



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0136

Introduced 1/10/2005, by Rep. Mike Bost

SYNOPSIS AS INTRODUCED:

430 ILCS 65/10

from Ch. 38, par. 83-10

Amends the Firearm Owners Identification Card Act. Provides that when the Department of State Police fails to act upon an application for a Firearm Owner's Identification Card within 30 days after receipt, or if the application was wrongfully denied, the applicant may seek relief from the circuit court in writing in the county of his or her residence. Provides that the applicant is entitled to recover any costs, attorney's fees, damages, and not less than \$500 per day nor more than \$1,000 per day for every day past the 30th day in which the Department failed to act. Effective immediately.

LRB094 05549 RLC 35598 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

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 Section 10 as follows:

6 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

7 Sec. 10. (a) Whenever an application for a Firearm Owner's
8 Identification Card is denied, whenever the Department fails to
9 act on an application within 30 days of its receipt, or
10 whenever such a Card is revoked or seized as provided for in
11 Section 8 of this Act, the aggrieved party may appeal to the
12 Director of the Department of State Police for a hearing upon
13 such denial, revocation or seizure, unless the denial,
14 revocation, or seizure was based upon a forcible felony,
15 stalking, aggravated stalking, domestic battery, any violation
16 of either the Illinois Controlled Substances Act or the
17 Cannabis Control Act that is classified as a Class 2 or greater
18 felony, any felony violation of Article 24 of the Criminal Code
19 of 1961, or any adjudication as a delinquent minor for the
20 commission of an offense that if committed by an adult would be
21 a felony, in which case the aggrieved party may petition the
22 circuit court in writing in the county of his or her residence
23 for a hearing upon such denial, revocation, or seizure.

24 (a-5) When the Department of State Police fails to act upon
25 an application for a Firearm Owner's Identification Card within
26 30 days after receipt, or if the application was wrongfully
27 denied, the applicant may seek relief from the circuit court in
28 writing in the county of his or her residence. The applicant
29 shall be entitled to recover any costs, attorney's fees,
30 damages, and not less than \$500 per day nor more than \$1,000
31 per day for every day past the 30th day in which the Department
32 failed to act. For the purposes of this Section, "receipt"

1 means whenever the Department or its agent takes possession of
2 the completed application and fee.

3 (b) At least 30 days before any hearing in the circuit
4 court, the petitioner shall serve the relevant State's Attorney
5 with a copy of the petition. The State's Attorney may object to
6 the petition and present evidence. At the hearing the court
7 shall determine whether substantial justice has been done.
8 Should the court determine that substantial justice has not
9 been done, the court shall issue an order directing the
10 Department of State Police to issue a Card.

11 (c) Any person prohibited from possessing a firearm under
12 Sections 24-1.1 or 24-3.1 of the Criminal Code of 1961 or
13 acquiring a Firearm Owner's Identification Card under Section 8
14 of this Act may apply to the Director of the Department of
15 State Police or petition the circuit court in the county where
16 the petitioner resides, whichever is applicable in accordance
17 with subsection (a) of this Section, requesting relief from
18 such prohibition and the Director or court may grant such
19 relief if it is established by the applicant to the court's or
20 Director's satisfaction that:

21 (0.05) when in the circuit court, the State's Attorney
22 has been served with a written copy of the petition at
23 least 30 days before any such hearing in the circuit court
24 and at the hearing the State's Attorney was afforded an
25 opportunity to present evidence and object to the petition;

26 (1) the applicant has not been convicted of a forcible
27 felony under the laws of this State or any other
28 jurisdiction within 20 years of the applicant's
29 application for a Firearm Owner's Identification Card, or
30 at least 20 years have passed since the end of any period
31 of imprisonment imposed in relation to that conviction;

32 (2) the circumstances regarding a criminal conviction,
33 where applicable, the applicant's criminal history and his
34 reputation are such that the applicant will not be likely
35 to act in a manner dangerous to public safety; and

36 (3) granting relief would not be contrary to the public

1 interest.

2 (d) When a minor is adjudicated delinquent for an offense
3 which if committed by an adult would be a felony, the court
4 shall notify the Department of State Police.

5 (e) The court shall review the denial of an application or
6 the revocation of a Firearm Owner's Identification Card of a
7 person who has been adjudicated delinquent for an offense that
8 if committed by an adult would be a felony if an application
9 for relief has been filed at least 10 years after the
10 adjudication of delinquency and the court determines that the
11 applicant should be granted relief from disability to obtain a
12 Firearm Owner's Identification Card. If the court grants
13 relief, the court shall notify the Department of State Police
14 that the disability has been removed and that the applicant is
15 eligible to obtain a Firearm Owner's Identification Card.

16 (Source: P.A. 92-442, eff. 8-17-01; 93-367, eff. 1-1-04.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.