

# HB0408



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB0408**

by Rep. David B. Reis

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 2012. Provides that a person commits the offense of unlawful sale or delivery of firearms when he or she knowingly 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 700 (rather than 800) degrees Fahrenheit.

LRB100 04110 RLC 14115 b

A BILL FOR

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 2012 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 institution within the past 5  
23 years. In this subsection (e):

1            "Mental institution" means any hospital,  
2            institution, clinic, evaluation facility, mental  
3            health center, or part thereof, which is used primarily  
4            for the care or treatment of persons with mental  
5            illness.

6            "Patient in a mental institution" means the person  
7            was admitted, either voluntarily or involuntarily, to  
8            a mental institution for mental health treatment,  
9            unless the treatment was voluntary and solely for an  
10           alcohol abuse disorder and no other secondary  
11           substance abuse disorder or mental illness.

12           (f) Sells or gives any firearms to any person who is a  
13           person with an intellectual disability.

14           (g) Delivers any firearm of a size which may be  
15           concealed upon the person, incidental to a sale, without  
16           withholding delivery of such firearm for at least 72 hours  
17           after application for its purchase has been made, or  
18           delivers any rifle, shotgun or other long gun, or a stun  
19           gun or taser, incidental to a sale, without withholding  
20           delivery of such rifle, shotgun or other long gun, or a  
21           stun gun or taser for at least 24 hours after application  
22           for its purchase has been made. However, this paragraph (g)  
23           does not apply to: (1) the sale of a firearm to a law  
24           enforcement officer if the seller of the firearm knows that  
25           the person to whom he or she is selling the firearm is a  
26           law enforcement officer or the sale of a firearm to a

1 person who desires to purchase a firearm for use in  
2 promoting the public interest incident to his or her  
3 employment as a bank guard, armed truck guard, or other  
4 similar employment; (2) a mail order sale of a firearm from  
5 a federally licensed firearms dealer to a nonresident of  
6 Illinois under which the firearm is mailed to a federally  
7 licensed firearms dealer outside the boundaries of  
8 Illinois; (3) the sale of a firearm to a nonresident of  
9 Illinois while at a firearm showing or display recognized  
10 by the Illinois Department of State Police; (4) the sale of  
11 a firearm to a dealer licensed as a federal firearms dealer  
12 under Section 923 of the federal Gun Control Act of 1968  
13 (18 U.S.C. 923); or (5) the transfer or sale of any rifle,  
14 shotgun, or other long gun to a resident registered  
15 competitor or attendee or non-resident registered  
16 competitor or attendee by any dealer licensed as a federal  
17 firearms dealer under Section 923 of the federal Gun  
18 Control Act of 1968 at competitive shooting events held at  
19 the World Shooting Complex sanctioned by a national  
20 governing body. For purposes of transfers or sales under  
21 subparagraph (5) of this paragraph (g), the Department of  
22 Natural Resources shall give notice to the Department of  
23 State Police at least 30 calendar days prior to any  
24 competitive shooting events at the World Shooting Complex  
25 sanctioned by a national governing body. The notification  
26 shall be made on a form prescribed by the Department of

1 State Police. The sanctioning body shall provide a list of  
2 all registered competitors and attendees at least 24 hours  
3 before the events to the Department of State Police. Any  
4 changes to the list of registered competitors and attendees  
5 shall be forwarded to the Department of State Police as  
6 soon as practicable. The Department of State Police must  
7 destroy the list of registered competitors and attendees no  
8 later than 30 days after the date of the event. Nothing in  
9 this paragraph (g) relieves a federally licensed firearm  
10 dealer from the requirements of conducting a NICS  
11 background check through the Illinois Point of Contact  
12 under 18 U.S.C. 922(t). For purposes of this paragraph (g),  
13 "application" means when the buyer and seller reach an  
14 agreement to purchase a firearm. For purposes of this  
15 paragraph (g), "national governing body" means a group of  
16 persons who adopt rules and formulate policy on behalf of a  
17 national firearm sporting organization.

18 (h) While holding any license as a dealer, importer,  
19 manufacturer, or pawnbroker under the federal Gun Control  
20 Act of 1968, manufactures, sells, or delivers to any  
21 unlicensed person a handgun having a barrel, slide, frame,  
22 or receiver which is a die casting of zinc alloy or any  
23 other nonhomogeneous metal which will melt or deform at a  
24 temperature of less than 700 ~~800~~ degrees Fahrenheit. For  
25 purposes of this paragraph, (1) "firearm" is defined as in  
26 the Firearm Owners Identification Card Act; and (2)

1 "handgun" is defined as a firearm designed to be held and  
2 fired by the use of a single hand, and includes a  
3 combination of parts from which such a firearm can be  
4 assembled.

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

8 (j) Sells or gives a firearm while engaged in the  
9 business of selling firearms at wholesale or retail without  
10 being licensed as a federal firearms dealer under Section  
11 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
12 In this paragraph (j):

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

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

1 purchase and disposition of firearms for criminal purposes  
2 or terrorism.

3 (k) Sells or transfers ownership of a firearm to a  
4 person who does not display to the seller or transferor of  
5 the firearm either: (1) a currently valid Firearm Owner's  
6 Identification Card that has previously been issued in the  
7 transferee's name by the Department of State Police under  
8 the provisions of the Firearm Owners Identification Card  
9 Act; or (2) a currently valid license to carry a concealed  
10 firearm that has previously been issued in the transferee's  
11 name by the Department of State Police under the Firearm  
12 Concealed Carry Act. This paragraph (k) does not apply to  
13 the transfer of a firearm to a person who is exempt from  
14 the requirement of possessing a Firearm Owner's  
15 Identification Card under Section 2 of the Firearm Owners  
16 Identification Card Act. For the purposes of this Section,  
17 a currently valid Firearm Owner's Identification Card  
18 means (i) a Firearm Owner's Identification Card that has  
19 not expired or (ii) an approval number issued in accordance  
20 with subsection (a-10) of subsection 3 or Section 3.1 of  
21 the Firearm Owners Identification Card Act shall be proof  
22 that the Firearm Owner's Identification Card was valid.

23 (1) In addition to the other requirements of this  
24 paragraph (k), all persons who are not federally  
25 licensed firearms dealers must also have complied with  
26 subsection (a-10) of Section 3 of the Firearm Owners

1 Identification Card Act by determining the validity of  
2 a purchaser's Firearm Owner's Identification Card.

3 (2) All sellers or transferors who have complied  
4 with the requirements of subparagraph (1) of this  
5 paragraph (k) shall not be liable for damages in any  
6 civil action arising from the use or misuse by the  
7 transferee of the firearm transferred, except for  
8 willful or wanton misconduct on the part of the seller  
9 or transferor.

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

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

26 (C) Sentence.



1           (1) Any person convicted of unlawful sale or delivery  
2 of firearms in violation of paragraph (c), (e), (f), (g),  
3 or (h) of subsection (A) commits a Class 4 felony.

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

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

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

1 students to or from school or a school related activity,  
2 regardless of the time of day or time of year at which the  
3 offense was committed, commits a Class 1 felony for which  
4 the sentence shall be a term of imprisonment of no less  
5 than 5 years and no more than 15 years.

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

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

26 (7) Any person convicted of unlawful sale or delivery

1 of firearms in violation of paragraph (k) of subsection (A)  
2 commits a Class 4 felony, except that a violation of  
3 subparagraph (1) of paragraph (k) of subsection (A) shall  
4 not be punishable as a crime or petty offense. A third or  
5 subsequent conviction for a violation of paragraph (k) of  
6 subsection (A) is a Class 1 felony.

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

16 (9) Any person convicted of unlawful sale or delivery  
17 of firearms in violation of paragraph (d) of subsection (A)  
18 commits a Class 3 felony.

19 (10) Any person convicted of unlawful sale or delivery  
20 of firearms in violation of paragraph (l) of subsection (A)  
21 commits a Class 2 felony if the delivery is of one firearm.  
22 Any person convicted of unlawful sale or delivery of  
23 firearms in violation of paragraph (l) of subsection (A)  
24 commits a Class 1 felony if the delivery is of not less  
25 than 2 and not more than 5 firearms at the same time or  
26 within a one year period. Any person convicted of unlawful

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

26 (D) For purposes of this Section:

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

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

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

14 (Source: P.A. 98-508, eff. 8-19-13; 99-29, eff. 7-10-15;  
15 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)