

SB2785



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2785

Introduced 1/20/2006, by Sen. John O. Jones

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 1961. Provides that the waiting period for withholding delivery of a firearm after application for its purchase has been made does not apply to the transfer of an operable firearm in exchange for another operable firearm. Effective immediately.

LRB094 18512 RLC 53838 b

A BILL FOR

1 AN ACT concerning 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 Section 24-3 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, or a stun
30 gun or taser, incidental to a sale, without withholding
31 delivery of such rifle, shotgun or other long gun, or a
32 stun gun or taser for at least 24 hours after application

1 for its purchase has been made. However, this paragraph (g)
2 does not apply to: (1) the sale of a firearm to a law
3 enforcement officer if the seller of the firearm knows that
4 the person to whom he or she is selling the firearm is a
5 law enforcement officer or the sale of a firearm to a
6 person who desires to purchase a firearm for use in
7 promoting the public interest incident to his or her
8 employment as a bank guard, armed truck guard, or other
9 similar employment; (2) a mail order sale of a firearm to a
10 nonresident of Illinois under which the firearm is mailed
11 to a point outside the boundaries of Illinois; (3) the sale
12 of a firearm to a nonresident of Illinois while at a
13 firearm showing or display recognized by the Illinois
14 Department of State Police; ~~or~~ (4) the sale of a firearm to
15 a dealer licensed as a federal firearms dealer under
16 Section 923 of the federal Gun Control Act of 1968 (18
17 U.S.C. 923); or (5) the transfer of an operable firearm in
18 exchange for another operable firearm. For purposes of this
19 paragraph (g), "application" means when the buyer and
20 seller reach an agreement to purchase a firearm.

21 (h) While holding any license as a dealer, importer,
22 manufacturer or pawnbroker under the federal Gun Control
23 Act of 1968, manufactures, sells or delivers to any
24 unlicensed person a handgun having a barrel, slide, frame
25 or receiver which is a die casting of zinc alloy or any
26 other nonhomogeneous metal which will melt or deform at a
27 temperature of less than 800 degrees Fahrenheit. For
28 purposes of this paragraph, (1) "firearm" is defined as in
29 the Firearm Owners Identification Card Act; and (2)
30 "handgun" is defined as a firearm designed to be held and
31 fired by the use of a single hand, and includes a
32 combination of parts from which such a firearm can be
33 assembled.

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

1 (j) Sells or gives a firearm while engaged in the
2 business of selling firearms at wholesale or retail without
3 being licensed as a federal firearms dealer under Section
4 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
5 In 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) Sells or transfers ownership of a firearm to a
23 person who does not display to the seller or transferor of
24 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
35 transferor is licensed as a federal firearms dealer under
36 Section 923 of the federal Gun Control Act of 1968 (18

1 U.S.C. 923), an approval number issued in accordance with
2 Section 3.1 of the Firearm Owners Identification Card Act
3 shall be proof that the Firearm Owner's Identification Card
4 was valid.

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

15 (C) Sentence.

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

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

22 (3) Any person convicted of unlawful sale of firearms
23 in violation of paragraph (a) of subsection (A) commits a
24 Class 2 felony.

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

1 in any school, on the real property comprising a school,
2 within 1,000 feet of the real property comprising a school,
3 at a school related activity, or on or within 1,000 feet of
4 any conveyance owned, leased, or contracted by a school or
5 school district to transport students to or from school or
6 a school related activity, regardless of the time of day or
7 time of year at which the offense was committed, commits a
8 Class 1 felony for which the sentence shall be a term of
9 imprisonment of no less than 5 years and no more than 15
10 years.

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

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

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

36 (D) For purposes of this Section:

1 "School" means a public or private elementary or secondary
2 school, community college, college, or university.

3 "School related activity" means any sporting, social,
4 academic, or other activity for which students' attendance or
5 participation is sponsored, organized, or funded in whole or in
6 part by a school or school district.

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

14 (Source: P.A. 93-162, eff. 7-10-03; 93-906, eff. 8-11-04; 94-6,
15 eff. 1-1-06; 94-284, eff. 7-21-05; revised 8-19-05.)

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