



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3698

by Rep. Yehiel M. Kalish

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.

LRB101 09090 SLF 54183 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, 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 (i-5) While holding a license under the federal Gun
4 Control Act of 1968, transfers or possesses with the intent
5 to transfer more than one firearm to any person within a
6 30-day period or transfers or possesses with the intent to
7 transfer a firearm to any person he or she knows or has
8 reasonable cause to believe has received a firearm within
9 the previous 30 days. It is an affirmative defense to a
10 violation of this subsection (i-5) that the transferor in
11 good faith relied on the records of the Department of State
12 Police in concluding that the transferor had not
13 transferred a firearm within the previous 30 days.

14 (j) Sells or gives a firearm while engaged in the
15 business of selling firearms at wholesale or retail without
16 being licensed as a federal firearms dealer under Section
17 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
18 In this paragraph (j):

19 A person "engaged in the business" means a person who
20 devotes time, attention, and labor to engaging in the
21 activity as a regular course of trade or business with the
22 principal objective of livelihood and profit, but does not
23 include a person who makes occasional repairs of firearms
24 or who occasionally fits special barrels, stocks, or
25 trigger mechanisms to firearms.

26 "With the principal objective of livelihood and

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

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

1 the Firearm Owners Identification Card Act shall be proof
2 that the Firearm Owner's Identification Card was valid.

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

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

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

22 (B) Paragraph (h) of subsection (A) does not include
23 firearms sold within 6 months after enactment of Public Act
24 78-355 (approved August 21, 1973, effective October 1, 1973),
25 nor is any firearm legally owned or possessed by any citizen or
26 purchased by any citizen within 6 months after the enactment of

1 Public Act 78-355 subject to confiscation or seizure under the
2 provisions of that Public Act. Nothing in Public Act 78-355
3 shall be construed to prohibit the gift or trade of any firearm
4 if that firearm was legally held or acquired within 6 months
5 after the enactment of that Public Act.

6 (C) Sentence.

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

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

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

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

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

12 (5) Any person convicted of unlawful sale or delivery
13 of firearms in violation of paragraph (a) or (i) of
14 subsection (A) in residential property owned, operated, or
15 managed by a public housing agency or leased by a public
16 housing agency as part of a scattered site or mixed-income
17 development, in a public park, in a courthouse, on
18 residential property owned, operated, or managed by a
19 public housing agency or leased by a public housing agency
20 as part of a scattered site or mixed-income development, on
21 the real property comprising any public park, on the real
22 property comprising any courthouse, or on any public way
23 within 1,000 feet of the real property comprising any
24 public park, courthouse, or residential property owned,
25 operated, or managed by a public housing agency or leased
26 by a public housing agency as part of a scattered site or

1 mixed-income development commits a Class 2 felony.

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

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

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

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

25 (10) Any person convicted of unlawful sale or delivery
26 of firearms in violation of paragraph (l) of subsection (A)

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

1 paragraph (l) of subsection (A) commits a Class X felony
2 for which he or she shall be sentenced to a term of
3 imprisonment of not less than 6 years and not more than 60
4 years if the delivery is of 31 or more firearms at the same
5 time or within a 5 year period.

6 (D) For purposes of this Section:

7 "School" means a public or private elementary or secondary
8 school, community college, college, or university.

9 "School related activity" means any sporting, social,
10 academic, or other activity for which students' attendance or
11 participation is sponsored, organized, or funded in whole or in
12 part by a school or school district.

13 (E) A prosecution for a violation of paragraph (k) of
14 subsection (A) of this Section may be commenced within 6 years
15 after the commission of the offense. A prosecution for a
16 violation of this Section other than paragraph (g) of
17 subsection (A) of this Section may be commenced within 5 years
18 after the commission of the offense defined in the particular
19 paragraph.

20 (Source: P.A. 99-29, eff. 7-10-15; 99-143, eff. 7-27-15;
21 99-642, eff. 7-28-16; 100-606, eff. 1-1-19.)