

HB4398



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4398

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 15876 RLC 30987 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.)