



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0133

Introduced 1/10/2005, by Rep. John J. Millner - Terry R. Parke
and Suzanne Bassi

SYNOPSIS AS INTRODUCED:

430 ILCS 65/1.1	from Ch. 38, par. 83-1.1
430 ILCS 65/3	from Ch. 38, par. 83-3
430 ILCS 65/3.1	from Ch. 38, par. 83-3.1
430 ILCS 65/3a	from Ch. 38, par. 83-3a
720 ILCS 5/24-3	from Ch. 38, par. 24-3

Amends the Firearm Owners Identification Card Act. Provides that a person who is not a federally licensed firearm dealer and who desires to purchase a firearm while that person is on the grounds of a gun show must, before obtaining that firearm, request the Department of State Police to conduct a background check to verify the validity of his or her Firearm Owner's Identification Card. Provides that if the receipt of a firearm does not violate federal or State law, the Department of State Police shall (1) assign a unique number to the transfer; (2) provide the licensee with the number; if the background check is being conducted at a gun show, the State Police shall provide that unique number to the person and that person shall use it for any purchases made at the gun show; and (3) destroy all records of the system with respect to the call or request, other than the identifying number and the date the number was assigned, and all records of the system relating to the person or the transfer within 24 hours. Provides that the Department of State Police may not retain, copy, or distribute any such information previously collected. Provides that if the transfer of a firearm is denied by the Department of State Police, the Department may keep the records of a denial until the denial is appealed and overturned, or as long as necessary for a criminal prosecution. Provides that approvals issued by the Department of State Police for the purchase of a firearm from a federal firearms licensee are valid for 30 days from the date of issue. Provides that approvals issued by the Department of State Police for the purchase of a firearm from a non-licensed individual at a gun show shall be good for that calendar day. Amends the Criminal Code of 1961. Provides that the waiting period for obtaining a firearm after its purchase does not apply to the sale of a firearm at a gun show. Effective immediately.

LRB094 04125 RLC 34146 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning firearms.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Sections 1.1, 3, 3.1, and 3a as follows:

6 (430 ILCS 65/1.1) (from Ch. 38, par. 83-1.1)

7 Sec. 1.1. For purposes of this Act:

8 "Counterfeit" means to copy or imitate, without legal
9 authority, with intent to deceive.

10 "Federally licensed firearm dealer" means a person who is
11 licensed as a federal firearms dealer under Section 923 of the
12 federal Gun Control Act of 1968 (18 U.S.C. 923).

13 "Firearm" means any device, by whatever name known, which
14 is designed to expel a projectile or projectiles by the action
15 of an explosion, expansion of gas or escape of gas; excluding,
16 however:

17 (1) any pneumatic gun, spring gun, paint ball gun or
18 B-B gun which either expels a single globular projectile
19 not exceeding .18 inch in diameter and which has a maximum
20 muzzle velocity of less than 700 feet per second or
21 breakable paint balls containing washable marking colors;

22 (2) any device used exclusively for signalling or
23 safety and required or recommended by the United States
24 Coast Guard or the Interstate Commerce Commission;

25 (3) any device used exclusively for the firing of stud
26 cartridges, explosive rivets or similar industrial
27 ammunition; and

28 (4) an antique firearm (other than a machine-gun)
29 which, although designed as a weapon, the Department of
30 State Police finds by reason of the date of its
31 manufacture, value, design, and other characteristics is
32 primarily a collector's item and is not likely to be used

1 as a weapon.

2 "Firearm ammunition" means any self-contained cartridge or
3 shotgun shell, by whatever name known, which is designed to be
4 used or adaptable to use in a firearm; excluding, however:

5 (1) any ammunition exclusively designed for use with a
6 device used exclusively for signalling or safety and
7 required or recommended by the United States Coast Guard or
8 the Interstate Commerce Commission; and

9 (2) any ammunition designed exclusively for use with a
10 stud or rivet driver or other similar industrial
11 ammunition.

12 "Gun show" means an event or function at which the sale and
13 transfer of firearms is the regular and normal course of
14 business where:

15 (1) fifty or more firearms are displayed, offered, or
16 exhibited for sale, transfer, or exchange; or

17 (2) not less than 5 gun show vendors display, offer, or
18 exhibit for sale, sell, transfer, or exchange firearms.

19 "Gun show" includes the entire premises provided for an
20 event or function, including parking areas for the event or
21 function, that is sponsored to facilitate the purchase, sale,
22 transfer, or exchange of firearms as described in this Section.

23 "Gun show" does not include training or safety classes,
24 competitive shooting events, such as rifle, shotgun, or handgun
25 matches, trap, skeet, or sporting clays shoots, dinners,
26 banquets, raffles, or any other event where the sale or
27 transfer of firearms is not the primary course of business.

28 "Gun show vendor" means a person who exhibits, sells,
29 offers for sale, transfers, or exchanges any firearms at a gun
30 show, regardless of whether the person arranges with a gun show
31 promoter for a fixed location from which to exhibit, sell,
32 offer for sale, transfer, or exchange any firearm.

33 "Sanctioned competitive shooting event" means a shooting
34 contest officially recognized by a national or state shooting
35 sport association, and includes any sight-in or practice
36 conducted in conjunction with the event.

1 (Source: P.A. 91-357, eff. 7-29-99; 92-414, eff. 1-1-02.)

2 (430 ILCS 65/3) (from Ch. 38, par. 83-3)

3 Sec. 3. (a) Except as provided in Section 3a, no person may
4 knowingly transfer, or cause to be transferred, any firearm or
5 any firearm ammunition to any person within this State unless
6 the transferee with whom he deals displays a currently valid
7 Firearm Owner's Identification Card which has previously been
8 issued in his name by the Department of State Police under the
9 provisions of this Act. In addition, all firearm transfers by
10 federally licensed firearm dealers and transfers of firearms at
11 gun shows as defined by this Act are subject to Section 3.1.

12 (b) Any person within this State who transfers or causes to
13 be transferred any firearm shall keep a record of such transfer
14 for a period of 10 years from the date of transfer. Such record
15 shall contain the date of the transfer; the description, serial
16 number or other information identifying the firearm if no
17 serial number is available; and, if the transfer was completed
18 within this State, the transferee's Firearm Owner's
19 Identification Card number. On demand of a peace officer such
20 transferor shall produce for inspection such record of
21 transfer.

22 (c) The provisions of this Section regarding the transfer
23 of firearm ammunition shall not apply to those persons
24 specified in paragraph (b) of Section 2 of this Act.

25 (Source: P.A. 92-442, eff. 8-17-01.)

26 (430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

27 Sec. 3.1. Dial up system.

28 (a) The Department of State Police shall provide a dial up
29 telephone system or utilize other existing technology which
30 shall be used by any federally licensed firearm dealer who is
31 to transfer a firearm under the provisions of this Act. The
32 Department of State Police shall utilize existing technology
33 which allows the caller to be charged a fee ~~equivalent to the~~
34 ~~cost of providing this service but~~ not to exceed \$2. Fees

1 collected by the Department of State Police shall be deposited
2 in the State Police Services Fund and used to provide the
3 service. Any person who is not a federally licensed firearm
4 dealer and who desires to purchase a firearm while that person
5 is on the grounds of a gun show must, before obtaining that
6 firearm, request the Department of State Police to conduct a
7 background check to verify the validity of his or her Firearm
8 Owner's Identification Card in accordance with this Section.
9 The State Police shall set up, staff, and maintain a booth at
10 every gun show in this State where an individual seeking to
11 purchase a firearm shall be able to have a background check
12 performed and obtain a unique identification number verifying
13 that the person seeking to buy a firearm has complied with this
14 Section.

15 (b) Upon receiving a request from a federally licensed
16 firearm dealer or a person at a gun show, the Department of
17 State Police shall immediately approve, or within the time
18 period established by Section 24-3 of the Criminal Code of 1961
19 regarding the delivery of firearms, notify the inquiring dealer
20 or person of any objection that would disqualify the transferee
21 from acquiring or possessing a firearm. In conducting the
22 inquiry, the Department of State Police shall initiate and
23 complete an automated search of its criminal history record
24 information files and those of the Federal Bureau of
25 Investigation, including the National Instant Criminal
26 Background Check System, and of the files of the Department of
27 Human Services relating to mental health and developmental
28 disabilities to obtain any felony conviction or patient
29 hospitalization information which would disqualify a person
30 from obtaining or require revocation of a currently valid
31 Firearm Owner's Identification Card.

32 (c) If receipt of a firearm would not violate Section 24-3
33 of the Criminal Code of 1961, federal law, or this Act the
34 Department of State Police shall:

35 (1) assign a unique identification number to the
36 transfer;

1 (2) provide the licensee with the number; if the
2 background check is being conducted at a gun show pursuant
3 to subsection (a), the State Police shall provide that
4 unique number to the person and that person shall use it
5 for any purchases made at the gun show; and

6 (3) destroy all records of the system with respect to
7 the call or request, other than the identifying number and
8 the date the number was assigned, and all records of the
9 system relating to the person or the transfer within 24
10 hours.

11 (d) The Department may not retain, copy, or distribute any
12 information previously collected under this Section. Any
13 records generated under this Section shall comply with
14 subsection (c).

15 (e) If the transfer of a firearm is denied by the
16 Department of State Police, the Department may keep the records
17 of a denial until the denial is appealed and overturned, or as
18 long as necessary for a criminal prosecution.

19 (f) Approvals issued by the Department of State Police for
20 the purchase of a firearm from a federal firearms licensee are
21 valid for 30 days from the date of issue. Approvals issued by
22 the Department of State Police for the purchase of a firearm
23 from a non-licensed individual at a gun show shall be good for
24 that calendar day.

25 (g) The Department of State Police must act as the Illinois
26 Point of Contact for the National Instant Criminal Background
27 Check System.

28 (h) The Department of State Police shall promulgate rules
29 not inconsistent with this Section to implement this system.

30 (Source: P.A. 91-399, eff. 7-30-99.)

31 (430 ILCS 65/3a) (from Ch. 38, par. 83-3a)

32 Sec. 3a. (a) Any resident of Illinois who has obtained a
33 firearm owner's identification card pursuant to this Act and
34 who is not otherwise prohibited from obtaining, possessing or
35 using a firearm may purchase or obtain a rifle or shotgun or

1 ammunition for a rifle or shotgun in Iowa, Missouri, Indiana,
2 Wisconsin or Kentucky.

3 (b) Any resident of Iowa, Missouri, Indiana, Wisconsin or
4 Kentucky or a non-resident with a valid non-resident hunting
5 license, who is 18 years of age or older and who is not
6 prohibited by the laws of Illinois, the state of his domicile,
7 or the United States from obtaining, possessing or using a
8 firearm, may purchase or obtain a rifle, shotgun or ammunition
9 for a rifle or shotgun in Illinois.

10 (b-5) Any non-resident who is participating in a sanctioned
11 competitive shooting event, who is 18 years of age or older and
12 who is not prohibited by the laws of Illinois, the state of his
13 or her domicile, or the United States from obtaining,
14 possessing, or using a firearm, may purchase or obtain a
15 shotgun or shotgun ammunition in Illinois for the purpose of
16 participating in that event. A person may purchase or obtain a
17 shotgun or shotgun ammunition under this subsection only at the
18 site where the sanctioned competitive shooting event is being
19 held.

20 ~~For purposes of this subsection, "sanctioned competitive~~
21 ~~shooting event" means a shooting contest officially recognized~~
22 ~~by a national or state shooting sport association, and includes~~
23 ~~any sight-in or practice conducted in conjunction with the~~
24 ~~event.~~

25 (c) Any transaction under this Section is subject to the
26 provisions of the Gun Control Act of 1968 (18 U.S.C. 922
27 (b) (3)).

28 (Source: P.A. 92-528, eff. 2-8-02.)

29 Section 10. The Criminal Code of 1961 is amended by
30 changing Section 24-3 as follows:

31 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

32 Sec. 24-3. Unlawful Sale of Firearms.

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

1 (a) Sells or gives any firearm of a size which may be
2 concealed upon the person to any person under 18 years of
3 age.

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

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

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

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

14 (f) Sells or gives any firearms to any person who is
15 mentally retarded.

16 (g) Delivers any firearm of a size which may be
17 concealed upon the person, incidental to a sale, without
18 withholding delivery of such firearm for at least 72 hours
19 after application for its purchase has been made, or
20 delivers any rifle, shotgun or other long gun, incidental
21 to a sale, without withholding delivery of such rifle,
22 shotgun or other long gun for at least 24 hours after
23 application for its purchase has been made. However, this
24 paragraph (g) does not apply to: (1) the sale of a firearm
25 to a law enforcement officer or a person who desires to
26 purchase a firearm for use in promoting the public interest
27 incident to his or her employment as a bank guard, armed
28 truck guard, or other similar employment; (2) a mail order
29 sale of a firearm to a nonresident of Illinois under which
30 the firearm is mailed to a point outside the boundaries of
31 Illinois; (3) the sale of a firearm to a nonresident of
32 Illinois while at a firearm showing or display recognized
33 by the Illinois Department of State Police; ~~or~~ (4) the sale
34 of a firearm to a dealer licensed as a federal firearms
35 dealer under Section 923 of the federal Gun Control Act of
36 1968 (18 U.S.C. 923); or (5) the sale of a firearm at a gun

1 show in accordance with Section 3.1 of the Firearm Owners
2 Identification Card Act.

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

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

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
27 principal objective of livelihood and profit, but does not
28 include a person who makes occasional repairs of firearms
29 or who occasionally fits special barrels, stocks, or
30 trigger mechanisms to firearms.

31 "With the principal objective of livelihood and
32 profit" means that the intent underlying the sale or
33 disposition of firearms is predominantly one of obtaining
34 livelihood and pecuniary gain, as opposed to other intents,
35 such as improving or liquidating a personal firearms
36 collection; however, proof of profit shall not be required

1 as to a person who engages in the regular and repetitive
2 purchase and disposition of firearms for criminal purposes
3 or terrorism.

4 (k) Sells or transfers ownership of a firearm to a
5 person who does not display to the seller or transferor of
6 the firearm a currently valid Firearm Owner's
7 Identification Card that has previously been issued in the
8 transferee's name by the Department of State Police under
9 the provisions of the Firearm Owners Identification Card
10 Act. This paragraph (k) does not apply to the transfer of a
11 firearm to a person who is exempt from the requirement of
12 possessing a Firearm Owner's Identification Card under
13 Section 2 of the Firearm Owners Identification Card Act.
14 For the purposes of this Section, a currently valid Firearm
15 Owner's Identification Card means (i) a Firearm Owner's
16 Identification Card that has not expired or (ii) if the
17 transferor is licensed as a federal firearms dealer under
18 Section 923 of the federal Gun Control Act of 1968 (18
19 U.S.C. 923), an approval number issued in accordance with
20 Section 3.1 of the Firearm Owners Identification Card Act
21 shall be proof that the Firearm Owner's Identification Card
22 was valid.

23 (B) Paragraph (h) of subsection (A) does not include
24 firearms sold within 6 months after enactment of Public Act
25 78-355 (approved August 21, 1973, effective October 1, 1973),
26 nor is any firearm legally owned or possessed by any citizen or
27 purchased by any citizen within 6 months after the enactment of
28 Public Act 78-355 subject to confiscation or seizure under the
29 provisions of that Public Act. Nothing in Public Act 78-355
30 shall be construed to prohibit the gift or trade of any firearm
31 if that firearm was legally held or acquired within 6 months
32 after the enactment of that Public Act.

33 (C) Sentence.

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

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

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

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

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

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

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

13 (7) Any person convicted of unlawful sale of firearms
14 in violation of paragraph (k) of subsection (A) commits a
15 Class 4 felony. A third or subsequent conviction for a
16 violation of paragraph (k) of subsection (A) is a Class 1
17 felony.

18 (D) For purposes of this Section:

19 "School" means a public or private elementary or secondary
20 school, community college, college, or university.

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

25 (E) A prosecution for a violation of paragraph (k) of
26 subsection (A) of this Section may be commenced within 6 years
27 after the commission of the offense. A prosecution for a
28 violation of this Section other than paragraph (g) of
29 subsection (A) of this Section may be commenced within 5 years
30 after the commission of the offense defined in the particular
31 paragraph.

32 (Source: P.A. 93-162, eff. 7-10-03; 93-906, eff. 8-11-04.)

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.