



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5734

Introduced 2/9/2010, by Rep. Deborah L. Graham

SYNOPSIS AS INTRODUCED:

New Act

Creates the Handgun Dealer Licensing Act. Provides for the regulation of handgun dealers through licensure by the Department of State Police. Provides that no person may sell or otherwise transfer, expose for sale or transfer, or have in his or her possession with the intent to sell or transfer any concealable firearm without being licensed under the Act. Provides, however, that the prohibition does not apply to a person who makes occasional sales, exchanges, or purchases of concealable firearms for the enhancement of a personal collection or as a hobby, or who sells all or part of his or her personal collection of firearms. Sets forth provisions concerning application, fees, duration of licensure, license retention requirements, submissions to the Department, penalties, revocation, and suspension. Grants rulemaking authority to the Department and provides that for the purpose of determining compliance with the Act, the Act may be enforced by any municipality in which a licensee is located or, if a licensee is not located in a municipality, by the county in which a licensee is located.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning handgun regulation.

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. In this Act:

7 "Department" means the Department of State Police.

8 "Handgun dealer" means any person who is:

9 (1) engaged in the business of selling concealable
10 firearms at wholesale or retail;

11 (2) engaged in the business of repairing concealable
12 firearms or making or fitting special barrels, stocks, or
13 trigger mechanisms to concealable firearms; or

14 (3) a pawnbroker whose business or occupation includes
15 the taking or receiving, by way of pledge or pawn, of any
16 concealable firearm as security for the payment or
17 repayment of money.

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

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

1 "Engaged in the business" means the devotion of time,
2 attention, and labor to engaging in the activity as a regular
3 course of trade or business with the principal objective of
4 livelihood and profit. "Engaged in the business" does not
5 include the making of occasional repairs of concealable
6 firearms, or the occasional fitting of special barrels, stocks,
7 or trigger mechanisms to concealable firearms.

8 "Firearm" has the meaning given to that term in the Firearm
9 Owners Identification Card Act.

10 "Transfer" means the actual or attempted transfer of a
11 concealable firearm or concealable firearm ammunition, with or
12 without consideration. "Transfer" does not include the lease of
13 a concealable firearm, or the provision of ammunition
14 specifically for that firearm, if the firearm and the
15 ammunition are to be used on the lessor's premises, and does
16 not include any transfer of possession when the transferor
17 maintains supervision and control over the concealable firearm
18 or ammunition.

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

1 Section 10. Unlicensed dealing; exemption.

2 (a) No person may sell or otherwise transfer, expose for
3 sale or transfer, or have in his or her possession with the
4 intent to sell or transfer any concealable firearm without
5 being licensed under this Act.

6 (b) This Section does not apply to a person who makes
7 occasional sales, exchanges, or purchases of concealable
8 firearms for the enhancement of a personal collection or as a
9 hobby, or who sells all or part of his or her personal
10 collection of firearms.

11 Section 15. License application; fees; penalty.

12 (a) The Department may grant a handgun dealer license to an
13 applicant who satisfies the following requirements:

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

15 (2) he or she possesses a valid Firearm Owner's
16 Identification Card; and

17 (3) he or she submits to a background check conducted
18 by the Department that includes the initiation and
19 completion of an automated search of its criminal history
20 record information files and those of the Federal Bureau of
21 Investigation, including the National Instant Criminal
22 Background Check System, and of the files of the Department
23 of Human Services relating to mental health and
24 developmental disabilities to obtain any felony conviction

1 or patient hospitalization information that would
2 disqualify a person from obtaining licensure under this
3 Act.

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

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

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

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

20 Section 20. Duration of licensure. A license granted under
21 this Act remains in effect until it is revoked, suspended, or
22 otherwise withdrawn by the Department or until it is
23 surrendered by the licensee.

24 Section 25. License retention requirements. A license

1 granted under this Act is subject to all of the following
2 requirements:

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

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

13 (3) A licensed dealer may not violate any provision of
14 any federal or State law pertaining to the possession, use,
15 sale, or delivery of firearms.

16 (4) A licensed dealer must strictly adhere to the
17 provisions of all applicable federal and State laws and
18 local ordinances and local business license requirements.

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

23 (6) The license, or a copy of the license certified by
24 the Department, must be conspicuously displayed at the
25 business premises.

26 (7) No concealable firearm may be displayed in any

1 outer window of the business premises or in any other place
2 where it can readily be seen from the outside.

3 (8) Every concealable firearm must be unloaded when
4 delivered.

5 (9) A licensee must obtain a certificate of
6 registration issued under the Retailers' Occupation Tax
7 Act.

8 (10) The licensee must take reasonable precautions to
9 ensure that all concealable firearms that the licensee
10 sells will not be used illegally. These precautions
11 include, but are not limited to, the following:

12 (A) the refusal to sell a concealable firearm to a
13 person the licensee knows or has reason to know is
14 purchasing the firearm on behalf of another person who
15 could not legally purchase the firearm;

16 (B) the refusal to sell a concealable firearm to a
17 person who has provided a home address in a
18 municipality or county in which possession of that type
19 of concealable firearm is illegal, unless the
20 transferee presents reasonably satisfactory evidence
21 that the concealable firearm will not be used or
22 possessed unlawfully in that municipality or county;
23 and

24 (C) the refusal to sell a concealable firearm to a
25 person who has provided a home address in a
26 municipality or county that requires registration of

1 the firearm, unless the purchaser presents
2 satisfactory evidence of compliance with the
3 registration requirement.

4 (11) A licensee must make his or her records relating
5 to the sale of concealable firearms available to any
6 officer or employee of the Department or of any unit of
7 local government in this State whenever the officer or
8 employee is authorized to enforce laws or ordinances
9 pertaining to firearms, provided that no officer or
10 employee may conduct any search or seizure other than an
11 inspection of a licensee's records relating to firearms
12 sales without a warrant and that nothing in this Section
13 shall authorize any search or seizure forbidden by the
14 United States Constitution or the Illinois Constitution.

15 Section 30. Submission to Department.

16 (a) A licensed dealer must, within 24 hours after making a
17 sale or transfer of a concealable firearm to a person who is
18 not licensed as a handgun dealer, submit a report concerning
19 that sale to the Department. The report must contain the
20 following information:

21 (1) the date of the sale or transfer;

22 (2) the identity and address of the dealer;

23 (3) the name, address, age, and occupation of the
24 transferee;

25 (4) the price of the firearm; and

1 (5) the type, description, and number of the firearm.

2 (b) All records of the reports submitted under this Section
3 must be maintained by the Department on a computer database
4 capable of allowing the retrieval of information for each
5 dealer and each transferee. The computer database must also
6 contain a listing of each county or municipality that prohibits
7 one or more types of concealable firearm, and the type or types
8 of concealable firearms that are prohibited in that county or
9 municipality. Information in the database must be made
10 available to any law enforcement agency responsible for the
11 enforcement of any federal, State, or local law or ordinance
12 relating to firearms, and to any licensed dealer who requests
13 information relating to a person who is seeking to purchase one
14 or more firearms from that dealer. Except as specifically
15 provided in this Section, information in the database is deemed
16 the confidential record of the Department and is not subject to
17 disclosure under any other law.

18 (c) Any licensee who is required to keep a record of
19 transfer under subsection (b) of Section 3 of the Firearm
20 Owners Identification Card Act must report any transfer of a
21 firearm that occurred within the 24-month period immediately
22 preceding the effective date of this Act to the Department no
23 later than 30 days after the effective date of this Act. The
24 report must contain that information required by subsection (b)
25 of Section 3 of the Firearm Owners Identification Card Act. The
26 Department must include this report in the computer database

1 required to be maintained under this Section.

2 Section 35. Penalty. Any person who sells, or who possesses
3 with intent to sell, trade, or transfer, any firearm without
4 being licensed under this Act is guilty of a Class 4 felony.

5 Section 40. Enforcement; rulemaking.

6 (a) This Act must be enforced by the Department, and may be
7 enforced, for the purpose of determining compliance with this
8 Act, by any municipality in which the licensee is located or,
9 if the licensee is not located in a municipality, by the county
10 in which the licensee is located.

11 (b) The Department shall adopt rules necessary for the
12 implementation and administration of this Act.

13 Section 45. Revocation; suspension. The Department, after
14 due notice to the licensee and reasonable opportunity for the
15 licensee to be heard, may revoke a license or may suspend a
16 license for a period of time that the Department may deem
17 proper upon satisfactory proof that the licensee has violated
18 or permitted a violation of any requirement of this Act or is
19 no longer eligible to obtain a license under this Act. A person
20 whose license has been revoked by the Department is
21 disqualified from receiving a license under this Act for 10
22 years after the revocation. Any person who has substantially
23 participated in the operation or management of a licensee that

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