

HB2833



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2833

by Rep. Theresa Mah

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 while holding a license under the federal Gun Control Act of 1968, transfers or possesses with the intent to transfer more than one firearm to any person within a 30-day period or transfers or possesses with the intent to transfer a firearm to any person he or she knows or has reasonable cause to believe has received a firearm within the previous 30 days. Provides that it is an affirmative defense to a violation that the transferor in good faith relied on the records of the Department of State Police in concluding that the transferor had not transferred a firearm within the previous 30 days. Provides that a person who commits this offense commits a Class 3 felony.

LRB100 08010 SLF 18092 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 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 (i-5) While holding a license under the federal Gun
9 Control Act of 1968, transfers or possesses with the intent
10 to transfer more than one firearm to any person within a
11 30-day period or transfers or possesses with the intent to
12 transfer a firearm to any person he or she knows or has
13 reasonable cause to believe has received a firearm within
14 the previous 30 days. It is an affirmative defense to a
15 violation of this subsection (i-5) that the transferor in
16 good faith relied on the records of the Department of State
17 Police in concluding that the transferor had not
18 transferred a firearm within the previous 30 days.

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

24 A person "engaged in the business" means a person who
25 devotes time, attention, and labor to engaging in the
26 activity as a regular course of trade or business with the

1 principal objective of livelihood and profit, but does not
2 include a person who makes occasional repairs of firearms
3 or who occasionally fits special barrels, stocks, or
4 trigger mechanisms to firearms.

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

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

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

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

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

21 (1) Not being entitled to the possession of a firearm,
22 delivers the firearm, knowing it to have been stolen or
23 converted. It may be inferred that a person who possesses a
24 firearm with knowledge that its serial number has been
25 removed or altered has knowledge that the firearm is stolen
26 or converted.

1 (B) Paragraph (h) of subsection (A) does not include
2 firearms sold within 6 months after enactment of Public Act
3 78-355 (approved August 21, 1973, effective October 1, 1973),
4 nor is any firearm legally owned or possessed by any citizen or
5 purchased by any citizen within 6 months after the enactment of
6 Public Act 78-355 subject to confiscation or seizure under the
7 provisions of that Public Act. Nothing in Public Act 78-355
8 shall be construed to prohibit the gift or trade of any firearm
9 if that firearm was legally held or acquired within 6 months
10 after the enactment of that Public Act.

11 (C) Sentence.

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

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

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

21 (4) Any person convicted of unlawful sale or delivery
22 of firearms in violation of paragraph (a), (b), or (i) of
23 subsection (A) in any school, on the real property
24 comprising a school, within 1,000 feet of the real property
25 comprising a school, at a school related activity, or on or
26 within 1,000 feet of any conveyance owned, leased, or

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

17 (5) Any person convicted of unlawful sale or delivery
18 of firearms in violation of paragraph (a) or (i) of
19 subsection (A) in residential property owned, operated, or
20 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 sale or delivery
8 of firearms in violation of paragraph (j) of subsection (A)
9 commits a Class A misdemeanor. A second or subsequent
10 violation is a Class 4 felony.

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

18 (8) A person 18 years of age or older convicted of
19 unlawful sale or delivery of firearms in violation of
20 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 sale or delivery
2 of firearms in violation of paragraph (d) of subsection (A)
3 commits a Class 3 felony.

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

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

11 (D) For purposes of this Section:

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

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

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

25 (Source: P.A. 98-508, eff. 8-19-13; 99-29, eff. 7-10-15;
26 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)