



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4349

by Rep. Naomi D. Jakobsson

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.708 new

Creates the Regulated Firearms Encoded Ammunition Act and amends the State Finance Act. Provides that a manufacturer of ammunition for handguns and certain specified assault weapons sold in this State after January 1, 2009 must encode the ammunition in such a manner that the Director of State Police establishes. Provides that ammunition contained in one ammunition box may not be labeled with the same serial number as the ammunition contained in any other ammunition box from the same manufacturer. Provides that on or before January 1, 2011, an owner of ammunition for use in a regulated firearm that is not encoded by the manufacturer shall dispose of the ammunition. Provides that beginning on January 1, 2009, the Director of State Police shall establish and maintain an encoded ammunition database. Creates the Ammunition Accountability Fund as a special fund in the State treasury. Provides that subject to appropriation, the Department of State Police may use moneys from the Fund to establish and maintain the encoded ammunition database. Provides that beginning January 1, 2009, each person selling encoded ammunition at retail in this State shall collect from retail customers a fee of \$0.05 for each round that is sold and delivered in this State. Establishes civil and criminal penalties for violations of the Regulated Firearms Encoded Ammunition Act. Effective January 1, 2009.

LRB095 15399 RLC 41387 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning ammunition.

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 Regulated Firearms Encoded Ammunition Act.

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

7 "Director" means the Director of State Police.

8 "Encoded ammunition" means ammunition as defined in
9 Section 1.1 of the Firearm Owners Identification Card Act that
10 is encoded by a manufacturer under Section 15 of this Act.

11 "Manufacturer" means a person who possesses a federal
12 license to engage in the business of manufacturing ammunition
13 for sale or distribution.

14 "Regulated firearm" means:

15 (1) a handgun as defined in clause (A) (h) (2) of Section
16 24-3 of the Criminal Code of 1961; or

17 (2) a firearm as defined in Section 1.1 of the Firearm
18 Owners Identification Card Act that is any of the following
19 specific assault weapons or their copies, regardless of
20 which company produced and manufactured that assault
21 weapon:

22 (i) American Arms Spectre da Semiautomatic
23 carbine;

- 1 (ii) AK-47 in all forms;
- 2 (iii) Algimec AGM-1 type semi-auto;
- 3 (iv) AR 100 type semi-auto;
- 4 (v) AR 180 type semi-auto;
- 5 (vi) Argentine L.S.R. semi-auto;
- 6 (vii) Australian Automatic Arms SAR type
- 7 semi-auto;
- 8 (viii) Auto-Ordnance Thompson M1 and 1927
- 9 semi-automatics;
- 10 (ix) Barrett light .50 cal. semi-auto;
- 11 (x) Beretta AR70 type semi-auto;
- 12 (xi) Bushmaster semi-auto rifle;
- 13 (xii) Calico models M-100 and M-900;
- 14 (xiii) CIS SR 88 type semi-auto;
- 15 (xiv) Claridge HI TEC C-9 carbines;
- 16 (xv) Colt AR-15, CAR-15, and all imitations except
- 17 Colt AR-15 Sporter H-BAR rifle;
- 18 (xvi) Daewoo MAX 1 and MAX 2, aka AR 100, 110C,
- 19 K-1, and K-2;
- 20 (xvii) Dragunov Chinese made semi-auto;
- 21 (xviii) Famas semi-auto (.223 caliber);
- 22 (xix) Feather AT-9 semi-auto;
- 23 (xx) FN LAR and 1 FN FAL assault rifle;
- 24 (xxi) FNC semi-auto type carbine;
- 25 (xxii) F.I.E./Franchi LAW 12 and SPAS assault
- 26 shotgun;

- 1 (xxiii) Steyr-AUG-SA semi-auto;
- 2 (xxiv) Galil models AR and ARM semi-auto;
- 3 (xxv) Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2
4 and A3;
- 5 (xxvi) Holmes model 88 shotgun;
- 6 (xxvii) Avtomat Kalashnikov semiautomatic rifle in
7 any format;
- 8 (xxviii) Manchester Arms "Commando" MK-45, MK-9;
- 9 (xxix) Mandell TAC-1 semi-auto carbine;
- 10 (xxx) Mossberg model 500 Bullpup assault shotgun;
- 11 (xxxi) Sterling Mark 6;
- 12 (xxxii) P.A.W.S. carbine;
- 13 (xxxiii) Ruger mini-14 folding stock model (.223
14 caliber);
- 15 (xxxiv) SIG 550/551 assault rifle (.223 caliber);
- 16 (xxxv) SKS with detachable magazine;
- 17 (xxxvi) AP-74 Commando type semi-auto;
- 18 (xxxvii) Springfield Armory BM-59, SAR-48, G3,
19 SAR-3, M-21 sniper rifle, M1A, excluding the M1 Garand;
- 20 (xxxviii) Street sweeper assault type shotgun;
- 21 (xxxix) Striker 12 assault shotgun in all formats;
- 22 (xl) Unique F11 semi-auto type;
- 23 (xli) Daewoo USAS 12 semi-auto shotgun;
- 24 (xlii) UZI 9mm carbine or rifle;
- 25 (xliii) Valmet M-76 and M-78 semi-auto;
- 26 (xliv) Weaver Arms "Nighthawk" semi-auto carbine;

1 or

2 (xlv) Wilkinson Arms 9mm semi-auto "Terry".

3 Section 10. Ammunition for regulated firearms; sale. A
4 person may sell ammunition for a regulated firearm on or after
5 January 1, 2009 only in accordance with this Act.

6 Section 15. Encoding ammunition for regulated firearms.

7 (a) A manufacturer shall encode ammunition provided for
8 retail sale for regulated firearms in a manner that the
9 Director establishes, so that:

10 (1) the base of the bullet and the inside of the
11 cartridge casing of each round in a box of ammunition are
12 encoded with the same serial number;

13 (2) each serial number is engraved in such a manner
14 that it is highly likely to permit identification after
15 ammunition discharge and bullet impact; and

16 (3) the outside of each box of ammunition is labeled
17 with the name of the manufacturer and the same serial
18 number used on the cartridge casings and bases of bullets
19 contained in the box.

20 (b) Ammunition contained in one ammunition box may not be
21 labeled with the same serial number as the ammunition contained
22 in any other ammunition box from the same manufacturer.

23 Section 20. Non-encoded ammunition; disposal. On or before

1 January 1, 2011, an owner of ammunition for use in a regulated
2 firearm that is not encoded by the manufacturer in accordance
3 with Section 15 of this Act shall dispose of the ammunition.

4 Section 25. Encoded ammunition database.

5 (a) Beginning on January 1, 2009, the Director shall
6 establish and maintain an encoded ammunition database.

7 (b) A manufacturer that does business in this State shall
8 provide the Director for inclusion in the database:

9 (1) its name and address;

10 (2) the serial numbers of its ammunition offered for
11 sale for regulated firearms in this State; and

12 (3) other information that the Director considers
13 necessary.

14 (c) A seller of ammunition for regulated firearms in this
15 State shall provide the Director for inclusion in the database:

16 (1) the date of each ammunition purchase;

17 (2) the name and date of birth of each purchaser of
18 ammunition;

19 (3) the driver's license number of the purchaser or
20 other number issued to the purchaser by the State or
21 federal government;

22 (4) the serial numbers of all ammunition for regulated
23 firearms bought by the purchaser; and

24 (5) any other information that the Director considers
25 necessary.

1 Section 30. Records. A seller of encoded ammunition for
2 regulated firearms shall maintain copies of all records
3 submitted to the Director under Section 25 of this Act for at
4 least 3 years after the date of sale.

5 Section 35. Database fee. The encoded ammunition database
6 established under Section 25 of this Act shall be funded by the
7 encoded ammunition database fee imposed under Section 50 of
8 this Act.

9 Section 40. Penalties.

10 (a)(1) A seller of encoded ammunition that violates this
11 Act is guilty of a Class A misdemeanor.

12 (2) A person who willfully destroys or otherwise renders
13 unreadable the information encoded on ammunition required
14 under this Act is guilty of a Class A misdemeanor.

15 (b) A manufacturer that violates this Act is subject to a
16 civil fine to be imposed by the Director and not exceeding:

17 (1) \$1,000 for a first violation;

18 (2) \$5,000 for a second violation; and

19 (3) \$10,000 for a third or subsequent violation.

20 Section 45. Ammunition Accountability Fund.

21 (a) The Ammunition Accountability Fund is created as a
22 special fund in the State treasury. Subject to appropriation,

1 the Department of State Police may use moneys from the Fund to
2 establish and maintain the encoded ammunition database under
3 Section 25 of this Act.

4 (b) All fees collected under this Act and all penalties or
5 punitive damages for violations of this Act must be deposited
6 into the Fund. Additionally, any other moneys received for the
7 purposes of this Act, including, without limitation,
8 appropriations, gifts, grants, and awards from any public or
9 private entity, must be deposited into the Fund.

10 (c) Any interest earnings that are attributable to moneys
11 in the Fund must be deposited into the Fund.

12 Section 50. Ammunition fee.

13 (a) Beginning January 1, 2009, each person selling encoded
14 ammunition at retail in this State shall collect from retail
15 customers a fee of \$0.05 for each round that is sold and
16 delivered in this State.

17 (b) The fee collected under subsection (a) of this Section
18 must be stated as a distinct item separate and apart from the
19 selling price of the encoded ammunition. The fee is not
20 includable in the gross receipts of the retailer subject to the
21 Retailer's Occupation Tax Act, the Use Tax Act, or any locally
22 imposed retailers' occupation tax. The fee, and any such fees
23 collected by a retailer, constitutes a debt that is owed by the
24 retailer to the State.

1 Section 55. Returns by retailers.

2 (a) Each retailer of encoded ammunition who maintains a
3 place of business in this State must make a return to the
4 Department of Revenue on a quarter-annual basis, with the
5 return for January, February, and March of a given year being
6 due by April 30 of that year; with the return for April, May,
7 and June of a given year being due by July 31 of that year; with
8 the return for July, August, and September of a given year
9 being due by October 31 of that year; and with the return for
10 October, November, and December of a given year being due by
11 January 31 of the following year. Each return made to the
12 Department of Revenue must state the following:

13 (1) the name of the retailer;

14 (2) the address of the retailer's principal place of
15 business and the address of the principal place of business
16 (if that is a different address) from which the retailer
17 engages in the business of making retail sales of encoded
18 ammunition;

19 (3) the total number of rounds of new encoded
20 ammunition sold at retail in the preceding calendar
21 quarter;

22 (4) the total amount of fees collected in the preceding
23 calendar quarter; and

24 (5) any other information that the Department of
25 Revenue reasonably requires.

26 (b) Notwithstanding any other provision of law concerning

1 the time within which a retailer may file his or her return, in
2 the case of any retailer who ceases to engage in the retail
3 sale of encoded ammunition, the retailer must file a final
4 return under this Act with the Department of Revenue not more
5 than one calendar month after discontinuing that business.

6 Section 60. Application of Retailers' Occupation Tax
7 provisions. All the provisions of Sections 4, 5, 5a, 5b, 5c,
8 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, and 13
9 of the Retailers' Occupation Tax Act that are not inconsistent
10 with this Act apply, as far as practicable, to the fee imposed
11 by Section 50 of this Act to the same extent as if those
12 provisions were included in this Act. References in the
13 incorporated Sections of the Retailers' Occupation Tax Act to
14 retailers, to sellers, or to persons engaged in the business of
15 selling tangible personal property mean retailers of encoded
16 ammunition.

17 Section 65. Rules; notice; hearings.

18 (a) The Department of Revenue may adopt and enforce any
19 reasonable rule to administer and enforce the fee imposed by
20 Section 50 of this Act.

21 (b) Whenever the Department of Revenue is required to
22 provide notice to a retailer under this Act, the notice may be
23 personally served or given by United States certified or
24 registered mail, addressed to the retailer or taxpayer

1 concerned at his or her last known address, and proof of this
2 mailing is sufficient for the purposes of this Act. In the case
3 of a notice of hearing, the Department must mail the notice at
4 least 7 days prior to the date fixed for the hearing.

5 (c) All hearings provided by the Department of Revenue
6 under this Act with respect to or concerning a taxpayer having
7 his or her principal place of business in this State other than
8 in Cook County shall be held at the Department's office nearest
9 to the location of the taxpayer's principal place of business.
10 If the taxpayer has his or her principal place of business in
11 Cook County, then the hearing must be held in Cook County. If
12 the taxpayer does not have his or her principal place of
13 business in this State, then the hearing must be held in
14 Sangamon County.

15 (d) If any proceeding under this Act has been begun by the
16 Department of Revenue or by a person subject thereto and that
17 person subsequently dies or becomes a person under legal
18 disability before the proceeding has been concluded, then the
19 legal representative of the deceased person or person under
20 legal disability shall notify the Department of Revenue of the
21 death or legal disability. The Department must substitute the
22 legal representative, as such, in place of and for the person.
23 Within 20 days after notice to the legal representative of the
24 time fixed for that purpose, the proceeding may proceed in all
25 respects and with like effect as though the person had not died
26 or become a person under legal disability.

1 Section 70. Administrative procedures. The Illinois
2 Administrative Procedure Act is expressly adopted and applies
3 to all administrative rules and procedures of the Department of
4 Revenue under this Act, except that: (1) paragraph (b) of
5 Section 4 of the Illinois Administrative Procedure Act does not
6 apply to final orders, decisions, and opinions of the
7 Department of Revenue; (2) subparagraph (a)(2) of Section 4 of
8 the Illinois Administrative Procedure Act does not apply to
9 forms established by the Department of Revenue for use under
10 this Act; and (3) the provisions of Section 13 of the Illinois
11 Administrative Procedure Act regarding proposals for decision
12 are excluded and not applicable to the Department of Revenue
13 under this Act.

14 Section 75. Review under Administrative Review Law.

15 (a) The circuit court of any county in which a hearing is
16 held has the power to review all final administrative decisions
17 of the Department of Revenue in administering the fee imposed
18 under subsection (a) of Section 50 of this Act. If, however,
19 the administrative proceeding that is to be reviewed judicially
20 is a claim for refund proceeding commenced under this Act and
21 Section 2a of the State Officers and Employees Money
22 Disposition Act, the circuit court having jurisdiction over the
23 action for judicial review under this Section and under the
24 Administrative Review Law is the same court that entered the

1 temporary restraining order or preliminary injunction that is
2 provided for in that Section 2a, and that enables the claim
3 proceeding to be processed and disposed of as a claim for
4 refund proceeding other than as a claim for credit proceeding.

5 (b) The provisions of the Administrative Review Law apply
6 to and govern all proceedings for the judicial review of final
7 administrative decisions of the Department of Revenue under
8 this Act. The term "administrative decision" is defined as in
9 Section 3-101 of the Code of Civil Procedure.

10 (c) Service of summons issued in any action to review a
11 final administrative decision upon the Director or Assistant
12 Director of Revenue shall be service upon the Department of
13 Revenue. The Department of Revenue shall certify the record of
14 its proceedings if the taxpayer pays to it the sum of \$0.75 per
15 page of testimony taken before the Department of Revenue and
16 \$0.25 per page of all other matters contained in the record,
17 except that these charges may be waived if the Department of
18 Revenue is satisfied that the aggrieved party cannot afford to
19 pay these charges.

20 Section 80. Penalty. Any retailer who fails to make a
21 return or who makes a fraudulent return, or who willfully
22 violates any rule or regulation of the Department of Revenue
23 for the administration and enforcement of the fee imposed by
24 Section 50 of this Act, is guilty of a Class 4 felony.

1 Section 105. The State Finance Act is amended by adding
2 Section 5.708 as follows:

3 (30 ILCS 105/5.708 new)

4 Sec. 5.708. The Ammunition Accountability Fund.

5 Section 999. Effective date. This Act takes effect January
6 1, 2009.