

# HB5897



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB5897**

by Rep. Robert F. Flider

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

720 ILCS 5/24-3.7 new

Amends the Criminal Code of 1961. Provides that a person who sells or gives any firearm to any person who has been convicted of a felony under the laws of this State or any other jurisdiction is guilty of a Class 3 (rather than a Class 4) felony. Creates the offense of use of a stolen firearm in the commission of an offense. Provides that a person commits the offense when he or she knowingly uses a stolen firearm in the commission of any offense and the person knows that the firearm was stolen. Provides that a violation is a Class 2 felony.

LRB095 17644 RLC 43718 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 and by adding Section 24-3.7 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

1           mentally retarded.

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

1 "application" means when the buyer and seller reach an  
2 agreement to purchase a firearm.

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

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

19 (j) Sells or gives a firearm while engaged in the  
20 business of selling firearms at wholesale or retail without  
21 being licensed as a federal firearms dealer under Section  
22 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
23 In this paragraph (j):

24 A person "engaged in the business" means a person who  
25 devotes time, attention, and labor to engaging in the  
26 activity as a regular course of trade or business with the

1 principal objective of livelihood and profit, but does not  
2 include a person who makes occasional repairs of firearms  
3 or who occasionally fits special barrels, stocks, or  
4 trigger mechanisms to firearms.

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

14 (k) Sells or transfers ownership of a firearm to a  
15 person who does not display to the seller or transferor of  
16 the firearm a currently valid Firearm Owner's  
17 Identification Card that has previously been issued in the  
18 transferee's name by the Department of State Police under  
19 the provisions of the Firearm Owners Identification Card  
20 Act. This paragraph (k) does not apply to the transfer of a  
21 firearm to a person who is exempt from the requirement of  
22 possessing a Firearm Owner's Identification Card under  
23 Section 2 of the Firearm Owners Identification Card Act.  
24 For the purposes of this Section, a currently valid Firearm  
25 Owner's Identification Card means (i) a Firearm Owner's  
26 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 (C) Sentence.

18 (1) Any person convicted of unlawful sale of firearms  
19 in violation of paragraph ~~any of paragraphs~~ (c), (e), (f),  
20 (g), or through (h) of subsection (A) commits a Class 4  
21 felony.

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

25 (3) Any person convicted of unlawful sale of firearms  
26 in violation of paragraph (a) of subsection (A) commits a

1 Class 2 felony.

2 (4) Any person convicted of unlawful sale of firearms  
3 in violation of paragraph (a), (b), or (i) of subsection  
4 (A) in any school, on the real property comprising a  
5 school, within 1,000 feet of the real property comprising a  
6 school, at a school related activity, or on or within 1,000  
7 feet of any conveyance owned, leased, or contracted by a  
8 school or school district to transport students to or from  
9 school or a school related activity, regardless of the time  
10 of day or time of year at which the offense was committed,  
11 commits a Class 1 felony. Any person convicted of a second  
12 or subsequent violation of unlawful sale of firearms in  
13 violation of paragraph (a), (b), or (i) of subsection (A)  
14 in any school, on the real property comprising a school,  
15 within 1,000 feet of the real property comprising a school,  
16 at a school related activity, or on or within 1,000 feet of  
17 any conveyance owned, leased, or contracted by a school or  
18 school district to transport students to or from school or  
19 a school related activity, regardless of the time of day or  
20 time of year at which the offense was committed, commits a  
21 Class 1 felony for which the sentence shall be a term of  
22 imprisonment of no less than 5 years and no more than 15  
23 years.

24 (5) Any person convicted of unlawful sale of firearms  
25 in violation of paragraph (a) or (i) of subsection (A) in  
26 residential property owned, operated, or managed by a

1 public housing agency or leased by a public housing agency  
2 as part of a scattered site or mixed-income development, in  
3 a public park, in a courthouse, on residential property  
4 owned, operated, or managed by a public housing agency or  
5 leased by a public housing agency as part of a scattered  
6 site or mixed-income development, on the real property  
7 comprising any public park, on the real property comprising  
8 any courthouse, or on any public way within 1,000 feet of  
9 the real property comprising any public park, courthouse,  
10 or residential property owned, operated, or managed by a  
11 public housing agency or leased by a public housing agency  
12 as part of a scattered site or mixed-income development  
13 commits a Class 2 felony.

14 (6) Any person convicted of unlawful sale of firearms  
15 in violation of paragraph (j) of subsection (A) commits a  
16 Class A misdemeanor. A second or subsequent violation is a  
17 Class 4 felony.

18 (7) Any person convicted of unlawful sale of firearms  
19 in violation of paragraph (k) of subsection (A) commits a  
20 Class 4 felony. A third or subsequent conviction for a  
21 violation of paragraph (k) of subsection (A) is a Class 1  
22 felony.

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

26 (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. 94-6, eff. 1-1-06; 94-284, eff. 7-21-05; 95-331,  
15 eff. 8-21-07.)

16 (720 ILCS 5/24-3.7 new)

17 Sec. 24-3.7. Use of a stolen firearm in the commission of  
18 an offense.

19 (a) A person commits the offense of use of a stolen firearm  
20 in the commission of an offense when he or she knowingly uses a  
21 stolen firearm in the commission of any offense and the person  
22 knows that the firearm was stolen.

23 (b) Sentence. Use of a stolen firearm in the commission of  
24 an offense is a Class 2 felony.