substance;

(13) is not now the subject of an injunction under AS 25.35.010 - 25.35.020 unless the injunction has been dissolved or has expired;

(14) is not now in and has not in the three years immediately preceding the application been ordered by a court to complete an alcohol treatment program;

(15) is not now in and has not in the three years immediately preceding the application entered a substance abuse treatment program; and

(16) has demonstrated competence with handguns as provided in AS 18.65.715.

1 * Sec. 6. AS 18.65.710(a)(3) is amended to read:

2 (3) a statement that the applicant has been furnished with a copy of the
3 state laws and regulations relating to concealed handguns [AS 18.65.700 -
4 18.65.790], has read those sections, and understands them;

5 * Sec. 7. AS 18.65.715 is amended by adding a new subsection to read:

6 (e) Notwithstanding (a) of this section, an honorably retired peace officer who
7 applies for a permit to carry a concealed handgun within one year of the officer's
8 retirement shall be presumed by the department to have satisfied the demonstration of
9 competency required of an applicant for a permit. A demonstration of competency under
10 this section for an honorably retired peace officer

11 (1) is for any action type or caliber;

12 (2) only applies to the initial demonstration of competency; to renew a
13 concealed handgun permit, an honorably retired peace officer must demonstrate
14 competency as provided in (b) of this section.

15 * Sec. 8. AS 18.65 is amended by adding a new section to read:

16 Sec. 18.65.718. RECIPROCITY FOR HOLDERS OF CONCEALED
17 HANDGUN PERMITS FROM OTHER STATES. (a) The department may enter into
18 agreements with other states to provide reciprocity for holders of concealed handgun
19 permits issued by another state to be permitted to carry a concealed handgun in Alaska
20 provided the other state allows holders of concealed handgun permits issued under
21 AS 18.65.700 - 18.65.790 to be permitted to carry concealed handguns in the other state.
22 An agreement under this section, at a minimum, must provide that for a person issued
23 a concealed handgun permit by another state to be reciprocally permitted in this state to
24 carry a concealed handgun the person must submit

25 (1) an application executed under oath that provides information that is
26 substantially similar to that required under AS 18.65.710, including the statement
27 required under AS 18.65.710(a)(3);

28 (2) sufficient information to verify that the person holds a concealed
29 handgun permit in the reciprocal state and to allow the department to register that permit;
30 and

31 (3) a reciprocal application fee that may not exceed the fee set for the
32 application and initial issuance of a permit under AS 18.65.720.

1 (b) A person receiving a reciprocal permit under this section may carry a
2 concealed handgun in the same manner and to the same extent as a person issued a
3 permit under AS 18.65.700. Following issuance of the permit, all aspects concerning the
4 regulation of the permit and the permittee are controlled by AS 18.65.700 - 18.65.790.

5 * Sec. 9. AS 18.65.720 is amended to read:

6 Sec. 18.65.720. FEES. The department shall charge a nonrefundable fee for the
7 processing of the application for and initial issuance of a permit, renewal of a permit, or
8 replacement of a permit. The fees shall be set by regulation and must be based on the
9 actual costs incurred by the department. However, the fee for the processing of an
10 application and initial issuance of a permit may not exceed \$65 [\$125] and the fee for
11 renewal of a permit or replacement of a permit may not exceed \$30 [\$60].

12 * Sec. 10. AS 18.65.740(a) is amended to read:

13 (a) A permit to carry a concealed handgun shall be immediately revoked by the
14 department when the permittee

15 (1) becomes disqualified to receive and hold a permit under
16 AS 18.65.705; or

17 (2) [IS CONVICTED OF TWO CLASS A MISDEMEANORS OF THIS
18 STATE OR SIMILAR LAWS OF ANOTHER JURISDICTION WITHIN A FIVE-
19 YEAR PERIOD IF AT LEAST ONE OF THE CONVICTIONS OCCURS AFTER THE
20 APPLICATION;

21 (3)] knowingly supplied a false or fraudulent answer, statement, or
22 document, or made a material misstatement or omission, in connection with an
23 application for a permit or renewal or replacement of a permit.

24 * Sec. 11. AS 18.65.755(a) is amended to read:

25 (a) A permittee may not carry a concealed handgun into

26 (1) a place where alcoholic beverages are sold for consumption on
27 the premises other than a restaurant or eating place licensed under AS 04.11.100
28 [A LAW ENFORCEMENT OR CORRECTIONAL FACILITY];

29 (2) or on school grounds or a school bus other than while in a
30 propelled vehicle, other than a school bus, and the permittee does not exit the
31 vehicle; in this paragraph, "school grounds" has the meaning given in AS 11.71.900;

32 (3) a courthouse or a courtroom of this state, unless the permittee

- 1 (A) is a judge; or
- 2 (B) has been authorized to possess a concealed handgun by a
- 3 judge presiding at that courthouse or courtroom;
- 4 (4) a [BUILDING HOUSING ONLY STATE OR FEDERAL OFFICES
- 5 OR THE OFFICES OF A POLITICAL SUBDIVISION OF THE STATE, EXCEPT
- 6 AS AUTHORIZED UNDER (3) OF THIS SUBSECTION;
- 7 (5) AN OFFICE OF THE STATE, FEDERAL GOVERNMENT, OR OF
- 8 A POLITICAL SUBDIVISION OF THE STATE THAT IS NOT LOCATED IN A
- 9 BUILDING DESCRIBED IN (4) OF THIS SUBSECTION;
- 10 (6) A PASSENGER LOADING OR UNLOADING AREA OF AN
- 11 AIRLINE TERMINAL;
- 12 (7) A VESSEL OF THE ALASKA MARINE HIGHWAY SYSTEM;
- 13 (8) A FACILITY PROVIDING SERVICES TO VICTIMS OF
- 14 DC... TIC VIOLENCE OR SEXUAL ASSAULT;
- 15 (9) A RESIDENCE WHERE NOTICE THAT CARRYING A
- 16 CONCEALED HANDGUN IS PROHIBITED HAS BEEN GIVEN BY THE POSTING
- 17 OF A CONSPICUOUS NOTICE OR BY ORAL STATEMENT BY THE RESIDENT
- 18 TO THE PERMITTEE;
- 19 (10) A MEETING OF A BUSINESS, CHARITABLE, OR OTHER
- 20 ORGANIZATION OR ENTITY WHERE NOTICE THAT CARRYING A
- 21 CONCEALED HANDGUN IS PROHIBITED HAS BEEN GIVEN BY THE POSTING
- 22 OF CONSPICUOUS NOTICE;
- 23 (11) A FINANCIAL INSTITUTION; IN THIS PARAGRAPH,
- 24 "FINANCIAL INSTITUTION" MEANS A BANK, SAVINGS BANK, SAVINGS
- 25 ASSOCIATION, CREDIT UNION, OR OTHER INSTITUTION REGULATED BY
- 26 THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT UNDER
- 27 AS 06;
- 28 (12) ANOTHER] place where the possession of a deadly weapon or
- 29 firearm is prohibited by federal law; or
- 30 (5) [(13)] a municipality or established village that has prohibited the
- 31 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.
- 32 * Sec. 12. AS 18.65.705(5) and 18.65.725(c) are repealed.



SUGGESTED AMENDMENT TO HB 338/SB 177

Section 9, page 5, line 27: Amend 18.65.755 (a) by adding a new subsection (14), to read as follows:

(14) a health care facility: in this paragraph, "health care facility" means hospital nursing home, public health center, outpatient clinic, facility for the developmentally disabled, rehabilitation facility, drug abuse and alcoholism treatment facility, mental health center, or health-care unit within a sheltered care home or within a home for senior citizens.

COMMENT: The effect of this amendment would be to add "health care facilities" to the list of places where a permittee may not carry a concealed handgun. The definition of "health care facility" is based on AS 18.26.900 (6), which pertains to the Alaska Medical Facility Authority.

For More Information: Harlan Knudson
Alaska State Hospital & Nursing Home Assn.
319 Seward St., #11
Juneau AK 99801

907-586-1790 Fx 907-463-3573

A New Concept
in Senior Well-Being

9100 Centennial Drive
Anchorage, Alaska 99504
907-555-2100

DEAR SENATOR:

JUST A QUICK NOTE TO THANK YOU FOR EVERYTHING YOU HAVE DONE FOR US IN THE INTERIOR OF ALASKA. AS I DID LAST YEAR I FIND A IMPORTANT ISSUE WORKING ITS WAY ON TO TO FLOOR TO BE VOTED UPON. I FIND I MUST ASK YOU TO SUPPORT SB177, CHANGES TO THE CONCEALED HANGUN PERMITS, WE NEED THIS BILL TO MAKE IT TO THE FLOOR AND TO BE APPROVED.

THANK YOU
CASEY WHEELER

00



Alaska State Legislature

Please enter into the record my testimony to the HS STA.
committee name

committee on HA 378 / SB 177, dated 1-23-96
bill/subject

I CONCUR WITH TESTIMONY TO REDUCE COST OF
PERMITS.

Reduce REGULATIONS IN THE BILL.

you should NOT be MADE TO FEEL you WANT
SOMETHING you DO NOT OBSERVE by ALL THE
CHECKS you HAVE TO DO.

Signed: Ken Rivard (Rivard)
Testifier

SELF
Representing (Optional)

Box 871842 WASILLA AK 99687
Address

907 376 2140
Phone No.

January 24, 1996

Senator Bert Sharp
119 N. Cushman St., #201
Fairbanks, AK 99701

Mark & Mimi Nix
P.O. Box 56753
3476 Durham Circle
North Pole, AK 99705

Dear Senator Sharp:

We would appreciate your prompt attention to assure the passage of Senate Bill 177. This bill contains important revisions in our state's concealed carry law that we deem very appropriate. We appreciate your attention to the matter.

Mark Nix
Alaskan Voter



Alaska State Legislature

Please enter into the record my testimony to the House and Senate Joint State
committee name Affairs com.

committee on S.B. 177 + H.B. 338 dated January 23, 1996
bill/subject:

I am testifying concerning SB 177 and HB 338 and their provisions for changes in the present Alaska law providing for permits to carry concealed handguns. The present concealed carry permit process is both complex and expensive for law-abiding Alaskans seeking a permit. The cost of ^{authorized} fingerprints, photos, and the application fee can easily exceed \$200⁰⁰. Additional costs for require. classes can bring total costs to over \$300⁰⁰. Many qualified, law-abiding Alaskans simply cannot afford such costs, especially if both husband and wife want the concealed carry permit for their protection. Lowering permit costs, simplifying the background check process, and expanding the kinds of training classes accepted will make the permit more available/affordable to Alaskans.

Permit holders should pass a background check to screen out persons with history of criminal activity, mental disorder that indicate person to be unsafe or physical inability to safely fire a handgun. Any reciprocity ^{cover}

Signed: James S. Hopkins Harry L. Hopkins
Testifier Mae Alice Hopkins Mae Alice Hopkins
Self

Representing (Optional)
P.O. Box 2191, Soldotna, AK 99669
Address
907-262-4505
Phone No.

with other states allowing ^{the} permit for holder of permit in other states should require that the requirements of that state be in line with Alaska's requirements, especially in the background check, educational training, and competency in handling a handgun.

The restrictions on where a permit holder may carry a concealed handgun should be eliminated, except as disallowed by federal law. The present restrictions place an unfair boundary on a qualified permittee.

Perhaps HB 338, Sec. 7 (a)(2) could add to "the presentation of evidence of experience with a handgun..." the words "or law enforcement service" following the words "or military" service.



Alaska State Legislature

Please enter into the record my testimony to the Joint House + Senate St Off.
committee name

committee on HB 338 SB 177, dated 1/27/96
bill/subject

I wish to express my support for
SB 177 amending the Conceal Carry
Laws. This process was never meant
to be a money maker for the
State, nor to require unreasonable
restraint on permit applicants.

Mike Langan
PO Box 38
Glenallen AK, 99588
Ph # 907-822-3780

Please enter into the record my testimony to the Joint State Affairs committee on SB177, dated 1/23/96.

My name is Raymond L. Carr, I live at 4401 N. Dogwood, Kenai, AK., my phone number is (907)283-7001.

I am a certified range officer for the United State Practical Shooting Association/International Practical Shooting Confederation, a graduate of the American Small Arms Academy, have been shooting regularly in action pistol, rifle, and shotgun competitions for the past ten years, and I have been an NRA Certified Instructor since 1985.

I support SB177 except for parts of section 7 pertaining to firearms training. I do not believe a training course should be accepted that is not specifically designed to instruct a student in the safe handling and use of a concealed handgun for self defense.

The hunter safety course, some firearms education courses, military service, and some shooting competitions do not give individuals the vital information needed to safely carry a concealed handgun for self defense. A few very important topics not covered by these courses are:

1. Self defense principles.
2. Proper ammo selection for self defense.
3. Conceal handgun carry techniques.
4. How to clear malfunctions.
5. Use of cover.
6. Defensive firearms selection for individuals, and
7. Mental conditioning.

As far as military training is concerned, most service men train only with a rifle and shoot only a few times a year with a range officer standing over them. They carry their rifles much of the time, but aren't given ammo except on the firing line at the range or just before they go into combat. This training has nothing to do with carrying a loaded-concealed handgun in public.

There are specific safe gun handling rules for carrying concealed, if these are not learned, the carrier is more likely to have an accidental discharge. If you carry daily you will handle a loaded handgun a minimum of two times a day, that's 730 times a year, you won't handle a loaded hunting rifle or combat rifle in the military that many times in a lifetime.

My hope is for Alaska's conceal carry law to be successful in saving lives and protecting law-abiding citizens. All it would take to tarnish the program is an accident by someone not receiving the proper training. Please keep the training for the conceal carry program relevant.



Alaska State Legislature

Please enter into the record my testimony to the Joint State of Affairs committee name

committee on SB 177 HR 338 dated 1-23-96

bill/subject

I agree these Bills need to be amended. Not just with a word or phrase changed added or taken away. These Bills and any like them are totally against the Federal and State Constitution and are totally illegal. These bills need to be changed to read we the people shall have the right to keep and bear arms without any infringements.

PERIOD.

Anything other is an infringement and is illegal.

PS Hitler also started gun confiscation with permits under his regime.

Why are we following his example?

Reservation of Rights without prejudice under UCC 1-207

Signed: [Signature]
Testifier

Concerned Citizen

Representing (Optional) Fourth Judicial District
LIO PO Box 1059
Delta Junction Alaska Republic
Address

895 4805
Phone No.