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1 AMENDMENT TO SENATE BILL 1332

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1332 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 24-3 and adding Section 24-3.1A as follows:

6 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

7 Sec. 24-3. Unlawful transfer ~~sale~~ of Firearms.

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

10 (a) Transfers or possesses with intent to transfer  
11 ~~Sells or gives~~ any firearm of a size which may be concealed  
12 upon the person to any person he or she has reasonable  
13 cause to believe is under 18 years of age.

14 (b) Transfers or possesses with intent to transfer  
15 ~~Sells or gives~~ any firearm to a person under 21 years of  
16 age who has been convicted of a misdemeanor other than a  
17 traffic offense or adjudged delinquent.

18 (b-5) Transfers or possesses with intent to transfer  
19 any firearm to a person he or she has reasonable cause to  
20 believe is under 18 years of age.

21 (c) Transfers or possesses with intent to transfer  
22 ~~Sells or gives~~ any firearm to any person he or she has  
23 reasonable cause to believe is a narcotic addict.

24 (d) Transfers or possesses with intent to transfer

1 ~~Sells or gives~~ any firearm to any person he or she has  
2 reasonable cause to believe ~~who~~ has been convicted of a  
3 felony under the laws of this or any other jurisdiction.

4 (e) Transfers or possesses with intent to transfer  
5 ~~Sells or gives~~ any firearm to any person he or she has  
6 reasonable cause to believe ~~who~~ has been a patient in a  
7 mental hospital within the past 5 years.

8 (f) Transfers or possesses with intent to transfer  
9 ~~Sells or gives~~ any firearms to any person he or she knows  
10 or has reasonable cause to believe ~~who~~ is mentally  
11 retarded.

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

33 (h) While holding any license as a dealer, importer,  
34 manufacturer or pawnbroker under the federal Gun Control

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

12 (i) Transfers or possesses with intent to transfer  
13 ~~Sells or gives~~ a firearm of any size to any person he or  
14 she knows or has reasonable cause to believe is under 18  
15 years of age who does not possess a valid Firearm Owner's  
16 Identification Card.

17 (i-5) While holding a license under the Federal Gun  
18 Control Act of 1968, transfers or possesses with intent to  
19 transfer more than one handgun to any person within any  
20 30-day period or transfers or possesses with intent to  
21 transfer a handgun to any person he or she knows or has  
22 reasonable cause to believe has received a handgun within  
23 the previous 30 days unless the receipt of multiple  
24 handguns is exempted under subsection (c) or (d) of Section  
25 24-3.1A. It is an affirmative defense to a violation of  
26 this subsection that the transferor in good faith relied on  
27 the records of the Department of State Police in concluding  
28 that the transferor had not transferred a handgun within  
29 the previous 30 days or that multiple purchases were  
30 authorized by subsection (b) of Section 24-3.1A, or relied  
31 in good faith on the records of a local law enforcement  
32 agency that the transfer was authorized by subsection (c)  
33 of Section 24-3.1A.

34 (j) Transfers or possesses with intent to transfer

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

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

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

22 (k) Transfers ~~Sells or transfers~~ ownership of a firearm  
23 to a person who does not display to the seller or  
24 transferor of the firearm a currently valid Firearm Owner's  
25 Identification Card that has previously been issued in the  
26 transferee's name by the Department of State Police under  
27 the provisions of the Firearm Owners Identification Card  
28 Act. This paragraph (k) does not apply to the transfer of a  
29 firearm to a person who is exempt from the requirement of  
30 possessing a Firearm Owner's Identification Card under  
31 Section 2 of the Firearm Owners Identification Card Act.  
32 For the purposes of this Section, a currently valid Firearm  
33 Owner's Identification Card means (i) a Firearm Owner's  
34 Identification Card that has not expired or (ii) if the

1 transferor is licensed as a federal firearms dealer under  
2 Section 923 of the federal Gun Control Act of 1968 (18  
3 U.S.C. 923), an approval number issued in accordance with  
4 Section 3.1 of the Firearm Owners Identification Card Act  
5 shall be proof that the Firearm Owner's Identification Card  
6 was valid.

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

17 (B-5) As used in this Section, "transfer" means the actual  
18 or attempted transfer of a firearm or firearm ammunition, with  
19 or without consideration, but does not include the lease of a  
20 firearm, or the provision of ammunition specifically for that  
21 firearm, if the firearm and the ammunition are to be used on  
22 the lessor's premises, and does not include any transfer of  
23 possession when the transferor maintains supervision and  
24 control over the firearm or ammunition.

25 (B-10) It is an affirmative defense to a violation of  
26 paragraph (i-5) of subsection (A) that the transfer or  
27 possession with intent to transfer of a firearm was to a  
28 transferee who received the firearm as an heir, legatee, or  
29 beneficiary of or in a similar capacity to a deceased person  
30 who had owned the firearm. Nothing in this paragraph (B-10)  
31 makes lawful any transfer or possession with intent to transfer  
32 of a firearm, or any other possession or use of a firearm, in  
33 violation of any law, other than paragraph (i-5) of subsection  
34 (A), or in violation of any municipal or county ordinance.

1 (C) Sentence.

2 (1) Any person convicted of unlawful transfer sale of  
3 firearms in violation ~~of any~~ of paragraph (c), (e), (f),  
4 (g), or paragraphs (e) through (h) of subsection (A)  
5 commits a Class 4 felony. A person convicted of a violation  
6 of subsection (i-5) of subsection (A) of this Section  
7 commits a Class A misdemeanor for a first offense and a  
8 Class 4 felony for a second or subsequent offense.

9 (2) Any person convicted of unlawful transfer sale of  
10 firearms in violation of paragraph (b), (b-5), or (i) of  
11 subsection (A) commits a Class 3 felony.

12 (3) Any person convicted of unlawful transfer sale of  
13 firearms in violation of paragraph (a) of subsection (A)  
14 commits a Class 2 felony.

15 (4) Any person convicted of unlawful transfer sale of  
16 firearms in violation of paragraph (a), (b), (b-5), or (i)  
17 of subsection (A) in any school, on the real property  
18 comprising a school, within 1,000 feet of the real property  
19 comprising a school, at a school related activity, or on or  
20 within 1,000 feet of any conveyance owned, leased, or  
21 contracted by a school or school district to transport  
22 students to or from school or a school related activity,  
23 regardless of the time of day or time of year at which the  
24 offense was committed, commits a Class 1 felony. Any person  
25 convicted of a second or subsequent violation of unlawful  
26 transfer sale of firearms in violation of paragraph (a),  
27 (b), (b-5), or (i) of subsection (A) in any school, on the  
28 real property comprising a school, within 1,000 feet of the  
29 real property comprising a school, at a school related  
30 activity, or on or within 1,000 feet of any conveyance  
31 owned, leased, or contracted by a school or school district  
32 to transport students to or from school or a school related  
33 activity, regardless of the time of day or time of year at  
34 which the offense was committed, commits a Class 1 felony

1 for which the sentence shall be a term of imprisonment of  
2 no less than 5 years and no more than 15 years.

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

19 (6) Any person convicted of unlawful transfer ~~sale~~ of  
20 firearms in violation of paragraph (j) of subsection (A)  
21 commits a Class A misdemeanor. A second or subsequent  
22 violation is a Class 4 felony.

23 (7) Any person convicted of unlawful transfer ~~sale~~ of  
24 firearms in violation of paragraph (k) of subsection (A)  
25 commits a Class 4 felony. A third or subsequent conviction  
26 for a violation of paragraph (k) of subsection (A) is a  
27 Class 1 felony.

28 (8) A person convicted of unlawful transfer of firearms  
29 in violation of paragraph (d) of subsection (A) commits a  
30 Class 2 felony.

31 (D) For purposes of this Section:

32 "School" means a public or private elementary or secondary  
33 school, community college, college, or university.

34 "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 5/24-3.1A new)

13 Sec. 24-3.1A. Unlawful acquisition of handguns.

14 (a) Except as exempted in subsections (b) and (c), it is  
15 unlawful for any person other than a person holding a license  
16 under the Federal Gun Control Act of 1968, as amended, to  
17 acquire more than one handgun within any 30-day period.

18 (b) Acquisitions in excess of one handgun within a 30-day  
19 period may be made upon completion of an enhanced background  
20 check, as described in this Section, by special application to  
21 the Department of State Police listing the number and type of  
22 handguns to be acquired and transferred for lawful business or  
23 personal use, in a collector series, for collections, as a bulk  
24 purchase from estate sales, and for similar purposes. The  
25 application must be signed under oath by the applicant on forms  
26 provided by the Department of State Police, must state the  
27 purpose for the acquisition above the limit, and must require  
28 satisfactory proof of residency and identity. The application  
29 is in addition to the firearms transfer report required by the  
30 Bureau of Alcohol, Tobacco and Firearms (ATF). The Director of  
31 State Police shall adopt rules, under the Illinois  
32 Administrative Procedure Act, for the implementation of an  
33 application process for acquisitions of handguns above the



1 limit.

2 Upon being satisfied that these requirements have been met,  
3 the Department of State Police must forthwith issue to the  
4 applicant a nontransferable certificate that is valid for 7  
5 days from the date of issue. The certificate must be  
6 surrendered to the transferor by the prospective transferee  
7 before the consummation of the transfer and must be kept on  
8 file at the transferor's place of business for inspection as  
9 provided in Section 24-4. Upon request of any local law  
10 enforcement agency, and under its rules, the Department of  
11 State Police may certify the local law enforcement agency to  
12 serve as its agent to receive applications and, upon  
13 authorization by the Department of State Police, issue  
14 certificates forthwith under this Section. Applications and  
15 certificates issued under this Section must be maintained as  
16 records by the Department of State Police, and made available  
17 to local law enforcement agencies.

18 (c) This Section does not apply to:

19 (1) A law enforcement agency;

20 (2) State and local correctional agencies and  
21 departments;

22 (3) The acquisition of antique firearms as defined by  
23 paragraph (4) of Section 1.1 of the Firearm Owners  
24 Identification Card Act; or

25 (4) A person whose handgun is stolen or irretrievably  
26 lost who deems it essential that the handgun be replaced  
27 immediately. The person may acquire another handgun, even  
28 if the person has previously acquired a handgun within a  
29 30-day period, if: (i) the person provides the firearms  
30 transferor with a copy of the official police report or a  
31 summary of the official police report, on forms provided by  
32 the Department of State Police, from the law enforcement  
33 agency that took the report of the lost or stolen handgun;  
34 (ii) the official police report or summary of the official

1 police report contains the name and address of the handgun  
2 owner, the description and serial number of the handgun,  
3 the location of the loss or theft, the date of the loss or  
4 theft, and the date the loss or theft was reported to the  
5 law enforcement agency; and (iii) the date of the loss or  
6 theft as reflected on the official police report or summary  
7 of the official police report occurred within 30 days of  
8 the person's attempt to replace the handgun. The firearms  
9 transferor must attach a copy of the official police report  
10 or summary of the official police report to the original  
11 copy of the form provided by the Department of State Police  
12 completed for the transaction, retain it for the period  
13 prescribed by the Department of State Police, and forward a  
14 copy of the documents to the Department of State Police.  
15 The documents must be maintained by the Department of State  
16 Police and made available to local law enforcement  
17 agencies.

18 (d) For the purposes of this Section, "acquisition" does  
19 not include the exchange or replacement of a handgun by a  
20 transferor for a handgun transferred from the transferor by the  
21 same person seeking the exchange or replacement within the  
22 30-day period immediately preceding the date of exchange or  
23 replacement.

24 (e) The exemptions set forth in subsections (b) and (c) are  
25 affirmative defenses to a violation of subsection (a).

26 (f) A violation of this Section is a Class A misdemeanor  
27 for a first offense and a Class 4 felony for a second or  
28 subsequent offense."