



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4498**

Introduced 1/31/2012, by Rep. Deborah Mell

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 1961. Provides that it is a Class 2 felony (rather than a Class 3 felony) to knowingly sell or give a firearm to a person who has been convicted of a felony or to a person under 18 years of age who does not possess a valid Firearm Owner's Identification Card. Effective immediately.

LRB097 16431 RLC 61594 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 24-3 as follows:

6 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

7 Sec. 24-3. Unlawful sale or delivery of firearms.

8 (A) A person commits the offense of unlawful sale or  
9 delivery of firearms when he or she knowingly does any of the  
10 following:

11 (a) Sells or gives any firearm of a size which may be  
12 concealed upon the person to any person under 18 years of  
13 age.

14 (b) Sells or gives any firearm to a person under 21  
15 years of age who has been convicted of a misdemeanor other  
16 than a traffic offense or adjudged delinquent.

17 (c) Sells or gives any firearm to any narcotic addict.

18 (d) Sells or gives any firearm to any person who has  
19 been convicted of a felony under the laws of this or any  
20 other jurisdiction.

21 (e) Sells or gives any firearm to any person who has  
22 been a patient in a mental hospital within the past 5  
23 years.

1           (f) Sells or gives any firearms to any person who is  
2           intellectually disabled.

3           (g) Delivers any firearm of a size which may be  
4           concealed upon the person, incidental to a sale, without  
5           withholding delivery of such firearm for at least 72 hours  
6           after application for its purchase has been made, or  
7           delivers any rifle, shotgun or other long gun, or a stun  
8           gun or taser, incidental to a sale, without withholding  
9           delivery of such rifle, shotgun or other long gun, or a  
10          stun gun or taser for at least 24 hours after application  
11          for its purchase has been made. However, this paragraph (g)  
12          does not apply to: (1) the sale of a firearm to a law  
13          enforcement officer if the seller of the firearm knows that  
14          the person to whom he or she is selling the firearm is a  
15          law enforcement officer or the sale of a firearm to a  
16          person who desires to purchase a firearm for use in  
17          promoting the public interest incident to his or her  
18          employment as a bank guard, armed truck guard, or other  
19          similar employment; (2) a mail order sale of a firearm to a  
20          nonresident of Illinois under which the firearm is mailed  
21          to a point outside the boundaries of Illinois; (3) the sale  
22          of a firearm to a nonresident of Illinois while at a  
23          firearm showing or display recognized by the Illinois  
24          Department of State Police; or (4) the sale of a firearm to  
25          a dealer licensed as a federal firearms dealer under  
26          Section 923 of the federal Gun Control Act of 1968 (18

1 U.S.C. 923). For purposes of this paragraph (g),  
2 "application" means when the buyer and seller reach an  
3 agreement to purchase a firearm.

4 (h) While holding any license as a dealer, importer,  
5 manufacturer or pawnbroker under the federal Gun Control  
6 Act of 1968, manufactures, sells or delivers to any  
7 unlicensed person a handgun having a barrel, slide, frame  
8 or receiver which is a die casting of zinc alloy or any  
9 other nonhomogeneous metal which will melt or deform at a  
10 temperature of less than 800 degrees Fahrenheit. For  
11 purposes of this paragraph, (1) "firearm" is defined as in  
12 the Firearm Owners Identification Card Act; and (2)  
13 "handgun" is defined as a firearm designed to be held and  
14 fired by the use of a single hand, and includes a  
15 combination of parts from which such a firearm can be  
16 assembled.

17 (i) Sells or gives a firearm of any size to any person  
18 under 18 years of age who does not possess a valid Firearm  
19 Owner's Identification Card.

20 (j) Sells or gives a firearm while engaged in the  
21 business of selling firearms at wholesale or retail without  
22 being licensed as a federal firearms dealer under Section  
23 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
24 In this paragraph (j):

25 A person "engaged in the business" means a person who  
26 devotes time, attention, and labor to engaging in the

1 activity as a regular course of trade or business with the  
2 principal objective of livelihood and profit, but does not  
3 include a person who makes occasional repairs of firearms  
4 or who occasionally fits special barrels, stocks, or  
5 trigger mechanisms to firearms.

6 "With the principal objective of livelihood and  
7 profit" means that the intent underlying the sale or  
8 disposition of firearms is predominantly one of obtaining  
9 livelihood and pecuniary gain, as opposed to other intents,  
10 such as improving or liquidating a personal firearms  
11 collection; however, proof of profit shall not be required  
12 as to a person who engages in the regular and repetitive  
13 purchase and disposition of firearms for criminal purposes  
14 or terrorism.

15 (k) Sells or transfers ownership of a firearm to a  
16 person who does not display to the seller or transferor of  
17 the firearm a currently valid Firearm Owner's  
18 Identification Card that has previously been issued in the  
19 transferee's name by the Department of State Police under  
20 the provisions of the Firearm Owners Identification Card  
21 Act. This paragraph (k) does not apply to the transfer of a  
22 firearm to a person who is exempt from the requirement of  
23 possessing a Firearm Owner's Identification Card under  
24 Section 2 of the Firearm Owners Identification Card Act.  
25 For the purposes of this Section, a currently valid Firearm  
26 Owner's Identification Card means (i) a Firearm Owner's

1 Identification Card that has not expired or (ii) if the  
2 transferor is licensed as a federal firearms dealer under  
3 Section 923 of the federal Gun Control Act of 1968 (18  
4 U.S.C. 923), an approval number issued in accordance with  
5 Section 3.1 of the Firearm Owners Identification Card Act  
6 shall be proof that the Firearm Owner's Identification Card  
7 was valid.

8 (1) Not being entitled to the possession of a firearm,  
9 delivers the firearm, knowing it to have been stolen or  
10 converted. It may be inferred that a person who possesses a  
11 firearm with knowledge that its serial number has been  
12 removed or altered has knowledge that the firearm is stolen  
13 or converted.

14 (B) Paragraph (h) of subsection (A) does not include  
15 firearms sold within 6 months after enactment of Public Act  
16 78-355 (approved August 21, 1973, effective October 1, 1973),  
17 nor is any firearm legally owned or possessed by any citizen or  
18 purchased by any citizen within 6 months after the enactment of  
19 Public Act 78-355 subject to confiscation or seizure under the  
20 provisions of that Public Act. Nothing in Public Act 78-355  
21 shall be construed to prohibit the gift or trade of any firearm  
22 if that firearm was legally held or acquired within 6 months  
23 after the enactment of that Public Act.

24 (C) Sentence.

25 (1) Any person convicted of unlawful sale or delivery  
26 of firearms in violation of paragraph (c), (e), (f), (g),

1 or (h) of subsection (A) commits a Class 4 felony.

2 (2) Any person convicted of unlawful sale or delivery  
3 of firearms in violation of paragraph (b) ~~or (i)~~ of  
4 subsection (A) commits a Class 3 felony.

5 (3) Any person convicted of unlawful sale or delivery  
6 of firearms in violation of paragraph (a), (d), or (i) of  
7 subsection (A) commits a Class 2 felony.

8 (4) Any person convicted of unlawful sale or delivery  
9 of firearms in violation of paragraph (a), (b), or (i) of  
10 subsection (A) in any school, on the real property  
11 comprising a school, within 1,000 feet of the real property  
12 comprising a school, at a school related activity, or on or  
13 within 1,000 feet of any conveyance owned, leased, or  
14 contracted by a school or school district to transport  
15 students to or from school or a school related activity,  
16 regardless of the time of day or time of year at which the  
17 offense was committed, commits a Class 1 felony. Any person  
18 convicted of a second or subsequent violation of unlawful  
19 sale or delivery of firearms in violation of paragraph (a),  
20 (b), or (i) of subsection (A) in any school, on the real  
21 property comprising a school, within 1,000 feet of the real  
22 property comprising a school, at a school related activity,  
23 or on or within 1,000 feet of any conveyance owned, leased,  
24 or contracted by a school or school district to transport  
25 students to or from school or a school related activity,  
26 regardless of the time of day or time of year at which the

1 offense was committed, commits a Class 1 felony for which  
2 the sentence shall be a term of imprisonment of no less  
3 than 5 years and no more than 15 years.

4 (5) Any person convicted of unlawful sale or delivery  
5 of firearms in violation of paragraph (a) or (i) of  
6 subsection (A) in residential property owned, operated, or  
7 managed by a public housing agency or leased by a public  
8 housing agency as part of a scattered site or mixed-income  
9 development, in a public park, in a courthouse, on  
10 residential property owned, operated, or managed by a  
11 public housing agency or leased by a public housing agency  
12 as part of a scattered site or mixed-income development, on  
13 the real property comprising any public park, on the real  
14 property comprising any courthouse, or on any public way  
15 within 1,000 feet of the real property comprising any  
16 public park, courthouse, or residential property owned,  
17 operated, or managed by a public housing agency or leased  
18 by a public housing agency as part of a scattered site or  
19 mixed-income development commits a Class 2 felony.

20 (6) Any person convicted of unlawful sale or delivery  
21 of firearms in violation of paragraph (j) of subsection (A)  
22 commits a Class A misdemeanor. A second or subsequent  
23 violation is a Class 4 felony.

24 (7) Any person convicted of unlawful sale or delivery  
25 of firearms in violation of paragraph (k) of subsection (A)  
26 commits a Class 4 felony. A third or subsequent conviction



1 for a violation of paragraph (k) of subsection (A) is a  
2 Class 1 felony.

3 (8) A person 18 years of age or older convicted of  
4 unlawful sale or delivery of firearms in violation of  
5 paragraph (a) or (i) of subsection (A), when the firearm  
6 that was sold or given to another person under 18 years of  
7 age was used in the commission of or attempt to commit a  
8 forcible felony, shall be fined or imprisoned, or both, not  
9 to exceed the maximum provided for the most serious  
10 forcible felony so committed or attempted by the person  
11 under 18 years of age who was sold or given the firearm.

12 (9) (Blank). ~~Any person convicted of unlawful sale or~~  
13 ~~delivery of firearms in violation of paragraph (d) of~~  
14 ~~subsection (A) commits a Class 3 felony.~~

15 (10) Any person convicted of unlawful sale or delivery  
16 of firearms in violation of paragraph (l) of subsection (A)  
17 commits a Class 2 felony if the delivery is of one firearm.  
18 Any person convicted of unlawful sale or delivery of  
19 firearms in violation of paragraph (l) of subsection (A)  
20 commits a Class 1 felony if the delivery is of not less  
21 than 2 and not more than 5 firearms at the same time or  
22 within a one year period. Any person convicted of unlawful  
23 sale or delivery of firearms in violation of paragraph (l)  
24 of subsection (A) commits a Class X felony for which he or  
25 she shall be sentenced to a term of imprisonment of not  
26 less than 6 years and not more than 30 years if the

1 delivery is of not less than 6 and not more than 10  
2 firearms at the same time or within a 2 year period. Any  
3 person convicted of unlawful sale or delivery of firearms  
4 in violation of paragraph (1) of subsection (A) commits a  
5 Class X felony for which he or she shall be sentenced to a  
6 term of imprisonment of not less than 6 years and not more  
7 than 40 years if the delivery is of not less than 11 and  
8 not more than 20 firearms at the same time or within a 3  
9 year period. Any person convicted of unlawful sale or  
10 delivery of firearms in violation of paragraph (1) of  
11 subsection (A) commits a Class X felony for which he or she  
12 shall be sentenced to a term of imprisonment of not less  
13 than 6 years and not more than 50 years if the delivery is  
14 of not less than 21 and not more than 30 firearms at the  
15 same time or within a 4 year period. Any person convicted  
16 of unlawful sale or delivery of firearms in violation of  
17 paragraph (1) of subsection (A) commits a Class X felony  
18 for which he or she shall be sentenced to a term of  
19 imprisonment of not less than 6 years and not more than 60  
20 years if the delivery is of 31 or more firearms at the same  
21 time or within a 5 year period.

22 (D) For purposes of this Section:

23 "School" means a public or private elementary or secondary  
24 school, community college, college, or university.

25 "School related activity" means any sporting, social,  
26 academic, or other activity for which students' attendance or

1 participation is sponsored, organized, or funded in whole or in  
2 part by a school or school district.

3 (E) A prosecution for a violation of paragraph (k) of  
4 subsection (A) of this Section may be commenced within 6 years  
5 after the commission of the offense. A prosecution for a  
6 violation of this Section other than paragraph (g) of  
7 subsection (A) of this Section may be commenced within 5 years  
8 after the commission of the offense defined in the particular  
9 paragraph.

10 (Source: P.A. 96-190, eff. 1-1-10; 97-227, eff. 1-1-12; 97-347,  
11 eff. 1-1-12; revised 9-14-11.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.