



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0794

Introduced 02/02/05, by Rep. Harry Osterman

SYNOPSIS AS INTRODUCED:

430 ILCS 65/3.5 new

Amends the Firearm Owners Identification Card Act. Provides that a person, who is not a federally licensed firearm dealer, who desires to transfer or sell a firearm while that person is on the grounds of a gun show, must prior to the sale or transfer of the firearm: (1) request the Department of State Police to conduct a background check on the transferor and the prospective transferee of a firearm; (2) provide certain information to the Department; and (3) receive an approval from the Department that, after a background check was conducted, nothing in the records accessed by the Department prohibits, based on State or federal law, the purchaser from purchasing or possessing a firearm. Provides that the Department of State Police may collect a fee to conduct the background check not to exceed \$2. Provides that failure to comply with these requirements is a Class A misdemeanor. Provides that failure to comply with these requirements is a Class 2 felony if the person has 2 or more previous convictions for these violations.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 adding Section 3.5 as follows:

6 (430 ILCS 65/3.5 new)

7 Sec. 3.5. Private transfers of firearms by persons
8 attending gun shows.

9 (a) To ensure that, prior to any sale or transfer of a
10 firearm at a gun show in the State of Illinois, a background
11 check is conducted on the transferor and the transferee of the
12 firearm, the Department of State Police shall establish a
13 system which shall be available for requests from individuals
14 selling or transferring firearms at a gun show, other than a
15 federally licensed firearms dealer, to conduct background
16 checks under this system.

17 The Department of State Police shall utilize technology
18 which allows the person to be charged a fee equivalent to the
19 cost of providing the service. The fee may not exceed \$2,
20 however. Fees collected by the Department of State Police shall
21 be deposited in the State Police Services Fund and used to
22 provide the service.

23 The Department of State Police shall establish a service of
24 conducting background checks for individuals selling or
25 transferring firearms at a gun show, other than a federally
26 licensed firearm dealer. Gun show promoters and other
27 interested parties shall access the background check system
28 through a process established by the Department of State
29 Police.

30 Upon receiving a request from an individual selling or
31 transferring firearms at a gun show, other than a federally
32 licensed firearm dealer, the Department of State Police shall

1 provide, during the initial transferor inquiry, an approval,
2 denial, or conditional denial of the transfer. The time period
3 for the Department to respond shall begin at the time the
4 inquiry is received. When the Department provides a conditional
5 denial, the transferor shall not transfer the firearm until an
6 approval is provided by the Department. However, if any
7 approval or denial is not provided in accordance with Section
8 24-3 of the Criminal Code of 1961, the transfer may proceed.
9 Failure of the Department to provide an approval or denial
10 within the prescribed length of times does not relieve the
11 transferor from compliance with any other statutory
12 restrictions on firearm transfers. Regardless of the
13 requirements of this Section, transactions must comply with all
14 State and federal firearm laws.

15 (b) Any person who is not a federally licensed firearm
16 dealer and who desires to transfer or sell a firearm while that
17 person is on the grounds of a gun show must, prior to the sale
18 or transfer of the firearm:

19 (1) Request the Department of State Police to conduct a
20 background check on the transferor and the prospective
21 transferee of a firearm and shall provide the following
22 information to the Department:

23 (A) A valid Firearm Owner's Identification Card
24 number of the transferor and transferee.

25 (B) The telephone number of the transferor and
26 transferee.

27 (C) The type of firearm (long gun or short gun).

28 (2) Receive an approval from the Department of State
29 Police that, after a background check was conducted,
30 nothing in the records accessed by the Department shall
31 prohibit, based on State or federal law, the purchaser from
32 purchasing or possessing a firearm.

33 (c) From the background check under this Section, the
34 Department of State Police shall:

35 (1) Determine from records and other information
36 available to it whether the recipient is disqualified under

1 State or federal laws from completing the transfer or is
2 otherwise prohibited by State or federal law from
3 purchasing or possessing a firearm; and

4 (2) Notify the transferor when a recipient is
5 disqualified from completing the transfer or provide the
6 transferor with a unique approval number indicating that
7 the recipient is qualified to complete the transfer. The
8 unique approval number is a permit valid for 30 days for
9 the requested transfer. If the firearm is not transferred
10 from the transfer to the recipient within 30 days after
11 receipt of the unique approval number, a new request must
12 be made by the transferor.

13 (d) The Department of State Police shall provide, during
14 the initial transferor inquiry, an approval, denial, or
15 conditional denial of the transfer. The time period for the
16 Department to respond shall begin at the time the inquiry is
17 received. When the Department provides a conditional denial,
18 the transferor shall not transfer the firearm until an approval
19 is provided by the Department. However, if any approval or
20 denial is not provided in accordance with Section 24-3 of the
21 Criminal Code of 1961, the transfer may proceed. Failure of the
22 Department to provide an approval or denial within the
23 prescribed length of times does not relieve the transferor from
24 compliance with any other statutory restrictions on firearm
25 transfers. Regardless of the requirements of this Section,
26 transactions must comply with all State and federal firearm
27 laws.

28 (e) A public employee or public agency incurs no criminal
29 or civil liability for performing the background checks
30 required by this Section, provided the employee or agency acts
31 in good faith without malice.

32 (f) A transferor other than a gun dealer may not transfer a
33 firearm at a gun show unless the transferor:

34 (1) Requests a background check under this Section
35 prior to completing the transferor;

36 (2) Receives notification that the recipient is

1 qualified to complete the transfer;

2 (3) Has complied with Section 24-3 of the Criminal Code
3 of 1961; and

4 (4) Has the recipient complete the form described in
5 this Section.

6 (g) The transferor shall retain the completed form referred
7 to in subsection (h) of this Section for at least 10 years and
8 shall make the completed form available to law enforcement
9 agencies for the purpose of criminal investigations. A gun show
10 promoter shall post in a prominent place at the gun show a
11 notice explaining the requirements of this Section. The gun
12 show promoter shall provide the form required by subsection (h)
13 of this Section to any person transferring a firearm at the gun
14 show.

15 (h) The Department of State Police shall develop a form to
16 be completed by a person seeking to obtain a firearm at a gun
17 show from a transferor other than a gun show dealer. The
18 Department shall consider including in the form all of the
19 requirements for disclosure of information that are required by
20 federal law for over-the-counter firearms transactions.

21 (i) Failure to comply with the requirement of this Section
22 is a Class A misdemeanor. Failure to comply with the
23 requirements of this Section is a Class 2 felony if the person
24 has 2 or more previous convictions under this Section.

25 (j) In this Section:

26 "Gun show" means the entire premises provided for an event
27 or function, including but not limited to parking areas for the
28 event or function, that is sponsored to facilitate, in whole or
29 in part, the purchase, sale, offer for sale, or collection of
30 firearms at which:

31 (1) 25 or more firearms are offered or exhibited for
32 sale, transfer, or exchange; or

33 (2) not less than 3 gun show vendors exhibit, sell,
34 offer for sale, transfer, or exchange firearms.

35 "Gun show promoter" means a person who organizes or
36 operates a gun show.

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

6 (k) The Department of State Police shall adopt rules to
7 carry out the provisions of this Section.