

# HB1881



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB1881

by Rep. Jim Durkin

### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 2012. Makes a technical change in a Section concerning the unlawful sale or delivery of firearms.

LRB101 05770 SLF 50786 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 ~~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, incidental to a sale, without  
15           withholding delivery of the firearm for at least 72 hours  
16           after application for its purchase has been made, or  
17           delivers a stun gun or taser, incidental to a sale, without  
18           withholding delivery of the stun gun or taser for at least  
19           24 hours after application for its purchase has been made.  
20           However, this paragraph (g) does not apply to: (1) the sale  
21           of a firearm to a law enforcement officer if the seller of  
22           the firearm knows that the person to whom he or she is  
23           selling the firearm is a law enforcement officer or the  
24           sale of a firearm to a person who desires to purchase a  
25           firearm for use in promoting the public interest incident  
26           to his or her employment as a bank guard, armed truck

1 guard, or other similar employment; (2) a mail order sale  
2 of a firearm from a federally licensed firearms dealer to a  
3 nonresident of Illinois under which the firearm is mailed  
4 to a federally licensed firearms dealer outside the  
5 boundaries of Illinois; (3) (blank); (4) the sale of a  
6 firearm to a dealer licensed as a federal firearms dealer  
7 under Section 923 of the federal Gun Control Act of 1968  
8 (18 U.S.C. 923); or (5) the transfer or sale of any rifle,  
9 shotgun, or other long gun to a resident registered  
10 competitor or attendee or non-resident registered  
11 competitor or attendee by any dealer licensed as a federal  
12 firearms dealer under Section 923 of the federal Gun  
13 Control Act of 1968 at competitive shooting events held at  
14 the World Shooting Complex sanctioned by a national  
15 governing body. For purposes of transfers or sales under  
16 subparagraph (5) of this paragraph (g), the Department of  
17 Natural Resources shall give notice to the Department of  
18 State Police at least 30 calendar days prior to any  
19 competitive shooting events at the World Shooting Complex  
20 sanctioned by a national governing body. The notification  
21 shall be made on a form prescribed by the Department of  
22 State Police. The sanctioning body shall provide a list of  
23 all registered competitors and attendees at least 24 hours  
24 before the events to the Department of State Police. Any  
25 changes to the list of registered competitors and attendees  
26 shall be forwarded to the Department of State Police as

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

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

26 (i) Sells or gives a firearm of any size to any person

1 under 18 years of age who does not possess a valid Firearm  
2 Owner's Identification Card.

3 (j) Sells or gives a firearm while engaged in the  
4 business of selling firearms at wholesale or retail without  
5 being licensed as a federal firearms dealer under Section  
6 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
7 In this paragraph (j):

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

15 "With the principal objective of livelihood and  
16 profit" means that the intent underlying the sale or  
17 disposition of firearms is predominantly one of obtaining  
18 livelihood and pecuniary gain, as opposed to other intents,  
19 such as improving or liquidating a personal firearms  
20 collection; however, proof of profit shall not be required  
21 as to a person who engages in the regular and repetitive  
22 purchase and disposition of firearms for criminal purposes  
23 or terrorism.

24 (k) Sells or transfers ownership of a firearm to a  
25 person who does not display to the seller or transferor of  
26 the firearm either: (1) a currently valid Firearm Owner's

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

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

24 (2) All sellers or transferors who have complied  
25 with the requirements of subparagraph (1) of this  
26 paragraph (k) shall not be liable for damages in any

1 civil action arising from the use or misuse by the  
2 transferee of the firearm transferred, except for  
3 willful or wanton misconduct on the part of the seller  
4 or transferor.

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

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

21 (C) Sentence.

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

25 (2) Any person convicted of unlawful sale or delivery  
26 of firearms in violation of paragraph (b) or (i) of



1 subsection (A) commits a Class 3 felony.

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

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

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

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

21          (7) Any person convicted of unlawful sale or delivery  
22          of firearms in violation of paragraph (k) of subsection (A)  
23          commits a Class 4 felony, except that a violation of  
24          subparagraph (1) of paragraph (k) of subsection (A) shall  
25          not be punishable as a crime or petty offense. A third or  
26          subsequent conviction for a violation of paragraph (k) of

1 subsection (A) is a Class 1 felony.

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

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

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

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

21 (D) For purposes of this Section:

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

24 "School related activity" means any sporting, social,  
25 academic, or other activity for which students' attendance or  
26 participation is sponsored, organized, or funded in whole or in

1 part by a school or school district.

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

9 (Source: P.A. 99-29, eff. 7-10-15; 99-143, eff. 7-27-15;  
10 99-642, eff. 7-28-16; 100-606, eff. 1-1-19.)