



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2323

Introduced 1/12/2006, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

New Act

Creates the Handgun Dealer Licensing Act. Requires a person who engages in the business of selling or transferring concealable firearms to be licensed by the Department of State Police. Establishes qualifications for licenses. Provides that it is a Class 4 felony to engage in the business of selling or transferring concealable firearms without a license. Requires a licensed handgun dealer who sells or transfers a concealable firearm to a person who is not a licensed dealer to report that sale or transfer to the Department of State Police.

LRB094 16409 RLC 51668 b

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 1. Short title. This Act may be cited as the
5 Handgun Dealer Licensing Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Department of State Police.

8 "Handgun dealer" means any person who is: (i) engaged in
9 the business of selling concealable firearms at wholesale or
10 retail, (ii) engaged in the business of repairing concealable
11 firearms or of making or fitting special barrels, stocks, or
12 trigger mechanisms to concealable firearms, or (iii) a
13 pawnbroker whose business or occupation includes the taking or
14 receiving, by way of pledge or pawn, of any concealable firearm
15 as security for the payment or repayment of money.

16 "Licensed dealer" means any firearms dealer who is licensed
17 under both this Act and Section 923 of the federal Gun Control
18 Act of 1968 (18 U.S.C. 923).

19 "Person" means an individual, firm, association, society,
20 partnership, limited liability company, corporation, or other
21 entity.

22 "Engaged in the business" means a person who devotes time,
23 attention, and labor to engaging in the activity as a regular
24 course of trade or business with the principal objective of
25 livelihood and profit, but does not include a person who makes
26 occasional repairs of concealable firearms, or who
27 occasionally fits special barrels, stocks, or trigger
28 mechanisms to concealable firearms.

29 "Transfer" means the actual or attempted transfer of a
30 concealable firearm or concealable firearm ammunition, with or
31 without consideration, but does not include the lease of a
32 concealable firearm, or the provision of ammunition

1 specifically for that firearm, if the firearm and the
2 ammunition are to be used on the lessor's premises, and does
3 not include any transfer of possession when the transferor
4 maintains supervision and control over the concealable firearm
5 or ammunition.

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

14 "Terrorism" means activity directed against United States
15 residents that:

16 (i) is committed by an individual who is not a national
17 or permanent resident alien of the United States;

18 (ii) involves violent acts or acts dangerous to human
19 life that would be a criminal violation if committed within
20 the jurisdiction of the United States; and

21 (iii) is intended:

22 (A) to intimidate or coerce a civilian population;

23 (B) to influence the policy of a government by
24 intimidation or coercion; or

25 (C) to affect the conduct of a government by
26 assassination or kidnapping.

27 "Fugitive from justice" means a person who has fled from
28 any state to avoid prosecution for a crime or to avoid giving
29 testimony in any criminal proceeding.

30 "Firearm" has the meaning ascribed to it in Section 1.1 of
31 the Firearm Owners Identification Card Act.

32 "Adjudicated as a disabled person" means adjudicated as a
33 disabled person under the Probate Act of 1975 or the laws of
34 another state.

35 "Cannabis" has the meaning ascribed to it in the Cannabis
36 Control Act.

1 "Controlled substance" has the meaning ascribed to it in
2 the Illinois Controlled Substances Act.

3 Section 10. Unlicensed concealable firearms dealer;
4 prohibition. No person may sell or otherwise transfer, or
5 expose for sale or transfer, or have in his or her possession
6 with intent to sell or transfer any concealable firearm without
7 being licensed under this Act. This prohibition does not apply
8 to a person who makes occasional sales, exchanges, or purchases
9 of concealable firearms for the enhancement of a personal
10 collection or as a hobby or who sells all or part of his or her
11 personal collection of firearms.

12 Section 15. License application; requirements; penalty.

13 (a) The Department may grant a handgun dealer license to an
14 applicant who submits evidence that:

15 (1) he or she is at least 21 years of age;

16 (2) he or she, including in the case of a corporation,
17 partnership, or association, an individual possessing,
18 directly or indirectly, the power to direct or cause the
19 direction of the management and policies of the
20 corporation, partnership, or association:

21 (i) has not been convicted of a felony under the
22 laws of this State or another state;

23 (ii) is not a fugitive from justice;

24 (iii) is not and has not been an unlawful user of
25 or addicted to a controlled substance or cannabis;

26 (iv) has not been adjudicated as a disabled person
27 or committed to a mental institution;

28 (v) is not an alien, illegally or unlawfully, in
29 the United States;

30 (vi) has not been discharged from the Armed Forces
31 under dishonorable conditions; or

32 (vii) is not a former citizen of the United States
33 who has renounced his or her citizenship; and

34 (3) he or she does not have a mental condition that

1 poses a clear and present danger to the applicant, another
2 person, or to the community. For purposes of this
3 subdivision (3), "mental condition" means a state of mind
4 manifested by violent, suicidal, threatening, or
5 assaultive behavior.

6 (b) An application for a handgun dealer license must be
7 made on forms furnished by the Department. The application must
8 be verified by the applicant under oath and must be accompanied
9 by the required fee.

10 (c) The applicant must submit to the Department a license
11 fee of \$300, payable at the time of application, and an
12 additional \$300 payable every 3 years thereafter for so long as
13 the license is in effect.

14 (d) The applicant must submit to fingerprinting in
15 accordance with rules adopted by the Department and must pay a
16 fingerprint processing fee in the amount set by the Department
17 by rule.

18 (e) A person who knowingly makes a false statement or
19 knowingly conceals a material fact or uses false information or
20 identification in any application for a license under this Act
21 commits a Class A misdemeanor.

22 (f) A license granted under this Act remains in effect
23 until it is revoked, suspended, or otherwise withdrawn by the
24 Department or until it is surrendered by the licensee.

25 (g) The provisions of subdivision (a)(2)(i) do not apply to
26 a person who has been granted relief from disabilities under
27 subsection (c) of Section 925 of Title 18 of the United States
28 Code or to a licensed dealer who is indicted for a crime who is
29 operating under an existing license if, before the expiration
30 of the term of the existing license, timely application is made
31 for a new license during the term of the indictment and until
32 any conviction under the indictment becomes final.

33 Section 20. License retention; requirements. A license
34 granted under this Act is subject to all of the following
35 requirements:

1 (1) A licensed dealer may only transact business under this
2 Act at an address that has a zoning classification that permits
3 the operation of a retail establishment.

4 (2) A licensed dealer may not transact business in any
5 place other than the premises specified in his or her license,
6 except that a licensed dealer may display, sell, or transfer
7 firearms at a gun show open to the general public or at any
8 regular meeting of an incorporated collectors club in
9 accordance with this Act and federal law.

10 (3) A licensed dealer may not violate any provision of any
11 federal or state law pertaining to the possession, use, sale,
12 or delivery of firearms.

13 (4) The licensed dealer must strictly adhere to the
14 provisions of all applicable federal and state laws and local
15 ordinances and local business license requirements.

16 (5) A separate license must be obtained for each separate
17 place of business. Before a licensed dealer moves his or her
18 place of business, he or she must promptly apply to the
19 Department for an amended license.

20 (6) The license, or a copy of the license certified by the
21 Department, must be displayed on the premises at a location
22 where it can easily be read.

23 (7) No concealable firearm may be displayed in any outer
24 window of the premises or in any other place where it can
25 readily be seen from the outside.

26 (8) Every concealable firearm must be unloaded when
27 delivered.

28 (9) The licensee must obtain a certificate of registration
29 issued under the Retailers' Occupation Tax Act.

30 (10) The licensee must take reasonable precautions to
31 ensure that the concealable firearms the licensee sells will
32 not be used illegally. These precautions include, but are not
33 limited to: (i) the refusal to sell a concealable firearm to a
34 person the licensee knows or has reason to know is purchasing
35 the firearm on behalf of another person who could not legally
36 purchase the firearm; (ii) the refusal to sell a concealable

1 firearm to a person who has provided a home address in a
2 municipality or county in which possession of that type of
3 concealable firearm is illegal unless the transferee presents
4 reasonably satisfactory evidence that the concealable firearm
5 will not be used or possessed unlawfully in that municipality
6 or county; and (iii) the refusal to sell a concealable firearm
7 to a person who has provided a home address in a municipality
8 or county that requires registration of the firearm, unless the
9 purchaser presents satisfactory evidence of compliance with
10 the registration requirement.

11 (11) The licensee must make available the licensee's
12 records relating to the sale of concealable firearms to any
13 officer or employee of the Department or of any unit of local
14 government in this State whenever the officer or employee is
15 authorized to enforce laws or ordinances pertaining to
16 firearms; provided, however, that no officer or employee may
17 conduct any search or seizure without a warrant other than an
18 inspection of a licensee's records relating to firearms sales;
19 and provided further that nothing in this Section shall
20 authorize any search or seizure forbidden by the United States
21 Constitution or the Illinois Constitution.

22 Section 25. Enforcement; revocation; notice. This Act must
23 be enforced by the Department, and may be enforced, for the
24 purpose of determining compliance with this Act, by any
25 municipality in which the licensee is located or, if the
26 licensee is not located in a municipality, by the county in
27 which the licensee is located. The Department, after due notice
28 to the licensee and reasonable opportunity for the licensee to
29 be heard, may revoke a license or may suspend a license for a
30 period of time that the Department may deem proper upon
31 satisfactory proof that the licensee has violated or permitted
32 a violation of any requirement of this Act or is no longer
33 eligible to obtain a license under Section 15. A person whose
34 license has been revoked by the Department is disqualified to
35 receive a license for 10 years after the revocation. Any person

1 who has substantially participated in the operation or
2 management of a licensee that has had its license revoked may
3 not be employed by or participate in the business of any other
4 licensee for 10 years after the revocation. Proceedings for
5 revocation or suspension under this Section may be initiated by
6 the Department or by any municipality or county.

7 Section 30. Submission to Department. A licensed dealer
8 must, within 24 hours after making a sale or transfer of a
9 concealable firearm to a person who is not licensed as a
10 dealer, report that sale to the Department of State Police. The
11 report must contain the following information: the date of the
12 sale or transfer; the identity and address of the dealer; the
13 name, address, age, and occupation of the transferee; the price
14 of the firearm; and the kind, description and number of the
15 firearm. All records of the reports must be maintained by the
16 Department on a computer database capable of allowing the
17 retrieval of information for each dealer and each transferee.
18 The computer database must also contain a listing of each
19 county or municipality that prohibits one or more types of
20 concealable firearm, and the type or types of concealable
21 firearms that are prohibited in that county or municipality.
22 Information in the database must be made available to any law
23 enforcement agency responsible for the enforcement of any
24 federal, State or local law or ordinance relating to firearms,
25 and to any licensed dealer who requests information relating to
26 a person who is seeking to purchase one or more firearms from
27 that dealer. Except as specifically provided in this Section,
28 information in the database are confidential records of the
29 Department and are not subject to disclosure under any other
30 law.

31 In addition to any other requirements of this Section, any
32 licensee who was required by Section 3 of the Firearm Owners
33 Identification Card Act to keep a record of a transfer of a
34 firearm occurring within the 24 month period immediately
35 preceding the effective date of this Act must, no later than 30

1 days after that effective date, report those transfers to the
2 Department of State Police. The report must contain the
3 information required to be maintained as records under
4 subsection (b) of Section 3 of the Firearm Owners
5 Identification Card Act. The Department must include the
6 records of those reports in the computer database required to
7 be maintained under this Section.

8 Section 35. Penalty. Any handgun dealer who sells, or who
9 possesses with intent to sell, trade, or transfer, any firearm
10 without being licensed under this Act is guilty of a Class 4
11 felony.