



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB7314

Introduced 07/09/04, by Rep. William J. Grunloh - John E. Bradley - Brandon W. Phelps - Lisa M. Dugan - Careen Gordon

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 1961. Provides that the waiting period for acquiring a firearm after its purchase does not apply to the transfer of an operable firearm in exchange for another operable firearm by a federally licensed firearms dealer or at a gun show. Effective immediately.

LRB093 22740 RLC 52454 b

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 1961 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 of Firearms.

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

10 (a) Sells or gives any firearm of a size which may be
11 concealed upon the person to any person under 18 years of
12 age.

13 (b) Sells or gives any firearm to a person under 21
14 years of age who has been convicted of a misdemeanor other
15 than a traffic offense or adjudged delinquent.

16 (c) Sells or gives any firearm to any narcotic addict.

17 (d) Sells or gives any firearm to any person who has
18 been convicted of a felony under the laws of this or any
19 other jurisdiction.

20 (e) Sells or gives any firearm to any person who has
21 been a patient in a mental hospital within the past 5
22 years.

23 (f) Sells or gives any firearms to any person who is
24 mentally retarded.

25 (g) Delivers any firearm of a size which may be
26 concealed upon the person, incidental to a sale, without
27 withholding delivery of such firearm for at least 72 hours
28 after application for its purchase has been made, or
29 delivers any rifle, shotgun or other long gun, incidental
30 to a sale, without withholding delivery of such rifle,
31 shotgun or other long gun for at least 24 hours after
32 application for its purchase has been made. However, this

1 paragraph (g) does not apply to: (1) the sale of a firearm
2 to a law enforcement officer or a person who desires to
3 purchase a firearm for use in promoting the public interest
4 incident to his or her employment as a bank guard, armed
5 truck guard, or other similar employment; (2) a mail order
6 sale of a firearm to a nonresident of Illinois under which
7 the firearm is mailed to a point 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; ~~or~~ (4) the sale
11 of a firearm to a dealer licensed as a federal firearms
12 dealer under Section 923 of the federal Gun Control Act of
13 1968 (18 U.S.C. 923); or (5) the transfer of an operable
14 firearm in exchange for another operable firearm at a gun
15 show or by a dealer licensed as a federal firearms dealer
16 under Section 923 of the federal Gun Control Act of 1968
17 (18 U.S.C. 923). For the purposes of this paragraph (g),
18 "gun show" means an event or function that is sponsored to
19 facilitate, in whole or in part, the purchase, sale, offer
20 for sale, exchange, or collection of firearms at which: (1)
21 25 or more firearms are offered or exhibited for sale,
22 transfer, or exchange; or (2) not less than 3 gun show
23 vendors exhibit, sell, offer for sale, transfer, or
24 exchange firearms.

25 (h) While holding any license as a dealer, importer,
26 manufacturer or pawnbroker under the federal Gun Control
27 Act of 1968, manufactures, sells or delivers to any
28 unlicensed person a handgun having a barrel, slide, frame
29 or receiver which is a die casting of zinc alloy or any
30 other nonhomogeneous metal which will melt or deform at a
31 temperature of less than 800 degrees Fahrenheit. For
32 purposes of this paragraph, (1) "firearm" is defined as in
33 the Firearm Owners Identification Card Act; and (2)
34 "handgun" is defined as a firearm designed to be held and
35 fired by the use of a single hand, and includes a
36 combination of parts from which such a firearm can be

1 assembled.

2 (i) Sells or gives a firearm of any size to any person
3 under 18 years of age who does not possess a valid Firearm
4 Owner's Identification Card.

5 (j) Sells or gives a firearm while engaged in the
6 business of selling firearms at wholesale or retail without
7 being licensed as a federal firearms dealer under Section
8 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
9 In this paragraph (j):

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

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

26 (B) Paragraph (h) of subsection (A) does not include
27 firearms sold within 6 months after enactment of Public Act
28 78-355 (approved August 21, 1973, effective October 1, 1973),
29 nor is any firearm legally owned or possessed by any citizen or
30 purchased by any citizen within 6 months after the enactment of
31 Public Act 78-355 subject to confiscation or seizure under the
32 provisions of that Public Act. Nothing in Public Act 78-355
33 shall be construed to prohibit the gift or trade of any firearm
34 if that firearm was legally held or acquired within 6 months
35 after the enactment of that Public Act.

36 (C) Sentence.

1 (1) Any person convicted of unlawful sale of firearms
2 in violation of any of paragraphs (c) through (h) of
3 subsection (A) commits a Class 4 felony.

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

7 (3) Any person convicted of unlawful sale of firearms
8 in violation of paragraph (a) of subsection (A) commits a
9 Class 2 felony.

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

32 (5) Any person convicted of unlawful sale of firearms
33 in violation of paragraph (a) or (i) of subsection (A) in
34 residential property owned, operated, or managed by a
35 public housing agency or leased by a public housing agency
36 as part of a scattered site or mixed-income development, in

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

12 (6) Any person convicted of unlawful sale of firearms
13 in violation of paragraph (j) of subsection (A) commits a
14 Class A misdemeanor. A second or subsequent violation is a
15 Class 4 felony.

16 (D) For purposes of this Section:

17 "School" means a public or private elementary or secondary
18 school, community college, college, or university.

19 "School related activity" means any sporting, social,
20 academic, or other activity for which students' attendance or
21 participation is sponsored, organized, or funded in whole or in
22 part by a school or school district.

23 (Source: P.A. 93-162, eff. 7-10-03.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.