



Rep. Luis Arroyo

Filed: 4/12/2018

10000HB1470ham001

LRB100 03294 RLC 36623 a

1 AMENDMENT TO HOUSE BILL 1470

2 AMENDMENT NO. _____. Amend House Bill 1470 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Section 24-3 and adding Section 24-3.1A as follows:

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

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

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

11 (a) Transfers or possesses with intent to transfer
12 ~~Sells or gives~~ any firearm of a size which may be concealed
13 upon the person to any person he or she has reasonable
14 cause to believe is under 18 years of age.

15 (b) Transfers or possesses with intent to transfer
16 ~~Sells or gives~~ any firearm to a person under 21 years of

1 age who has been convicted of a misdemeanor other than a
2 traffic offense or adjudged delinquent.

3 (b-5) Transfers or possesses with intent to transfer
4 any firearm to a person he or she has reasonable cause to
5 believe is under 18 years of age.

6 (c) Transfers or possesses with intent to transfer
7 ~~Sells or gives~~ any firearm to any person he or she has
8 reasonable cause to believe is a narcotic addict.

9 (d) Transfers or possesses with intent to transfer
10 ~~Sells or gives~~ any firearm to any person he or she has
11 reasonable cause to believe ~~who~~ has been convicted of a
12 felony under the laws of this or any other jurisdiction.

13 (e) Transfers or possesses with intent to transfer
14 ~~Sells or gives~~ any firearm to any person he or she has
15 reasonable cause to believe ~~who~~ has been a patient in a
16 mental institution within the past 5 years. In this
17 subsection (e):

18 "Mental institution" means any hospital,
19 institution, clinic, evaluation facility, mental
20 health center, or part thereof, which is used primarily
21 for the care or treatment of persons with mental
22 illness.

23 "Patient in a mental institution" means the person
24 was admitted, either voluntarily or involuntarily, to
25 a mental institution for mental health treatment,
26 unless the treatment was voluntary and solely for an

1 alcohol abuse disorder and no other secondary
2 substance abuse disorder or mental illness.

3 (f) Transfers or possesses with intent to transfer
4 ~~Sells or gives~~ any firearms to any person he or she knows
5 or has reasonable cause to believe ~~who~~ is a person with an
6 intellectual disability.

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

1 Illinois; (3) the sale of a firearm to a nonresident of
2 Illinois while at a firearm showing or display recognized
3 by the Illinois Department of State Police; (4) the sale of
4 a firearm to a dealer licensed as a federal firearms dealer
5 under Section 923 of the federal Gun Control Act of 1968
6 (18 U.S.C. 923); or (5) the transfer or sale of any rifle,
7 shotgun, or other long gun to a resident registered
8 competitor or attendee or non-resident registered
9 competitor or attendee by any dealer licensed as a federal
10 firearms dealer under Section 923 of the federal Gun
11 Control Act of 1968 at competitive shooting events held at
12 the World Shooting Complex sanctioned by a national
13 governing body. For purposes of transfers or sales under
14 subparagraph (5) of this paragraph (g), the Department of
15 Natural Resources shall give notice to the Department of
16 State Police at least 30 calendar days prior to any
17 competitive shooting events at the World Shooting Complex
18 sanctioned by a national governing body. The notification
19 shall be made on a form prescribed by the Department of
20 State Police. The sanctioning body shall provide a list of
21 all registered competitors and attendees at least 24 hours
22 before the events to the Department of State Police. Any
23 changes to the list of registered competitors and attendees
24 shall be forwarded to the Department of State Police as
25 soon as practicable. The Department of State Police must
26 destroy the list of registered competitors and attendees no

1 later than 30 days after the date of the event. Nothing in
2 this paragraph (g) relieves a federally licensed firearm
3 dealer from the requirements of conducting a NICS
4 background check through the Illinois Point of Contact
5 under 18 U.S.C. 922(t). For purposes of this paragraph (g),
6 "application" means when the buyer and seller reach an
7 agreement to purchase a firearm. For purposes of this
8 paragraph (g), "national governing body" means a group of
9 persons who adopt rules and formulate policy on behalf of a
10 national firearm sporting organization.

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

24 (i) Transfers or possesses with intent to transfer
25 ~~Sells or gives~~ a firearm of any size to any person he or
26 she knows or has reasonable cause to believe is under 18

1 years of age who does not possess a valid Firearm Owner's
2 Identification Card.

3 (i-5) While holding a license under the Federal Gun
4 Control Act of 1968, transfers or possesses with intent to
5 transfer more than one handgun to any person within any
6 30-day period or transfers or possesses with intent to
7 transfer a handgun to any person he or she knows or has
8 reasonable cause to believe has received a handgun within
9 the previous 30 days unless the receipt of multiple
10 handguns is exempted under subsection (c) or (d) of Section
11 24-3.1A. It is an affirmative defense to a violation of
12 this subsection that the transferor in good faith relied on
13 the records of the Department of State Police in concluding
14 that the transferor had not transferred a handgun within
15 the previous 30 days or that multiple purchases were
16 authorized by subsection (b) of Section 24-3.1A, or relied
17 in good faith on the records of a local law enforcement
18 agency that the transfer was authorized by subsection (c)
19 of Section 24-3.1A.

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

26 A person "engaged in the business" means a person who

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

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

16 (k) Transfers ~~Sells or transfers~~ ownership of a firearm
17 to a person who does not display to the seller or
18 transferor of the firearm either: (1) a currently valid
19 Firearm Owner's Identification Card that has previously
20 been issued in the transferee's name by the Department of
21 State Police under the provisions of the Firearm Owners
22 Identification Card Act; or (2) a currently valid license
23 to carry a concealed firearm that has previously been
24 issued in the transferee's name by the Department of State
25 Police under the Firearm Concealed Carry Act. This
26 paragraph (k) does not apply to the transfer of a firearm

1 to a person who is exempt from the requirement of
2 possessing a Firearm Owner's Identification Card under
3 Section 2 of the Firearm Owners Identification Card Act.
4 For the purposes of this Section, a currently valid Firearm
5 Owner's Identification Card means (i) a Firearm Owner's
6 Identification Card that has not expired or (ii) an
7 approval number issued in accordance with subsection
8 (a-10) of subsection 3 or Section 3.1 of the Firearm Owners
9 Identification Card Act shall be proof that the Firearm
10 Owner's Identification Card was valid.

11 (1) In addition to the other requirements of this
12 paragraph (k), all persons who are not federally
13 licensed firearms dealers must also have complied with
14 subsection (a-10) of Section 3 of the Firearm Owners
15 Identification Card Act by determining the validity of
16 a purchaser's Firearm Owner's Identification Card.

17 (2) All sellers or transferors who have complied
18 with the requirements of subparagraph (1) of this
19 paragraph (k) shall not be liable for damages in any
20 civil action arising from the use or misuse by the
21 transferee of the firearm transferred, except for
22 willful or wanton misconduct on the part of the seller
23 or transferor.

24 (1) Not being entitled to the possession of a firearm,
25 delivers the firearm, knowing it to have been stolen or
26 converted. It may be inferred that a person who possesses a

1 firearm with knowledge that its serial number has been
2 removed or altered has knowledge that the firearm is stolen
3 or converted.

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

14 (B-5) As used in this Section, "transfer" means the actual
15 or attempted transfer of a firearm or firearm ammunition, with
16 or without consideration, but does not include the lease of a
17 firearm, or the provision of ammunition specifically for that
18 firearm, if the firearm and the ammunition are to be used on
19 the lessor's premises, and does not include any transfer of
20 possession when the transferor maintains supervision and
21 control over the firearm or ammunition.

22 (B-10) It is an affirmative defense to a violation of
23 paragraph (i-5) of subsection (A) that the transfer or
24 possession with intent to transfer of a firearm was to a
25 transferee who received the firearm as an heir, legatee, or
26 beneficiary of or in a similar capacity to a deceased person

1 who had owned the firearm. Nothing in this paragraph (B-10)
2 makes lawful any transfer or possession with intent to transfer
3 of a firearm, or any other possession or use of a firearm, in
4 violation of any law, other than paragraph (i-5) of subsection
5 (A), or in violation of any municipal or county ordinance.

6 (C) Sentence.

7 (1) Any person convicted of unlawful transfer ~~sale~~ or
8 delivery of firearms in violation of paragraph (c), (e),
9 (f), (g), or (h) of subsection (A) commits a Class 4
10 felony. A person convicted of a violation of subsection
11 (i-5) of subsection (A) of this Section commits a Class A
12 misdemeanor for a first offense and a Class 4 felony for a
13 second or subsequent offense.

14 (2) Any person convicted of unlawful transfer ~~sale~~ or
15 delivery of firearms in violation of paragraph (b), (b-5),
16 or (i) of subsection (A) commits a Class 3 felony.

17 (3) Any person convicted of unlawful transfer ~~sale~~ or
18 delivery of firearms in violation of paragraph (a) of
19 subsection (A) commits a Class 2 felony.

20 (4) Any person convicted of unlawful transfer ~~sale~~ or
21 delivery of firearms in violation of paragraph (a), (b),
22 (b-5), 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. Any person
4 convicted of a second or subsequent violation of unlawful
5 transfer ~~sale~~ or delivery of firearms in violation of
6 paragraph (a), (b), (b-5), or (i) of subsection (A) in any
7 school, on the real property comprising a school, within
8 1,000 feet of the real property comprising a school, at a
9 school related activity, or on or within 1,000 feet of any
10 conveyance owned, leased, or contracted by a school or
11 school district to transport students to or from school or
12 a school related activity, regardless of the time of day or
13 time of year at which the offense was committed, commits a
14 Class 1 felony for which the sentence shall be a term of
15 imprisonment of no less than 5 years and no more than 15
16 years.

17 (5) Any person convicted of unlawful transfer ~~sale~~ or
18 delivery of firearms in violation of paragraph (a) or (i)
19 of subsection (A) in residential property owned, operated,
20 or managed by a public housing agency or leased by a public
21 housing agency as part of a scattered site or mixed-income
22 development, in a public park, in a courthouse, on
23 residential property owned, operated, or managed by a
24 public housing agency or leased by a public housing agency
25 as part of a scattered site or mixed-income development, on
26 the real property comprising any public park, on the real

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

7 (6) Any person convicted of unlawful transfer ~~sale~~ or
8 delivery of firearms in violation of paragraph (j) of
9 subsection (A) commits a Class A misdemeanor. A second or
10 subsequent violation is a Class 4 felony.

11 (7) Any person convicted of unlawful transfer ~~sale~~ or
12 delivery of firearms in violation of paragraph (k) of
13 subsection (A) commits a Class 4 felony, except that a
14 violation of subparagraph (1) of paragraph (k) of
15 subsection (A) shall not be punishable as a crime or petty
16 offense. A third or subsequent conviction for a violation
17 of paragraph (k) of subsection (A) is a Class 1 felony.

18 (8) A person 18 years of age or older convicted of
19 unlawful transfer ~~sale~~ or delivery of firearms in violation
20 of paragraph (a) or (i) of subsection (A), when the firearm
21 that was sold or given to another person under 18 years of
22 age was used in the commission of or attempt to commit a
23 forcible felony, shall be fined or imprisoned, or both, not
24 to exceed the maximum provided for the most serious
25 forcible felony so committed or attempted by the person
26 under 18 years of age who was sold or given the firearm.

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

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

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

12 (D) For purposes of this Section:

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

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

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

26 (Source: P.A. 98-508, eff. 8-19-13; 99-29, eff. 7-10-15;

1 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)

2 (720 ILCS 5/24-3.1A new)

3 Sec. 24-3.1A. Unlawful acquisition of handguns.

4 (a) Except as exempted in subsections (b) and (c), it is
5 unlawful for any person other than a person holding a license
6 under the Federal Gun Control Act of 1968, as amended, to
7 acquire more than one handgun within any 30-day period.

8 (b) Acquisitions in excess of one handgun within a 30-day
9 period may be made upon completion of an enhanced background
10 check, as described in this Section, by special application to
11 the Department of State Police listing the number and type of
12 handguns to be acquired and transferred for lawful business or
13 personal use, in a collector series, for collections, as a bulk
14 purchase from estate sales, and for similar purposes. The
15 application must be signed under oath by the applicant on forms
16 provided by the Department of State Police, must state the
17 purpose for the acquisition above the limit, and must require
18 satisfactory proof of residency and identity. The application
19 is in addition to the firearms transfer report required by the
20 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

21 Upon being satisfied that these requirements have been met,
22 the Department of State Police must forthwith issue to the
23 applicant a nontransferable certificate that is valid for 7
24 days from the date of issue. The certificate must be
25 surrendered to the transferor by the prospective transferee

1 before the consummation of the transfer and must be kept on
2 file at the transferor's place of business for inspection as
3 provided in Section 24-4. Upon request of any local law
4 enforcement agency, the Department of State Police may certify
5 the local law enforcement agency to serve as its agent to
6 receive applications and, upon authorization by the Department
7 of State Police, issue certificates forthwith under this
8 Section. Applications and certificates issued under this
9 Section must be maintained as records by the Department of
10 State Police, and made available to local law enforcement
11 agencies.

12 (c) This Section does not apply to:

13 (1) A law enforcement agency;

14 (2) State and local correctional agencies and
15 departments;

16 (3) The acquisition of antique firearms as defined by
17 paragraph (4) of Section 1.1 of the Firearm Owners
18 Identification Card Act; or

19 (4) A person whose handgun is stolen or irretrievably
20 lost who deems it essential that the handgun be replaced
21 immediately. The person may acquire another handgun, even
22 if the person has previously acquired a handgun within a
23 30-day period, if: (i) the person provides the firearms
24 transferor with a copy of the official police report or a
25 summary of the official police report, on forms provided by
26 the Department of State Police, from the law enforcement

1 agency that took the report of the lost or stolen handgun;
2 (ii) the official police report or summary of the official
3 police report contains the name and address of the handgun
4 owner, the description and serial number of the handgun,
5 the location of the loss or theft, the date of the loss or
6 theft, and the date the loss or theft was reported to the
7 law enforcement agency; and (iii) the date of the loss or
8 theft as reflected on the official police report or summary
9 of the official police report occurred within 30 days of
10 the person's attempt to replace the handgun. The firearms
11 transferor must attach a copy of the official police report
12 or summary of the official police report to the original
13 copy of the form provided by the Department of State Police
14 completed for the transaction, retain it for the period
15 prescribed by the Department of State Police, and forward a
16 copy of the documents to the Department of State Police.
17 The documents must be maintained by the Department of State
18 Police and made available to local law enforcement
19 agencies.

20 (d) For the purposes of this Section, "acquisition" does
21 not include the exchange or replacement of a handgun by a
22 transferor for a handgun transferred from the transferor by the
23 same person seeking the exchange or replacement within the
24 30-day period immediately preceding the date of exchange or
25 replacement.

26 (e) The exemptions set forth in subsections (b) and (c) are

1 affirmative defenses to a violation of subsection (a).

2 (f) A violation of this Section is a Class A misdemeanor
3 for a first offense and a Class 4 felony for a second or
4 subsequent offense.

5 (g) Notwithstanding any other rulemaking authority that
6 may exist, neither the Governor nor any agency or agency head
7 under the jurisdiction of the Governor has any authority to
8 make or adopt rules to implement or enforce the provisions of
9 this amendatory Act of the 100th General Assembly. If, however,
10 the Governor believes that rules are necessary to implement or
11 enforce the provisions of this amendatory Act of the 100th
12 General Assembly, the Governor may suggest rules to the General
13 Assembly by filing them with the Clerk of the House and the
14 Secretary of the Senate and by requesting that the General
15 Assembly authorize the rulemaking by law, enact those suggested
16 rules into law, or take any other appropriate action in the
17 General Assembly's discretion. Nothing contained in this
18 amendatory Act of the 100th General Assembly shall be
19 interpreted to grant rulemaking authority under any other
20 Illinois statute if the authority is not otherwise explicitly
21 given. For the purposes of this subsection, "rules" is given
22 the meaning contained in Section 1-70 of the Illinois
23 Administrative Procedure Act, and "agency" and "agency head"
24 are given the meanings contained in Sections 1-20 and 1-25 of
25 the Illinois Administrative Procedure Act to the extent that
26 those definitions apply to agencies or agency heads under the

1 jurisdiction of the Governor.".