



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0220

Introduced 01/13/05, by Rep. Robert W. Churchill

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3	from Ch. 38, par. 24-3
720 ILCS 5/37-1	from Ch. 38, par. 37-1

Amends the Criminal Code of 1961. Provides that the Department of State Police shall publish a list of handguns having a barrel, slide, frame or receiver that is a die casting of zinc alloy or any other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit. Provides that a building used for the unlawful sale of firearms may be abated as a public nuisance only if the person using the building for the unlawful sale has been convicted of the offense and the Department of State Police has published the list of prohibited firearms. Effective immediately.

LRB094 06223 RXD 36293 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT in relation to 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 Sections 24-3 and 37-1 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).

14 (h) While holding any license as a dealer, importer,  
15 manufacturer or pawnbroker under the federal Gun Control  
16 Act of 1968, manufactures, sells or delivers to any  
17 unlicensed person a handgun having a barrel, slide, frame  
18 or receiver which is a die casting of zinc alloy or any  
19 other nonhomogeneous metal which will melt or deform at a  
20 temperature of less than 800 degrees Fahrenheit. The  
21 Department of State Police shall publish a list of firearms  
22 prohibited under this paragraph (h) at least annually for  
23 each federal firearms dealer required to participate in  
24 Section 3.1 of the Firearm Owners Identification Card Act.

25 For purposes of this paragraph, (1) "firearm" is defined as  
26 in the Firearm Owners Identification Card Act; and (2)  
27 "handgun" is defined as a firearm designed to be held and  
28 fired by the use of a single hand, and includes a  
29 combination of parts from which such a firearm can be  
30 assembled.

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

34 (j) Sells or gives a firearm while engaged in the  
35 business of selling firearms at wholesale or retail without  
36 being licensed as a federal firearms dealer under Section

1 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
2 In this paragraph (j):

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

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

19 (k) Sells or transfers ownership of a firearm to a  
20 person who does not display to the seller or transferor of  
21 the firearm a currently valid Firearm Owner's  
22 Identification Card that has previously been issued in the  
23 transferee's name by the Department of State Police under  
24 the provisions of the Firearm Owners Identification Card  
25 Act. This paragraph (k) does not apply to the transfer of a  
26 firearm to a person who is exempt from the requirement of  
27 possessing a Firearm Owner's Identification Card under  
28 Section 2 of the Firearm Owners Identification Card Act.  
29 For the purposes of this Section, a currently valid Firearm  
30 Owner's Identification Card means (i) a Firearm Owner's  
31 Identification Card that has not expired or (ii) if the  
32 transferor is licensed as a federal firearms dealer under  
33 Section 923 of the federal Gun Control Act of 1968 (18  
34 U.S.C. 923), an approval number issued in accordance with  
35 Section 3.1 of the Firearm Owners Identification Card Act  
36 shall be proof that the Firearm Owner's Identification Card

1 was valid.

2 (B) Paragraph (h) of subsection (A) does not include  
3 firearms sold within 6 months after enactment of Public Act  
4 78-355 (approved August 21, 1973, effective October 1, 1973),  
5 nor is any firearm legally owned or possessed by any citizen or  
6 purchased by any citizen within 6 months after the enactment of  
7 Public Act 78-355 subject to confiscation or seizure under the  
8 provisions of that Public Act. Nothing in Public Act 78-355  
9 shall be construed to prohibit the gift or trade of any firearm  
10 if that firearm was legally held or acquired within 6 months  
11 after the enactment of that Public Act.

12 (C) Sentence.

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

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

19 (3) Any person convicted of unlawful sale of firearms  
20 in violation of paragraph (a) of subsection (A) commits a  
21 Class 2 felony.

22 (4) Any person convicted of unlawful sale of firearms  
23 in violation of paragraph (a), (b), or (i) of subsection  
24 (A) in any school, on the real property comprising a  
25 school, within 1,000 feet of the real property comprising a  
26 school, at a school related activity, or on or within 1,000  
27 feet of any conveyance owned, leased, or contracted by a  
28 school or school district to transport students to or from  
29 school or a school related activity, regardless of the time  
30 of day or time of year at which the offense was committed,  
31 commits a Class 1 felony. Any person convicted of a second  
32 or subsequent violation of unlawful sale of firearms in  
33 violation of paragraph (a), (b), or (i) of subsection (A)  
34 in any school, on the real property comprising a school,  
35 within 1,000 feet of the real property comprising a school,  
36 at a school related activity, or on or within 1,000 feet of

1 any conveyance owned, leased, or contracted by a school or  
2 school district to transport students to or from school or  
3 a school related activity, regardless of the time of day or  
4 time of year at which the offense was committed, commits a  
5 Class 1 felony for which the sentence shall be a term of  
6 imprisonment of no less than 5 years and no more than 15  
7 years.

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

24 (6) Any person convicted of unlawful sale of firearms  
25 in violation of paragraph (j) of subsection (A) commits a  
26 Class A misdemeanor. A second or subsequent violation is a  
27 Class 4 felony.

28 (7) Any person convicted of unlawful sale of firearms  
29 in violation of paragraph (k) of subsection (A) commits a  
30 Class 4 felony. A third or subsequent conviction for a  
31 violation of paragraph (k) of subsection (A) is a Class 1  
32 felony.

33 (D) For purposes of this Section:

34 "School" means a public or private elementary or secondary  
35 school, community college, college, or university.

36 "School related activity" means any sporting, social,

1 academic, or other activity for which students' attendance or  
2 participation is sponsored, organized, or funded in whole or in  
3 part by a school or school district.

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

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

12 (720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

13 Sec. 37-1. Maintaining Public Nuisance. Any building used  
14 in the commission of offenses prohibited by Sections 9-1, 10-1,  
15 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-21, 11-22,  
16 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1,  
17 28-3, 31-5 or 39A-1 of the Criminal Code of 1961, or prohibited  
18 by the Illinois Controlled Substances Act, or the Cannabis  
19 Control Act, or used in the commission of an inchoate offense  
20 relative to any of the aforesaid principal offenses, or any  
21 real property erected, established, maintained, owned, leased,  
22 or used by a streetgang for the purpose of conducting  
23 streetgang related activity as defined in Section 10 of the  
24 Illinois Streetgang Terrorism Omnibus Prevention Act is a  
25 public nuisance.

26 (a-5) A building used in the commission of an offense  
27 prohibited by Section 24-3 of this Code may be abated as a  
28 public nuisance only if the person using the building for the  
29 commission of the offense has been convicted of a violation of  
30 Section 24-3 and the building was used in the commission of a  
31 violation of paragraph (h) of subsection (A) of Section 24-3. A  
32 building may be abated as a public nuisance under this  
33 subsection (a-5) only if the Department of State Police has  
34 published a list of firearms prohibited under that paragraph.

35 (b) Sentence. A person convicted of knowingly maintaining

1 such a public nuisance commits a Class A misdemeanor. Each  
2 subsequent offense under this Section is a Class 4 felony.

3 (Source: P.A. 91-876, eff. 1-1-01.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.