

AN ACT concerning criminal law.

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

Section 5. The Criminal Code of 1961 is amended by changing Sections 24-1.1, 24-1.6, 24-3, 24-3.5, 24-3A, 24-5, and 33F-2 as follows:

(720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

Sec. 24-1.1. Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of the Department of Corrections Facilities.

(a) It is unlawful for a person to knowingly possess on or about his person or on his land or in his own abode or fixed place of business any weapon prohibited under Section 24-1 of this Act or any firearm or any firearm ammunition if the person has been convicted of a felony under the laws of this State or any other jurisdiction. This Section shall not apply if the person has been granted relief by the Director of the Department of State Police under Section 10 of the Firearm Owners Identification Card Act.

(b) It is unlawful for any person confined in a penal institution, which is a facility of the Illinois Department of Corrections, to possess any weapon prohibited under Section 24-1 of this Code or any firearm or firearm ammunition, regardless of the intent with which he possesses it.

(c) It shall be an affirmative defense to a violation of subsection (b), that such possession was specifically authorized by rule, regulation, or directive of the Illinois Department of Corrections or order issued pursuant thereto.

(d) The defense of necessity is not available to a person who is charged with a violation of subsection (b) of this Section.

(e) Sentence. Violation of this Section by a person not

confined in a penal institution shall be a Class 3 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to no less than 2 years and no more than 10 years. Violation of this Section by a person not confined in a penal institution who has been convicted of a forcible felony, a felony violation of Article 24 of this Code or of the Firearm Owners Identification Card Act, stalking or aggravated stalking, or a Class 2 or greater felony under the Illinois Controlled Substances Act or the Cannabis Control Act is a Class 2 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to not less than 3 years and not more than 14 years. Violation of this Section by a person who is on parole or mandatory supervised release is a Class 2 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to not less than 3 years and not more than 14 years. Violation of this Section by a person not confined in a penal institution is a Class X felony when the firearm possessed is a machine gun. Any person who violates this Section while confined in a penal institution, which is a facility of the Illinois Department of Corrections, is guilty of a Class 1 felony, if he possesses any weapon prohibited under Section 24-1 of this Code regardless of the intent with which he possesses it, a Class X felony if he possesses any firearm, firearm ammunition or explosive, and a Class X felony for which the offender shall be sentenced to not less than 12 years and not more than 50 years when the firearm possessed is a machine gun. A violation of this Section while wearing or in possession of body armor as defined in Section 33F-1 is a Class X felony punishable by a term of imprisonment of not less than 10 years and not more than 40 years.

(Source: P.A. 91-544, eff. 1-1-00.)

(720 ILCS 5/24-1.6)

Sec. 24-1.6. Aggravated unlawful use of a weapon.

(a) A person commits the offense of aggravated unlawful use of a weapon when he or she knowingly:

(1) Carries on or about his or her person or in any vehicle or concealed on or about his or her person except when on his or her land or in his or her abode or fixed place of business any pistol, revolver, stun gun or taser or other firearm; or

(2) Carries or possesses on or about his or her person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his or her own land or in his or her own abode or fixed place of business, any pistol, revolver, stun gun or taser or other firearm; and

(3) One of the following factors is present:

(A) the firearm possessed was uncased, loaded and immediately accessible at the time of the offense; or

(B) the firearm possessed was uncased, unloaded and the ammunition for the weapon was immediately accessible at the time of the offense; or

(C) the person possessing the firearm has not been issued a currently valid Firearm Owner's Identification Card; or

(D) the person possessing the weapon was previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a felony; or

(E) the person possessing the weapon was engaged in a misdemeanor violation of the Cannabis Control Act or in a misdemeanor violation of the Illinois Controlled Substances Act; or

(F) the person possessing the weapon is a member of a street gang or is engaged in street gang related activity, as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act; or

(G) the person possessing the weapon had a order of protection issued against him or her within the

previous 2 years; or

(H) the person possessing the weapon was engaged in the commission or attempted commission of a misdemeanor involving the use or threat of violence against the person or property of another; or

(I) the person possessing the weapon was under 21 years of age and in possession of a handgun as defined in Section 24-3, unless the person under 21 is engaged in lawful activities under the Wildlife Code or described in subsection 24-2(b)(1), (b)(3), or 24-2(f).

(b) "Stun gun or taser" as used in this Section has the same definition given to it in Section 24-1 of this Code.

(c) This Section does not apply to or affect the transportation or possession of weapons that:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card.

(d) Sentence. Aggravated unlawful use of a weapon is a Class 4 felony; a second or subsequent offense is a Class 2 felony. Aggravated unlawful use of a weapon by a person who has been previously convicted of a felony in this State or another jurisdiction is a Class 2 felony. Aggravated unlawful use of a weapon while wearing or in possession of body armor as defined in Section 33F-1 by a person who has not been issued a valid Firearms Owner's Identification Card in accordance with Section 5 of the Firearm Owners Identification Card Act is a Class X felony.

(Source: P.A. 91-690, eff. 4-13-00.)

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

Sec. 24-3. Unlawful Sale of Firearms.

(A) A person commits the offense of unlawful sale of

firearms when he or she knowingly does any of the following:

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

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

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

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

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

(f) Sells or gives any firearms to any person who is mentally retarded.

(g) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, incidental to a sale, without withholding delivery of such rifle, shotgun or other long gun for at least 24 hours after application for its purchase has been made. However, this paragraph (g) does not apply to: (1) the sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to his or her employment as a bank guard, armed truck guard, or other similar employment; (2) a mail order sale of a firearm to a nonresident of Illinois under which the firearm is mailed to a point outside the boundaries of Illinois; (3) the sale of a firearm to a nonresident of Illinois while at a firearm showing or display recognized by the Illinois Department of State Police; or (4) the sale of a firearm to a dealer licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of

1968 (18 U.S.C. 923).

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

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

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

A person "engaged in the business" means a person who devotes time, attention, and labor to engaging in the activity as a regular course of trade or business with the principal objective of livelihood and profit, but does not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

"With the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection; however, proof of profit shall not be required as to a person who engages in the regular and repetitive

purchase and disposition of firearms for criminal purposes or terrorism.

(k) Sells or transfers ownership of a firearm to a person who does not display to the seller or transferor of the firearm a currently valid Firearm Owner's Identification Card that has previously been issued in the transferee's name by the Department of State Police under the provisions of the Firearm Owners Identification Card Act. This paragraph (k) does not apply to the transfer of a firearm to a person who is exempt from the requirement of possessing a Firearm Owner's Identification Card under Section 2 of the Firearm Owners Identification Card Act. For the purposes of this Section, a currently valid Firearm Owner's Identification Card means (i) a Firearm Owner's Identification Card that has not expired or (ii) if the transferor is licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923), an approval number issued in accordance with Section 3.1 of the Firearm Owners Identification Card Act shall be proof that the Firearm Owner's Identification Card was valid.

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

(C) Sentence.

(1) Any person convicted of unlawful sale of firearms in violation of any of paragraphs (c) through (h) of subsection (A) commits a Class 4 felony.

(2) Any person convicted of unlawful sale of firearms

in violation of paragraph (b) or (i) of subsection (A) commits a Class 3 felony.

(3) Any person convicted of unlawful sale of firearms in violation of paragraph (a) of subsection (A) commits a Class 2 felony.

(4) Any person convicted of unlawful sale of firearms in violation of paragraph (a), (b), or (i) of subsection (A) in any school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or time of year at which the offense was committed, commits a Class 1 felony. Any person convicted of a second or subsequent violation of unlawful sale of firearms in violation of paragraph (a), (b), or (i) of subsection (A) in any school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on or within 1,000 feet of any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or time of year at which the offense was committed, commits a Class 1 felony for which the sentence shall be a term of imprisonment of no less than 5 years and no more than 15 years.

(5) Any person convicted of unlawful sale of firearms in violation of paragraph (a) or (i) of subsection (A) in residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, in a public park, in a courthouse, on residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property

comprising any public park, on the real property comprising any courthouse, or on any public way within 1,000 feet of the real property comprising any public park, courthouse, or residential property owned, operated, or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development commits a Class 2 felony.

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

(7) Any person convicted of unlawful sale of firearms in violation of paragraph (k) of subsection (A) commits a Class 4 felony. A third or subsequent conviction for a violation of paragraph (k) of subsection (A) is a Class 1 felony.

(D) For purposes of this Section:

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

"School related activity" means any sporting, social, academic, or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

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

(Source: P.A. 93-162, eff. 7-10-03.)

(720 ILCS 5/24-3.5)

Sec. 24-3.5. Unlawful purchase of a firearm.

(a) For purposes of this Section, "firearms transaction record form" means a form:

(1) executed by a transferee of a firearm stating: (i) the transferee's name and address (including county or similar political subdivision); (ii) whether the transferee is a citizen of the United States; (iii) the transferee's State of residence; and (iv) the date and place of birth, height, weight, and race of the transferee; and

(2) on which the transferee certifies that he or she is not prohibited by federal law from transporting or shipping a firearm in interstate or foreign commerce or receiving a firearm that has been shipped or transported in interstate or foreign commerce or possessing a firearm in or affecting commerce.

(b) A person commits the offense of unlawful purchase of a firearm who knowingly purchases or attempts to purchase a firearm with the intent to deliver that firearm to another person who is prohibited by federal or State law from possessing a firearm.

(c) A person commits the offense of unlawful purchase of a firearm when he or she, in purchasing or attempting to purchase a firearm, intentionally provides false or misleading information on a United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms firearms transaction record form.

(d) Exemption. It is not a violation of subsection (b) of this Section for a person to make a gift or loan of a firearm to a person who is not prohibited by federal or State law from possessing a firearm if the transfer of the firearm is made in accordance with Section 3 of the Firearm Owners Identification Card Act.

(e) Sentence.

(1) A person who commits the offense of unlawful purchase of a firearm:

(A) is guilty of a Class 4 felony for purchasing or attempting to purchase one firearm;

(B) is guilty of a Class 3 felony for purchasing or

attempting to purchase not less than 2 firearms and not more than 5 firearms at the same time or within a one year period;

(C) is guilty of a Class 2 felony for purchasing or attempting to purchase not less than 6 firearms and not more than 10 firearms at the same time or within a 2 year period;

(D) is guilty of a Class 1 felony for purchasing or attempting to purchase not less than 11 firearms and not more than 20 firearms at the same time or within a 3 year period;

(E) is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 30 years for purchasing or attempting to purchase not less than 21 firearms and not more than 30 firearms at the same time or within a 4 year period;

(F) is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 40 years for purchasing or attempting to purchase not less than 31 firearms and not more than 40 firearms at the same time or within a 5 year period;

(G) is guilty of a Class X felony for which the person shall be sentenced to a term of imprisonment of not less than 6 years and not more than 50 years for purchasing or attempting to purchase more than 40 firearms at the same time or within a 6 year period.

(2) In addition to any other penalty that may be imposed for a violation of this Section, the court may sentence a person convicted of a violation of subsection (c) of this Section to a fine not to exceed \$250,000 for each violation.

(f) A prosecution for unlawful purchase of a firearm may be commenced within 6 years after the commission of the offense.

(Source: P.A. 93-451, eff. 8-7-03.)

(720 ILCS 5/24-3A)

Sec. 24-3A. Gunrunning.

(a) A person commits gunrunning when he or she transfers 3 or more firearms in violation of any of the paragraphs of Section 24-3 of this Code.

(b) Sentence. A person who commits gunrunning:

(1) is guilty of a Class 1 felony;

(2) is guilty of a Class X felony for which the sentence shall be a term of imprisonment of not less than 8 years and not more than 40 years if the transfer is of not less than 11 firearms and not more than 20 firearms;

(3) is guilty of a Class X felony for which the sentence shall be a term of imprisonment of not less than 10 years and not more than 50 years if the transfer is of more than 20 firearms.

A person who commits gunrunning by transferring firearms to a person who, at the time of the commission of the offense, is under 18 years of age is guilty of a Class X felony.

(Source: P.A. 91-13, eff. 1-1-00; 91-696, eff. 4-13-00.)

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

Sec. 24-5. Defacing identification marks of firearms.

(a) Any person who shall knowingly or intentionally change, alter, remove or obliterate the name of the importer's or manufacturer's serial number ~~maker, model, manufacturer's number or other mark of identification~~ of any firearm commits a Class 2 felony.

(b) A person who possesses ~~Possession of~~ any firearm upon which any such importer's or manufacturer's serial number ~~has mark shall have~~ been changed, altered, removed or obliterated commits a Class 3 felony ~~shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.~~

(c) Nothing in this Section shall prevent a person from making repairs, replacement of parts, or other changes to a

firearm if those repairs, replacement of parts, or changes cause the removal of the name of the maker, model, or other marks of identification other than the serial number on the firearm's frame or receiver.

(d) A prosecution for a violation of this Section may be commenced within 6 years after the commission of the offense.

(Source: P.A. 91-696, eff. 4-13-00.)

(720 ILCS 5/33F-2) (from Ch. 38, par. 33F-2)

Sec. 33F-2. Unlawful use of body armor. A person commits the offense of unlawful use of body armor when he knowingly wears body armor and is in possession of a dangerous weapon, other than a firearm, in the commission or attempted commission of any offense.

(Source: P.A. 87-521.)

Section 10. The Marks and Serial Numbers Act is amended by changing Section 1 as follows:

(720 ILCS 335/1) (from Ch. 121 1/2, par. 157.13)

Sec. 1. Any person who removes, alters, defaces, covers or destroys the manufacturers' serial number or any other manufacturers' number or distinguishing identification mark upon any machine or other article of merchandise, other than a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code or a firearm as defined in the Firearm Owners Identification Card Act, for the purpose of concealing or destroying the identity of such machine or other article of merchandise shall be guilty of a Class B misdemeanor.

(Source: P.A. 78-255.)

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