



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/04/04, by George Scully Jr.

SYNOPSIS AS INTRODUCED:

430 ILCS 65/3	from Ch. 38, par. 83-3
430 ILCS 65/14	from Ch. 38, par. 83-14

Amends the Firearm Owners Identification Card Act. Requires a person who transfers a firearm or firearm ammunition to personally inspect the Firearm Owner's Identification Card of the transferee of the firearm to verify the identity of the person to whom the firearm or firearm ammunition is being transferred. Changes penalties for transferring firearms to a person that the transferor knows or has reasonable cause to believe does not possess a valid Firearm Owner's Identification Card or by failing to inspect the Card before the transfer of the firearm. Bases the penalties on the number of firearms transferred illegally.

LRB093 18002 RLC 43686 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT in relation to firearms.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Sections 3 and 14 as follows:

6 (430 ILCS 65/3) (from Ch. 38, par. 83-3)

7 Sec. 3. (a) Except as provided in Section 3a, no person may
8 knowingly transfer, or cause to be transferred, any firearm or
9 any firearm ammunition to any person within this State unless
10 the transferee with whom he deals displays a currently valid
11 Firearm Owner's Identification Card which has previously been
12 issued in his name by the Department of State Police under the
13 provisions of this Act. In addition, all firearm transfers by
14 federally licensed firearm dealers must be in accordance with
15 are subject to Section 3.1. The person transferring the firearm
16 or firearm ammunition must, at the time of the transfer,
17 personally inspect the Firearm Owner's Identification Card to
18 verify the identity of the person to whom the firearm or
19 firearm ammunition is being transferred. A person may not be
20 convicted of failing to inspect a Firearm Owner's
21 Identification Card prior to the transfer of a firearm or
22 firearm ammunition to another person if the person proves that
23 the person to whom the firearm or firearm ammunition was
24 transferred possessed a valid Firearm Owner's Identification
25 Card at the time of the transfer.

26 (b) Any person within this State who transfers or causes to
27 be transferred any firearm must, in a manner and form the
28 Department of State Police may by rule prescribe, shall keep a
29 record of such transfer for a period of 10 years from the date
30 of transfer. Such record shall contain the date of the
31 transfer; the description, serial number or other information
32 identifying the firearm if no serial number is available; the

1 name and address of the person to whom the firearm is being
2 transferred; and, if the transfer was completed within this
3 State, the transferee's Firearm Owner's Identification Card
4 number. On demand of a peace officer such transferor shall
5 produce for inspection such record of transfer. If the transfer
6 is completed to a resident of Iowa, Missouri, Indiana,
7 Wisconsin, or Kentucky under subsection (b) of Section 3a of
8 this Act, the transferor must keep a record of the transferee's
9 state driver's license number or state identification card
10 number. The record of transfer must be made at the time of
11 transfer. On demand of a peace officer such transferor shall
12 produce for inspection such record of transfer and if the
13 person is a dealer, allow the peace officer to inspect all
14 stock on hand. If the transferor does not have each record
15 available for inspection at the time of the peace officer's
16 demand for inspection, the transferor must be given 72 hours to
17 produce the records for inspection at a location and time the
18 peace officer designates in writing. A person who negligently
19 fails to keep or produce records as required by this subsection
20 (b) is guilty of a Class B misdemeanor. A person who wilfully
21 refuses to keep records or produce them as required by this
22 subsection (b) must be sentenced as set forth in paragraph (3)
23 of subsection (d).

24 (b-5) For the purpose of subsection (b), it may be inferred
25 that a person wilfully refused to keep or produce records if:

26 (1) the person states that he or she did not transfer
27 the firearm because the firearm was lost or stolen, but
28 failed to report the firearm lost or stolen under
29 subsection (c-5) of this Section;

30 (2) the person states that the records were lost,
31 stolen, or destroyed, but failed to report the loss, theft,
32 or destruction as required by subsection (c-5) of this
33 Section;

34 (3) the information contained in the records was false;

35 or

36 (4) in the absence of evidence to the contrary, the

1 person's failure to produce or keep records of the transfer
2 of a firearm traced to his or her possession is
3 unexplained.

4 (b-10) A person may not be convicted of willful failure to
5 keep or produce records if the person proves that the records
6 the person produced, although incomplete, were sufficiently
7 complete so as to enable law enforcement officers to clearly
8 identify the person to whom the firearm was transferred.

9 (c) The provisions of this Section regarding the transfer
10 of firearm ammunition shall not apply to those persons
11 specified in paragraph (b) of Section 2 of this Act.

12 (c-5) (1) The owner of a firearm must report the loss or
13 theft of a firearm to the law enforcement agency of the
14 municipality or unincorporated area in which he or she resides
15 within 72 hours of his or her discovery of the loss or theft
16 and keep a record of the time and date of the report and of the
17 name of the person and law enforcement agency to which the
18 report was made.

19 (2) Any person required to keep records under
20 subsection (b) must report the loss, theft, or destruction
21 of those records within 72 hours of his or her discovery of
22 the loss, theft, or destruction to the law enforcement
23 agency of the municipality or unincorporated area in which
24 he or she resides and keep a record of the time and date of
25 the report of the person and the law enforcement agency to
26 which the report was made.

27 (3) The information supplied by a person under this
28 subsection (c-5) is not admissible in any prosecution of
29 the person making the report under any municipal or county
30 ordinance.

31 (4) A person who fails to report the theft, loss, or
32 destruction of a firearm or of records required to be kept
33 is guilty of a petty offense and may be fined not more than
34 \$50.

35 (5) A person who knowingly makes a false report of the
36 loss, theft, or destruction of a firearm or of firearm

1 records to any employee acting on behalf of a law
2 enforcement agency is guilty of a Class 4 felony.

3 (c-10) For purposes of this Section, the word "transfer"
4 means the selling, giving away, loaning, pawning (with or
5 without consideration), of a firearm or of firearm ammunition.
6 "Transfer" does not include the temporary delivery of a firearm
7 or of firearm ammunition by a person who has a currently valid
8 Firearm Owner's Identification Card to a person of the age of
9 18 years or over for inspection of the firearm or firearm
10 ammunition in the immediate presence of the transferor where
11 the transfer of the firearm or firearm ammunition by the
12 transferor and possession of the firearm or firearm ammunition
13 by the transferee occur on the transferor's own land or in the
14 transferor's place of abode.

15 (c-15) It may be inferred that a person transferred a
16 firearm or firearm ammunition when, in the absence of a
17 reasonable explanation to the contrary, the firearm or firearm
18 ammunition has been traced to the possession of that person and
19 the person no longer has possession of the firearm or firearm
20 ammunition.

21 (d) Sentence. (1) A person who violates subsection (a) by
22 transferring or causing to be transferred in this State any
23 firearm to a person he or she knows or has reasonable cause to
24 believe does not possess a valid Firearm Owner's Identification
25 Card or by failing to inspect the Card before transfer of a
26 firearm is guilty of a Class 4 felony. A person who commits
27 more than one violation of subsection (a) as described in this
28 Section:

29 (A) is guilty of a Class 3 felony for transfer of not
30 less than 2 firearms and not more than 5 firearms at the
31 same time or within a one-year period;

32 (B) is guilty of a Class 2 felony for transfer of not
33 less than 6 firearms and not more than 10 firearms at the
34 same time or within a 2-year period;

35 (C) is guilty of a Class 1 felony for transfer of not
36 less than 11 firearms and not more than 20 firearms at the

1 same time or within a 3-year period;

2 (D) is guilty of a Class X felony for transfer of more
3 than 20 firearms at the same time or within a 4-year
4 period.

5 (2) A person who violates subsection (a) by transferring or
6 causing to be transferred in this State any firearm ammunition
7 to a person he or she knows or has reasonable cause to believe
8 does not possess a currently valid Firearm Owner's
9 Identification Card is guilty of a Class A misdemeanor for a
10 first conviction, a Class 4 felony for a second conviction, and
11 a Class 3 felony for a third or subsequent conviction.

12 (3) A person who violates subsection (b) by willfully
13 failing to keep records of the transfer of a firearm is guilty
14 of a Class 4 felony. A person who willfully fails to keep
15 records relating to the transfer of more than one firearm:

16 (A) is guilty of a Class 3 felony for transfer of not
17 less than 2 firearms and not more than 5 firearms at the
18 same time or within a one-year period;

19 (B) is guilty of a Class 2 felony for transfer of not
20 less than 6 firearms and not more than 10 firearms at the
21 same time or within a 2-year period;

22 (C) is guilty of a Class 1 felony for transfer of not
23 less than 11 firearms and not more than 20 firearms at the
24 same time or within a 3-year period;

25 (D) is guilty of a Class X felony for transfer of not
26 more than 20 firearms at the same time or within a 4-year
27 period.

28 (Source: P.A. 92-442, eff. 8-17-01.)

29 (430 ILCS 65/14) (from Ch. 38, par. 83-14)

30 Sec. 14. Sentence.

31 (a) A violation of paragraph (1) of subsection (a) of
32 Section 2, when the person's Firearm Owner's Identification
33 Card is expired but the person is not otherwise disqualified
34 from renewing the card, is a Class A misdemeanor.

35 (b) Except as provided in subsection (a) with respect to an

1 expired card, a violation of paragraph (1) of subsection (a) of
2 Section 2 is a Class A misdemeanor when the person does not
3 possess a currently valid Firearm Owner's Identification Card,
4 but is otherwise eligible under this Act. A second or
5 subsequent violation is a Class 4 felony.

6 (c) A violation of paragraph (1) of subsection (a) of
7 Section 2 is a Class 3 felony when:

8 (1) the person's Firearm Owner's Identification Card
9 is revoked or subject to revocation under Section 8; or

10 (2) the person's Firearm Owner's Identification Card
11 is expired and not otherwise eligible for renewal under
12 this Act; or

13 (3) the person does not possess a currently valid
14 Firearm Owner's Identification Card, and the person is not
15 otherwise eligible under this Act.

16 (d) A violation of Section 3 is punishable as provided in
17 that Section. ~~A violation of subsection (a) of Section 3 is a~~
18 ~~Class 4 felony. A third or subsequent conviction is a Class 1~~
19 ~~felony.~~

20 (d-5) Any person who knowingly enters false information on
21 an application for a Firearm Owner's Identification Card, who
22 knowingly gives a false answer to any question on the
23 application, or who knowingly submits false evidence in
24 connection with an application is guilty of a Class 2 felony.

25 (e) Except as provided by Section 6.1 of this Act, any
26 other violation of this Act is a Class A misdemeanor.

27 (Source: P.A. 91-694, eff. 4-13-00; 92-414, eff. 1-1-02;
28 92-442, eff. 8-17-01; 92-651, eff. 7-11-02.)