

any term less than one year or by a fine of not more than \$500.00, or both. The punishment for violating Section 13A-11-78 or 13A-11-79 may include revocation of license.

(b) It shall be the duty of any sheriff, policeman or other peace officer of the State of Alabama, arresting any person charged with violating Sections 13A-11-71 through 13A-11-73, or any one or more of said sections, to seize the pistol or pistols in the possession or under the control of the person or persons charged with violating said section or sections, and to deliver said pistol or pistols to one of the following named persons: if a municipal officer makes the arrest, to the city clerk or custodian of stolen property of the municipality employing the arresting officer; if a county, state or other peace officer makes the arrest, to the sheriff of the county in which the arrest is made. The person receiving the pistol or pistols from the arresting officer shall keep it in a safe place in as good condition as received until disposed of as hereinafter provided. Within five days after the final conviction of any person arrested for violating any of the above-numbered sections, the person receiving possession of the pistol or pistols, seized as aforesaid, shall report the seizure and detention of said pistol or pistols to the district attorney within the county where the pistol or pistols are seized, giving a full description thereof, the number, make and model thereof, the name of the person in whose possession it was found when seized, the person making claim to same or any interest therein, if the name can be ascertained or is known, and the date of the seizure. Upon receipt of the report from the person receiving possession of the pistol or pistols as aforesaid, it shall be the duty of the district attorney within the county wherein the pistol or pistols were seized to forthwith file a complaint in the circuit court of the proper county, praying that such seized pistol or pistols be declared contraband, be forfeited to the state and be destroyed. Any person, firm or corporation or association of persons in whose possession said pistol or pistols may be seized or who claim to own the same or any interest therein shall be made a party defendant to said complaint, and thereupon such matter shall proceed and be determined in the circuit court of the proper county in the same form and manner, as near as may be, as in the forfeiture and destruction of gaming devices, except as herein otherwise provided. When any judgment of condemnation and forfeiture is made in any case filed under the provisions of this section, the judge making such judgment shall direct therein the destruction of the pistol or pistols by the person receiving possession of said pistol or pistols from the arresting officer in the presence of the clerk or register of the court, unless the judge is of the opinion that the nondestruction thereof is necessary or

proper in the ends of justice, in which event and upon recommendation of the district attorney, the judge shall award the pistol or pistols to the sheriff of the county or to the chief of police of the municipality to be used exclusively by the sheriff or the chief of police in the enforcement of law, and the sheriff of the county and the chiefs of police of the municipalities shall keep a permanent record of all pistols awarded to them as provided for herein, to be accounted for as other public property, and said order, in the event that no appeal is taken within 15 days from the rendition thereof, shall be carried out and executed before the expiration of 20 days from the date of the judgment. The court, at its discretion, shall direct in said judgment that the costs of the proceedings be paid by the person in whose possession said pistol or pistols were found when seized, or by any party or parties who claim to own said pistol or pistols, or any interest therein, and who contested the condemnation and forfeiture thereof.

**13A-11-85. Out-of-state license; reciprocity.**

(a) A person licensed to carry a handgun in any state whose laws recognize and give effect in that state to a license issued under the laws of the State of Alabama shall be authorized to carry a handgun in this state. This section shall apply to a licenseholder from another state only while the licenseholder is not a resident of this state. A licenseholder from another state shall carry the handgun in compliance with the laws of this state.

(b) The Attorney General shall periodically publish a list of states which meet the requirements of subsection (a).

**13A-11-224. Keeping gunpowder or explosives in city or town.** Any person who keeps on hand, at any one time, within the limits of any incorporated city or town, for sale or for use, more than 50 pounds of gunpowder or other explosives shall, on conviction, be fined not less than \$100.00.

**Title 40. Revenue and Taxation**

**Chapter 12. Licenses**

**40-12-143. Weapons dealers.** Persons dealing in pistols, revolvers, maxim silencers, bowie knives, dirk knives, brass knucks or knucks of like kind, whether principal stock in trade or not shall pay the following license tax: in cities and towns of 35,000 inhabitants and over, \$150; and in all other places, \$100. All persons dealing in pistols, revolvers and maxim silencers shall be required to keep a permanent record of the sale of every pistol, revolver or maxim silencer, showing the date of sale, serial number or other identification marks, manufacturer's name, caliber and type, and also the name and

address of the purchaser, which record shall always be open for inspection by any peace officer of the State of Alabama or any municipality thereof. The failure to keep such record shall subject such person to having his license revoked by the probate judge of the county where such license was issued on motion of any district attorney of the State of Alabama.

**40-12-158. Shotgun sales.**

(a) Each person dealing in shotguns, rifles of .22 caliber or over, metallic ammunition or shotgun shells shall pay a license tax of \$25 in cities of 100,000 inhabitants or over; \$10 in cities or towns of 7,000 and less than 100,000 inhabitants; and \$3 in all other places, whether incorporated or not.

(b) Regularly licensed rolling stores selling any or all of the articles enumerated in this section shall, in addition to the license provided in Section 40-12-174, pay a license tax of \$5 to the state and \$5 to the county in each county in which they sell or offer such articles for sale.

**Title 41 State Government**

**Chapter 9 Boards and Commissions**

**41-9-649. Firearm purchase background check -- Mims-Russell Law Enforcement Protection Act.**

All transfers or purchases of firearms conducted by a licensed importer, licensed manufacturer, or licensed dealer shall be subject to the national instant criminal background check system (NICS) created by the federal "Brady Handgun Violence Prevention Act" (P.L. No. 103-159), the relevant portion of which is codified at 18 U.S.C.S. § 922(t). To the extent possible, all information from any state or local government agency that is necessary to complete a NICS check shall be provided to the Criminal Justice Information Center. The Criminal Justice Information Center Commission shall promulgate rules and regulations necessary to implement a complete NICS Check. The commission shall also ensure that all information received shall be used solely for the purposes of compliance with NICS and every effort is made to protect the privacy of this information. All proposed rules shall go through the privacy and security committee of the commission which shall seek consultation from the President of the Probate Judges' Association and the Commissioner of the Department of Mental Health and Mental Retardation and consumer advocates as recommended by the commissioner.

**[Current through the 2008 First Special Session, including No. 08-277]**

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**Title 8. Business and Professions**

**Chapter 76. Pawnbrokers and Secondhand Dealers**

**8.76.010. Transactions to be entered in book kept at place of business**

(a) A person engaged in the business of buying and selling secondhand articles, or lending money on second-hand articles, except a bank, shall maintain a book, in permanent form, in which the person shall enter in legible English at the time of each loan, purchase, or sale

(1) the date of the transaction;

(2) the name of the person conducting the transaction;

(3) the name, age and address of the customer;

(4) a description of the property bought or received in pledge, which includes for any firearm, watch, camera, or optical equipment bought or received in pledge, the name of the maker, the

serial, model, or other number, and all letters and marks inscribed;

(5) the price paid or amount loaned;

(6) the signature of the customer.

(b) A person who lends money on secondhand articles under (a) of this section and is located in a municipality that has a population of over 5,000 shall also maintain an electronic record that provides the information required by (a)(1) and (4) of this section for the secondhand articles on which the person lends money. The person shall submit the electronic record as required by the municipal law enforcement agency.

**8.76.020. Manner of recording entry.** The entries in the book and the electronic record required by as 08.76.010 shall appear in chronological order and, when made in a book, in ink or indelible pencil. Blank lines may not be left between entries. Obliterations, alterations, or erasures may not be made. Corrections shall be made by drawing a line through the entry without destroying its legibility, and, when made in a book, the line shall be drawn in ink. The book shall be open to the inspection of a peace officer at reasonable times.

**8.76.030. Criminal liability.** A person who violates AS 08.76.010 or 08.76.020 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both.

## Title 11. Criminal Law

### Chapter 46. Offenses Against Property

#### 11.46.260. Removal of identification marks.

(a) A person commits the crime of removal of identification marks if, with intent to cause interruption to the ownership of another, the person defaces, erases, or otherwise alters or attempts to deface, erase, or otherwise alter any serial number or identification mark placed or inscribed on a propelled vehicle, bicycle, firearm, movable or immovable construction tool or equipment, appliance, merchandise, or other article or its component parts.

(b) Removal of identification marks is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared is \$500 or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification mark appeared is \$50 or more but less than \$500;

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than \$50.

#### 11.46.270. Unlawful possession.

(a) A person commits the crime of unlawful possession if the person possesses a propelled vehicle, bicycle, firearm, movable or immovable construction tool or equipment, appliance, merchandise or other article or its component parts knowing that the serial number or identification mark placed on it by the manufacturer or owner for the purpose of identification has been defaced, erased, or otherwise altered with the intent of causing interruption to the ownership of another.

(b) Unlawful possession is

(1) a class C felony if the value of the property on which the serial number or identification mark appeared is \$500 or more;

(2) a class A misdemeanor if the value of the property on which the serial number or identification

mark appeared is \$50 or more but less than \$500;

(3) a class B misdemeanor if the value of the property on which the serial number or identification mark appeared is less than \$50.

### Chapter 61. Offenses Against Public Order

#### 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

(1) uses or attempts to use a firearm during the commission of an offense under AS 11.71.010 - 11.71.040; or

(2) discharges a firearm from a propelled vehicle while the vehicle is being operated and under circumstances manifesting substantial and unjustifiable risk of physical injury to a person or damage to property.

(b) Misconduct involving weapons in the first degree is a class A felony.

#### 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;

(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) an entity, other than a private residence, licensed as a child care facility under AS 47.32, or recognized by the federal government for the care of children; or

(3) discharges a firearm at or in the direction of

(A) a building with reckless disregard for a risk of physical injury to a person; or

(B) a dwelling.

(b) Misconduct involving weapons in the second degree is a class B felony.

#### 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 or filed under AS 18.66.100 - 18.66.180 or issued under former 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;

(11) discharges a firearm from a propelled vehicle while the vehicle is being operated in circumstances other than described in AS 11.61.190(a)(2); or

(12) knowingly possesses a firearm that is concealed on the 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.

(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 adjudication of juvenile delinquency and the date of the violation of (a)(1) of this section, and the prior conviction or adjudication of juvenile delinquency 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) For purposes of (a)(12) of this section, a firearm on a person is concealed if it is covered or enclosed in any manner so that an observer cannot determine that it is a firearm without removing it from that which covers or encloses it or without opening, lifting, or removing that which covers or encloses it. A firearm on a person is not concealed if it is unloaded and is encased in a closed container designed for transporting firearms.

(g) It is an affirmative defense to a prosecution under (a)(12) of this section that

(1) either

(A) the defendant 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 defendant's unconditional discharge on the prior offense or adjudication of juvenile delinquency and the date of the violation of (a)(12) of this section, and the prior conviction or adjudication of juvenile delinquency 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; and

(2) at the time of possession, the defendant was

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

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

(h) 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; or

(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.

(i) Misconduct involving weapons in the third degree is a class C felony.

**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 liquor or 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 under circumstances other than those described in AS 11.61.195(a)(3)(A);

(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, on a school bus while being transported to or from school or a school-sponsored event, 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, on a school bus while being transported to or from school or a school-sponsored event, 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]

(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.

**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) is 21 years of age or older and knowingly possesses a deadly weapon, other than an ordinary pocket knife or a defensive weapon,

(A) that is concealed on the person, and, when contacted by a peace officer, the person fails to

(i) immediately inform the peace officer of that possession; or

(ii) allow the peace officer to secure the deadly weapon, or fails to secure the weapon at the direction of the peace officer, during the duration of the contact;

(B) that is concealed on the person within the residence of another person unless the person has first obtained the express permission of an adult residing there to bring a concealed deadly weapon within the residence;

(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

(A) within the grounds of or on a parking lot immediately adjacent an entity, other than a private residence, licensed as a child care facility under AS 47.32 or recognized by the federal government for the care of children, except that a person 21 years of age or older may possess an unloaded firearm in the trunk of a motor vehicle or encased in a closed container of a motor vehicle;

(B) within a

(i) courtroom or office of the Alaska Court System; or

(ii) courthouse that is occupied only by the Alaska Court System and other justice-related agencies;

(C) within a domestic violence or sexual assault shelter that receives funding from the state; or

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

(6) is less than 21 years of age and knowingly possesses a deadly weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed on the person.

(b) In a prosecution under (a)(6) 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; or

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

(c) The provisions of (a)(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

(1) an affirmative defense that

(A) [Repealed]

(B) the loaded firearm was a concealed handgun as defined in AS 18.65.790; and

(C) the possession occurred at a place designated as a restaurant for the purposes of AS 04.16.049 and the defendant did not consume intoxicating liquor at the place;

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

(A) owned by or leased by the defendant; or

(B) 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.

(h) The provisions of (a)(1) and (6) of this section do not apply to a

(1) peace officer of this state or a municipality of this state acting within the scope and authority of the officer's employment;

(2) peace officer employed by another state or a political subdivision of another state who, at the time of the possession, is

(A) certified as a peace officer by the other state; and

(B) acting within the scope and authority of the officer's employment; or

(3) police officer of this state or a police officer or chief administrative officer of a municipality of this state; in this paragraph, "police officer" and "chief administrative officer" have the meanings given in AS 18.65.290.

(i) In a prosecution

(1) under (a)(4)(B) of this section, it is a defense that the defendant, at the time of possession, was authorized to possess the firearm under a rule of court;

(2) under (a)(4)(C) of this section, it is a defense that the defendant, at the time of possession, was authorized in writing by the administrator of the shelter to possess the firearm.

(j) In (a)(1) of this section, "contacted by a peace officer" means stopped, detained, questioned, or addressed in person by the peace officer for an official purpose.

#### **11.61.250. Unlawful furnishing of explosives.**

(a) A person commits the crime of unlawful furnishing of explosives if the person furnishes an explosive substance or device to another knowing that the other intends to use the substance or device to commit a crime.

(b) Unlawful furnishing of explosives is a class C felony.

### **Chapter 81. General Provisions**

#### **11.81.900. Definitions.**

(a) For purposes of this title, unless the context requires otherwise, ...

(17) "deadly weapon" means any firearm, or anything designed for and capable of causing death or serious physical injury; including a knife, an axe, a club, metal knuckles, or an explosive; ...

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

(26) "firearm" means a weapon, including a pistol, revolver, rifle, or shotgun, whether loaded or unloaded, operable or inoperable, designed for discharging a shot capable of causing death or serious physical injury; ...

(48) "possess" means having physical possession or the exercise of dominion or control over property; ...

### **Title 12. Code of Criminal Procedure**

#### **Chapter 62. Criminal Justice Information and Records Checks**

##### **Article 2. National Crime History Record Check**

**12.62.400 National criminal history record checks for employment, licensing, and other noncriminal justice purposes.** To obtain a national criminal history record check for determining a person's qualifications for a license, permit, registration, employment, or position, a person shall submit the person's fingerprints to the department with the fee established by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau of Investigation to obtain a national criminal history record check of the person for the purpose of evaluating a person's qualifications for ...

(9) a concealed handgun permit under AS 18.65.700 - 18.65.790; ...

### **Title 29. Municipal Government**

#### **Chapter 35. Municipal Powers and Duties**

##### **29.35.145. Regulation of Firearms.**

(a) The authority to regulate firearms is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation, or registration of firearms.

(b) Municipalities may enact and enforce ordinances

(1) that are identical to state law and that have the same penalty as provided for by state law;

(2) restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that people, domestic animals, or property will be jeopardized; ordinances enacted or enforced under this paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19, Constitution of the State of Alaska, to bear arms in defense of self or others;

(3) restricting the areas in their respective jurisdictions in which firearms may be sold; a business selling firearms may not be treated more restrictively than other businesses located within the same zone; and

(4) prohibiting the possession of firearms in the restricted access area of municipal government buildings; the municipal assembly shall post notice of the prohibition against possession of firearms at each entrance to the restricted access area.

(c) The prohibition on taxation in (a) of this section does not include imposition of a sales tax that is levied on all products sold within a municipality.

(d) This section applies to home rule and general law municipalities.

(e) In this section,

(1) "firearms" includes firearms, or any other element relating to firearms or parts thereof including ammunition and reloading components;

(2) "restricted access area" means the area beyond a secure point where visitors are screened and does not include common areas of ingress and egress open to the general public.

[Current through all 2007 Legislative Sessions]

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## **Anchorage Municipal Code**

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### **Title 8. Penal Code**

#### **Chapter 8.25. Weapon Crimes**

##### **8.25.060. Firearms on school grounds.**

A. It is unlawful for any person to knowingly have in his possession or control within the grounds of or on a parking lot immediately adjacent to a public or private preschool, elementary, junior high or high school:

1. A revolver, pistol or other firearm, except a person who is over 21 years of age, and who is not a preschool, elementary school, junior high, or secondary school student, may possess an unloaded firearm in the trunk of a motor vehicle or encased in a closed container in a motor vehicle; ...

B. Subsection A. of this section shall not apply to peace officers or persons who have express authorization of the school district superintendent or his designee or, in the case of a private or religious school, express authorization of the chief administrative officer of that school.

C. In the case of a conviction under subsection A. of this section the weapon shall be disposed of as provided in section 8.05.020.F.

D. Weapons possessed by persons under 18 years of age (minors) in violation of subsection A. of this section shall be seized and may be forfeited to the municipality in accordance with this section. ...

E. Violation of this section shall, upon conviction, be punished by a fine of not more than \$10,000.00 or imprisonment for not more than one year, or both such fine and imprisonment.

##### **8.25.090. Sale or furnishing of firearms to minors.**

A. A person may not knowingly sell a firearm or defensive weapon to a minor under 18 years of age.

B. Violation of this section shall, upon conviction, be punished by a fine of not more than \$10,000.00 or imprisonment for not more than one year, or both such fine and imprisonment.

[Anchorage Municipal Code current through March 31, 2008]

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## **Code of Ordinances, City of Fairbanks**

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### **Chapter 46. Offenses**

#### **Article VI. Weapons Offenses**

**46-291. Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this

section, except where the context clearly indicates a different meaning:

**Dangerous weapon** means a firearm, an air-gun or BB gun, a knife other than an ordinary pocketknife having a blade not more than 3½ inches in length, a dagger, slingshot, crossbow, metal knuckles, blackjack, billy or any other instrument by the use of which physical injury may readily be inflicted upon any person, but does not include any instrument or tool which is not commonly used as or considered to be a weapon and which in the circumstances under which it is possessed or used is clearly not intended to be used, or to be available for use, as a weapon.

**Firearm** means a weapon, including a pistol, revolver, rifle, shotgun or airgun, whether loaded or unloaded, operable or inoperable, designed for discharging a shot or projectile capable of causing death or physical injury. ...

**46-292. Failing to maintain a firearm transaction record.**

(a) Except as provided in subsection (b) of this section, a pawnbroker, secondhand dealer or other person who, in the course of his business, buys, sells, rents, exchanges or otherwise receives or transfers firearms commits the offense of failing to maintain a firearm transaction record if he fails to record and make available to the city police, in a book permanently kept for the purpose, the following information concerning every receipt or transfer of a firearm in the course of his business:

(1) The name, address, date and place of birth, height, weight and race of the person to whom the firearm was transferred or from whom it was received.

(2) The number and state or other issuing agency of the driver's license or other identification card issued by the federal or any state government, or by any subdivision or agency of either government, bearing a picture of the issuee, which is used to confirm the identity of the person to whom the firearm was transferred or from whom it was received.

(3) The manufacturer, type, model, caliber or gauge, and serial number of the firearm received or transferred.

(4) The name of the employee or other person in the business of receiving or transferring firearms who transferred or received the firearm.

(b) A person does not commit the offense defined by subsection (a) of this section if:

(1) The firearm was received for the sole purpose of repair or customizing and such firearm is returned to the person from whom it was received;

(2) The person to whom he transferred or from whom he received the firearm is an importer, manufacturer, dealer or collector licensed under the provisions of 18 USC 921 - 928; or

(3) He maintains and makes available to the city police with respect to a particular transaction a permanent set of copies of the records of receipt, sale or other disposition of firearms as required by 18 USC 921 - 928.

**46-294. Possession of a dangerous weapon on school grounds.**

(a) A person other than a peace officer commits the offense of possession of a dangerous weapon on school grounds if he knowingly possesses a dangerous weapon inside a school or on school grounds.

(b) A dangerous weapon is possessed within the meaning of this section if a person has physical possession of the weapon or the exercise of dominion or control over the weapon.

(c) This section does not prohibit a person from transporting and possessing an uncon-

cealed dangerous weapon upon school grounds with the consent of the school principal or the principal's designee.

(d) "School" as used in this section means either a public school operated by the Fairbanks North Star Borough School District or a private school.

[Fairbanks General Code current through Ord. 5961, effective March 5, 2007]

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## City and Borough of Juneau Code of Ordinances

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### Title 42. Penal Code

#### Chapter 42.20. Offenses Against Public Order

##### 42.20.080. Destructive devices.

(a) **Definitions.** The following words and phrases when used in this chapter shall have the meanings ascribed in this subsection:

(1) Destructive device includes any of the following weapons except such devices as are designed primarily for emergency or distress signaling purposes:

(A) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns;

(B) Any bomb, grenade, explosive missile, or similar device or any launching device therefor, whether commercially manufactured or not;

(C) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor other than a shotgun or shotgun ammunition;

(D) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than sixty hundredths of an inch, or any launching device therefor, and any rocket, rocket-propelled projectile or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device;

(E) Any breakable container which contains a flammable liquid with a flashpoint of one hundred fifty degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(2) **Explosive** means any material defined as an explosive in the Fire Prevention Code adopted under title 30 of this Code.

(b) **Sale, purchase or possession of destructive devices exceptions.** Nothing in this chapter shall prohibit the sale to, purchase by, possession of, or use of destructive devices by:

(1) Any peace officer of any recognized governmental agency, while on duty and acting within the scope and course of his employment;

(2) Any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his service, nor shall anything in this chapter prohibit the sale to, purchase by, possession by, or use by any person who is a regularly employed and paid officer, employee or member of a fire department or fire protection or firefighting agency of the federal government, the state of Alaska, or a municipal

corporation of this state, while on duty and acting within the scope and course of his employment, of any equipment used by such department or agency in the course of fire suppression.

(c) **Carrying or placing destructive device.** It is unlawful for any person knowingly to:

(1) Carry any explosive or destructive device on any vessel, aircraft, car, or other vehicle that transports passengers for hire;

(2) Place or carry any explosive or destructive device, while on board any such vessel, aircraft, car or other vehicle, in any hand baggage, roll, or other container;

(3) Place any explosive or destructive device in any baggage which is later checked with any common carrier.

(d) **Possession of destructive device.**

(1) It is unlawful for any person, firm, or corporation purposely, knowingly, recklessly or negligently to possess within the city and borough any destructive device except as provided by this chapter.

(2) Negligent possession shall be possession where the actor is unaware of such possession, but where the ordinary man in the actor's position would have known of such possession or would have been on inquiry to discover such possession. ...

(g) **Exceptions.** Nothing in subsections (a) - (e) of this section shall be construed to prohibit the legitimate possession or use of explosives by a person licensed by the state of Alaska to handle explosives where such possession and use is in compliance with title 30 of this Code and the proper permits have been obtained, or where explosives are being lawfully transported in inter- or intrastate commerce; nor shall a construction be given which would prohibit the possession of hand loading materials of the type and quantity excepted by title 30 of this Code where such materials are lawfully possessed and used for hand loading purposes.

(h) **Penalties.** Violation of subsection (e) of this section is a Class A misdemeanor. Violation of any other subsection of this section is a Class B misdemeanor.

##### 42.20.085. Weapons on school grounds.

(a) It is unlawful for any person except an authorized person to:

(1) Possess a deadly weapon, or a defensive weapon while in or upon school grounds, or

(2) Place a deadly weapon or a defensive weapon in any locker, desk, or other place in or upon school grounds.

(b) As used in this section,

(1) **Authorized person** means:

(A) A peace officer;

(B) A police reserve officer;

(C) A member of the National Guard or the armed forces of the United States in the line of duty;

(D) A person proceeding to, engaging in, or returning from target practice or other authorized activity at a place and time sanctioned by the Superintendent of Schools.

(2) **Deadly weapon** means any firearm, or anything designed for and capable of causing death or serious physical injury, including metal knuckles, sharp-edged or pointed throwing devices, or any knife equipped with a blade over three inches in length.

(3) **Defensive weapon** means an electric stun gun, or a device to dispense mace or a similar chemical agent, that is not designed to cause death or serious physical injury. ...

(5) **School grounds** means any city and borough school building, school administration

building or associated playground, parking lot, or any athletic field, while such athletic field is being used for an activity sponsored and supervised by the city and borough school district.

(c) Violation of this section is a Class B misdemeanor.

21(b)am, adopted July 14, 2008, effective August 14, 2008]

[City and Borough of Juneau Code of Ordinances current through Ord. No. 2008-

## AMERICAN SAMOA

### AM. SAMOA CODE ANN.

#### Title 46. Criminal Justice

#### Chapter 42. Weapons

##### 46.4201. Definitions. ...

(b) "Deface" means to alter or destroy the manufacturer's or importer's serial number or any distinguishing number or identification mark.

(c) "Explosive weapon" means any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon.

(d) "Firearm" means any weapon that is designed or adapted to expel a projectile by the action of an explosive.

(e) "Firearm silencer" means any instrument, attachment, or appliance that is designed or adapted to muffle the noise made by the firing of any firearm.

(f) "Gas gun" means any gas ejective device, weapon, cartridge, container or contrivance other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects mace or other repellant or temporary incapacitating substance.

(g) "Intoxicated" means substantially impaired mental or physical capacity resulting from introduction of any substance into the body. ...

(j) "Machine gun" means any firearm that is capable of firing more than 2 shots automatically, without manual reloading, by a single function of the trigger. . .

(l) "Rifle" means any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger.

(m) "Short barrel" means any barrel length of less than 16" for a rifle and 18" for a shotgun, or an overall rifle and shotgun length of less than 26".

(n) "Shotgun" means any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shot-gun shell to fire a number of shots or single projectile through a smoothbore barrel by a single function of the trigger.

##### 46.4202. Prohibited weapons.

(a) A person commits a crime if he knowingly possesses, manufactures, transports, repairs, or sells:

(1) an explosive weapon;

(2) a machine gun;

(3) a gas gun;

(4) a short-barreled rifle or shotgun;

(5) a firearm silencer;

(8) any other arms, as defined in section 46.4220, for which a valid license from the Commissioner of Public Safety has not been obtained.

(b) A person does not commit a crime under this section if his conduct:

(1) was incident to the performance of official duty by the armed forces, a governmental law enforcement agency, or a penal institution;

(2) was incident to engaging in a lawful commercial or business transaction with an organization listed in paragraph (b)(1); or

(3) was incident to using an explosive weapon reasonably related to a lawful industrial or commercial enterprise;

(4) was incident to displaying the weapon in a public museum or exhibition; or

(5) was incident to dealing with the weapon solely as a curio, ornament, or keepsake, or to using it in a manner reasonably related to a lawful dramatic performance; but if the weapon is a type described in paragraph (a)(1), (3), (4), or (5), it must be in a nonfunctioning condition that it cannot readily be made operable. No machine gun may be possessed, manufactured, transported, repaired, or sold as a curio, ornament, or keepsake even if it is inoperable and cannot be made readily operable.

(c) The defendant has the burden of injecting the issue of an exemption under subsection (b).

(d) A crime under paragraph (a)(1), (2), (3), (4), or (5) is a class C felony; a crime under paragraph (a)(6), (7), or (8) is a class A misdemeanor.

##### 46.4203. Unlawful use of weapons.

(a) A person commits the crime of unlawful use of weapons if he knowingly:

(1) carries concealed on or about his person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; ...

(5) possesses or discharges a firearm or projectile weapon while intoxicated;

##### (b) Exemptions.

(1) Paragraphs (a)(1), (3), (4), (6), (7) and (8) do not apply to or affect any of the following:

(A) peace officers, or any person summoned by these officers to assist in making arrests or preserving the peace while actually engaged in assisting the officer;

(B) wardens, superintendents and keepers of prisons, jails and other institutions for the detention of persons accused or convicted of crime;

(C) members of the armed forces while performing their official duty.

(c) The defendant has the burden of injecting the issue of an exemption under subsection (b).

(d) Unlawful use of weapons is a class D felony unless committed under paragraph (a)(5), (6), (7), or (8), then it is a class B misdemeanor.

##### 46.4204. Defacing firearm.

(a) A person commits the crime of defacing a firearm if he knowingly defaces any firearm.

(b) Defacing firearm is a class A misdemeanor.

##### 46.4205. Possession of a defaced firearm.

(a) A person commits the crime of possession of a defaced firearm if he knowingly possesses a firearm which does not have the manufacturer's or importer's serial number engraved or cast on the receiver or frame of the firearm.

(b) Possession of a defaced firearm is a class B misdemeanor.

##### 46.4206. Unlawful transfer of weapons.

(a) A person commits the crime of unlawful transfer of weapons if he:

(1) knowingly sells, leases, loans, gives away, or delivers a firearm or ammunition for a firearm to any person, who, under the provisions of 46.4207, is not lawfully entitled to possess it;

(2) knowingly sells, leases, loans, gives away, or delivers a knife, rifle, shotgun or blackjack to a person less than 18 years old without the consent of the child's custodial parent or guardian, or recklessly sells, leases, loans, gives away, or delivers any other firearm to a person less than 18 years old; provided, that this does not prohibit delivery of those weapons to any peace officer or member of the armed forces while performing his official duty; or

(3) recklessly sells, leases, loans, gives away, or delivers a firearm or ammunition for a firearm to a person who is intoxicated.

(b) Unlawful transfer of weapons under paragraph (a)(1) is a class D felony; unlawful transfer of weapons under paragraphs (a)(2) and (3) is a class A misdemeanor.

##### 46.4207. Unlawful possession of firearms and firearm ammunition.

(a) A person commits the crime of unlawful possession of a firearm or firearm ammunition if he has any firearm or firearm ammunition in his possession, and

(1) he has been convicted of a dangerous felony or confined therefor in this territory or elsewhere during the 5-year period immediately preceding the date of that possession; or

(2) he is a fugitive from justice, an habitual drunkard, a drug addict, or is currently adjudged mentally incompetent.

(b) Unlawful possession of a firearm or firearm ammunition is a class C felony.

46.4220. Definition of "arms". As used in 46.4220 through 46.4234, "arms" includes guns, rifles, pistols, air rifles, air pistols, gas rifles, gas pistols, ammunition, shells cartridges, gunpowder, dynamite, nitroglycerine, blasting powder, fireworks, and all other firearms and explosives and materials for the manufacture of the same.

##### 46.4221. License - Required when.

(a) It is unlawful of any person, whether permanently or temporarily resident within American Samoa or whether on shore or on board any vessel, anchored, moored, or docked in any harbor in American Samoa, to have in his possession any arms without first having obtained a license from the Commissioner of Public Safety.

(b) A license to possess arms shall not be issued by the Commissioner of Public Safety unless the application therefor has been approved by the attorney general, and that such approval shall be given only after a background investigation has been conducted on the applicant; and that the:

(1) applicant is not a convicted felon; and

(2) applicant does not have any mental disorder or any disease which may endanger the public if a license to possess arm(s) is issued to him; and