

Alaska Department of Public Safety Frequently Asked Questions Firearms¹

I. General Questions:

Question #1: Am I prohibited from possessing firearms and ammunition in Alaska due to my being currently charged with an offense in any court for which the maximum potential jail sentence is more than one year?

Answer. Yes.

Question #2: Am I prohibited from possessing firearms and ammunition in Alaska due to my having plead guilty or no contest, or had a jury or judge return a verdict of guilty, in any court – juvenile or adult – to any offense for which the maximum potential jail sentence was more than one year?

Answer. Yes; unless one of the following circumstances exist:

- a) “adjudication was withheld;” or
- b) a “suspended imposition of sentence” was granted and a court later issued an order “setting aside” the conviction; or
- c) the conviction later was “dismissed;” or
- d) a period of 10 years or more has elapsed between the date of unconditional discharge from probation/parole supervision and the conviction was not for an offense against a person - a crime in violation of Alaska Statutes 11.41 or similar law of the United States, another state, or territory; or
- e) a State Governor or the President of the United States granted a pardon for the conviction and the terms of the pardon do not restrict the right to possess firearms or ammunition.

¹ The below questions and answers are designed to provide general information to the public. Neither the Alaska Department of Public Safety nor the Alaska Attorney General’s Office provide legal advice to individual citizens. Individuals should seek the advice of a private lawyer admitted to practice law in Alaska regarding the legal ramifications or legality of possessing firearms and/or ammunition in Alaska in light of their unique circumstances. Additional general information can be found at the website of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives: www.atf.gov/firearms/faq.

Question #3: Am I prohibited from possessing firearms and ammunition in Alaska due to my being subject to a domestic violence protective order, or any other court order, that prohibits the possession of a firearm and ammunition?

Answer: Yes.

Question #4: Am I prohibited from possessing firearms and ammunition in Alaska due to my being subject to a domestic violence protective order?

Answer: Yes; provided the protective order:

- First, was issued after a court hearing as to which you received notice and had the opportunity to participate (all one year Alaska DVPO orders meet this requirement); and
- Second, protects your spouse, your former spouse, a child of yours, the father/mother of a joint child of yours, or a person with whom you have cohabited (the checking of box 1(a), 1(b), or 1(f) on page one of Alaska DVPO one year, Rev. 1/07; or box C(3)(a), C(3)(b), C(3)(c), or C(3)(e) on page two of Alaska DVPO - one year, Rev. 10/10 & 5/11 meets this requirement); and
- Third, includes a finding of a credible threat to physical safety (the checking of box 4 on page one of Alaska DVPO one year order, Rev 1/07; or box C(5) on page two of Alaska DVPO - one year order, Rev. 10/10 & 5/11 meets this requirement); and
- Fourth, prohibits the use, attempted use, or threatened use of physical force (the checking of box 1(a) on page two of Alaska DVPO one year, Rev. 1/07; or box 1(a) on page three of Alaska DVPO - one year, Rev. 10/10 & 5/11 meets this requirement); and
- Fifth, the prohibition on the use, attempted use, or threatened use of physical force has not been dissolved by later court order. (Page six of Alaska DVPO - one year, Rev. 1/07 and page one of Alaska DVPO - one year, Rev. 10/10 & 5/11 expressly provide that the prohibition on use, attempted use or threatened use of physical force remains in effect indefinitely.)

Question #5: Am I prohibited from possessing firearms and ammunition in an Alaska residence at which a person will be present who has plead guilty or no contest, or had a jury or judge return a verdict of guilty, in any court – juvenile or adult – to any offense for which the maximum potential jail sentence was more than one year?

Answer: Yes; unless one of the following circumstances exist:

- a) “adjudication was withheld;” or

b) a “suspended imposition of sentence” was granted and a court later issued an order “setting aside” the conviction and the conviction was not for a crime against a person – a crime in violation of Alaska Statutes 11.41 or similar law of the United States, another state, or territory; or

c) the conviction later was “dismissed;” or

d) a period of 10 years or more has elapsed between the date of unconditional discharge from probation/parole supervision and the conviction was not for an offense against a person - a crime in violation of Alaska Statutes 11.41 or similar law of the United States, another state, or territory; or

e) a State Governor or the President of the United States granted a pardon for the conviction and the terms of the pardon do not restrict the right to possess firearms or ammunition.

Question #6: Am I prohibited from possessing firearms and ammunition in Alaska due to my being currently charged with any offense, felony or misdemeanor, in any jurisdiction (federal, state, county, local, or foreign) outside of the State of Alaska?

Answer: Yes.

Question #7: Am I prohibited from possessing firearms and ammunition in Alaska due to my using any marijuana?

Answer: Yes.

Question #8: Am I prohibited from possessing firearms and ammunition in Alaska due to my using any controlled substance - including but not limited to depressants, stimulants, or narcotics – other than that prescribed for you to use by a medical doctor?

Answer: Yes.

Question #9: Am I prohibited from possessing firearms and ammunition in Alaska due to a judge or jury finding me mentally incompetent or to suffer from a mental defect or disease?

Answer: Yes.

Question #10: Am I prohibited from possessing firearms and ammunition in Alaska due to a judge or jury committing me to a mental health institution or facility?

Answer: Yes.

Question #11: Am I prohibited from possessing firearms and ammunition in Alaska due to my illegally or unlawfully being in the United States?

Answer: Yes.

Question #12: Am I prohibited from possessing firearms and ammunition in Alaska due to my not being a citizen of the United States and not admitted for permanent residence?

Answer: Yes; unless the possession is in direct connection with lawful hunting or a lawful organized athletic or sport shooting event.

Question #13: Am I prohibited from possessing firearms and ammunition in Alaska due to my having been dishonorably discharged from the armed forces?

Answer: Yes.

Question #14: Am I prohibited from possessing firearms and ammunition in Alaska due to my renouncing my United States citizenship?

Answer: Yes.

Question #15: Am I prohibited from possessing on my person firearms and ammunition in Alaska any time I am under the influence of alcohol?

Answer: Yes.

Question #16: Am I prohibited from possessing on my person firearms and ammunition in Alaska any time I am under the influence of any controlled substance - including but not limited to marijuana, depressants, stimulants, or narcotics – other than that prescribed for you to use by a medical doctor?

Answer: Yes.

Question #17: Am I prohibited from possessing on my person firearms and ammunition in Alaska any time I am under the influence of any drug that is impairing my mental or physical functioning?

Answer: Yes.

Question 18: Do I need a permit to carry a firearm concealed in Alaska?

Answer: No. In Alaska, anyone who is 21 years of age or older and legally allowed to possess a firearm is permitted to carry the firearm concealed without a permit.

Question 19: Do I need to do anything special when I am carrying concealed in Alaska and I come into contact with a law enforcement officer?

Answer: Yes. The law requires you to immediately inform the officer that you are in possession of the firearm; failure to do so is a criminal offense.

Question 20: What is the law regarding possessing firearms and ammunition in Canada?

Answer: You can contact the Canadian Firearms information Office at (800) 731-4000 for information about possessing firearms and ammunition in Canada.

Question 21: Does Alaska recognize pardons issued by other states for offenses which occur in the other states when the individual is a resident of Alaska?

Answer: Yes.

Question 22: Is a person's right to possess firearms and ammunition in Alaska restored by the Governor of the State of Alaska issuing a pardon for the offense which triggered the prohibition?

Answer: Yes, unless the terms of the pardon provide that the prohibition on possessing firearms and ammunition is to remain in effect.

Question 23: Does a Presidential pardon for a federal offense which triggered a prohibition restore a person's right to possess firearms and ammunition in Alaska?

Answer: Yes.

Question 24: Does Alaska recognize a restoration of firearm rights given by another state?

Answer: No, except that Alaska does recognize pardons issue by the Governors of other states.

Question 25: How are firearm rights restored in Alaska for felony offenses?

Answer: Convictions for felony offenses against persons trigger life time prohibitions which cannot be lifted by anything other than the granting of a pardon. Prohibitions arising from other felony convictions are lifted as a matter of law after the expiration of a period of 10 years following unconditional discharge from probation and parole.

Question 26: Does Alaska recognize United States Alcohol, Tobacco, Firearms and Explosives relief from disabilities, issued pursuant to 18 USC 925(c), as lifting any federal prohibition against possessing firearms and ammunition in Alaska?

Answer: Yes.

Question 27: Does a felony offense for which a person received a suspended imposition of sentence (“SIS”) prohibit the person from possessing firearms and ammunition in Alaska?

Answer: Yes. The conviction and resulting prohibition remains in effect unless and until a court later issues a separate order expressly “setting aside the conviction.”

Question 29: Do juvenile adjudications for felony offenses trigger the prohibition against possessing firearms and ammunition in Alaska?

Answer: Yes. Juvenile adjudications have the same effect as adult convictions regarding firearm possession in Alaska.

Question 30: Is there any difference regarding the ability to lawfully possess firearms and ammunition if a conviction resulted from a plea of guilty, plea of no contest, plea of “nolo contendere,” finding of guilty by a judge, or finding of guilty by a jury?

Answer: No. All have the same effect.

Question 31: Does an Alaska domestic violence assault misdemeanor conviction trigger a prohibition for me to possess firearms and ammunition in Alaska?

Answer: The State of Alaska’s interpretation of the current status of the law, as established in 2007 by the Ninth Circuit Court of Appeals in *United States v. Nobriga*, 474 F. 3d 561, is that such convictions do not trigger a prohibition for purposes of state court prosecutions. This interpretation is subject to change if additional court case decisions are issued in the future. Additionally, the United States Department of

Justice's interpretation of the *Nobriga* decision, for purposes of federal prosecutions, may differ from the interpretation of the State of Alaska.

Question 32: How are firearm rights restored in Alaska for misdemeanor offenses?

Answer: Convictions for Alaska misdemeanor offenses, other than domestic violence assault, do not trigger firearm prohibitions. As reflected in the answer to question 31, convictions for Alaska domestic violence assault do not trigger a prohibition for purposes of state court prosecution. Prohibitions arising from the issuance of court orders, including domestic violence protective orders, are dependent on the terms of the order. Prohibitions arising from domestic violence protective orders remain in effect indefinitely unless later expressly dissolved by separate court order.

Question 33: Can I possess and/or shoot black powder guns in Alaska if I am prohibited from possessing firearms and ammunition?

Answer: Black powder guns that meet the federal definition of being "antique firearms" are not classified as firearms and therefore may be lawfully possessed by persons prohibited from possessing firearms. Black powder for use in antique firearms in connection with sporting, recreational or cultural purposes is not classified as ammunition and may be possessed in a quantity not to exceed 50 pounds by persons prohibited from possessing ammunition.

Question 34: Can I possess and/or shoot archery bows and arrows in Alaska if I am prohibited from possessing firearms and ammunition?

Answer: Yes.