



Rep. Harry Osterman

**Filed: 4/28/2010**

09600HB5849ham001

LRB096 19208 RLC 40822 a

1 AMENDMENT TO HOUSE BILL 5849

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5849 on page 1, line  
3 5, by replacing "and 24-2" with "24-2, and 24-3"; and

4 on page 2, line 20, by replacing "portable" with "similar  
5 portable"; and

6 on page 5, line 7, by replacing "portable" with "similar  
7 portable"; and

8 on page 14, line 1, by replacing "portable" with "similar  
9 portable"; and

10 on page 25, line 21, by replacing "portable" with "similar  
11 portable"; and

12 on page 25, by inserting immediately below line 26 the  
13 following:

1           "(720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

2           Sec. 24-3. Unlawful Sale of Firearms.

3           (A) A person commits the offense of unlawful sale of  
4 firearms when he or she knowingly does any of the following:

5                 (a) Sells or gives any firearm of a size which may be  
6 concealed upon the person to any person under 18 years of  
7 age.

8                 (b) Sells or gives any firearm to a person under 21  
9 years of age who has been convicted of a misdemeanor other  
10 than a traffic offense or adjudged delinquent.

11                 (c) Sells or gives any firearm to any narcotic addict.

12                 (d) Sells or gives any firearm to any person who has  
13 been convicted of a felony under the laws of this or any  
14 other jurisdiction.

15                 (e) Sells or gives any firearm to any person who has  
16 been a patient in a mental hospital within the past 5  
17 years.

18                 (f) Sells or gives any firearms to any person who is  
19 mentally retarded.

20                 (g) Delivers any firearm of a size which may be  
21 concealed upon the person, incidental to a sale, without  
22 withholding delivery of such firearm for at least 72 hours  
23 after application for its purchase has been made, or  
24 delivers any rifle, shotgun or other long gun, or a stun  
25 gun or taser, incidental to a sale, without withholding

1 delivery of such rifle, shotgun or other long gun, or a  
2 stun gun or taser for at least 24 hours after application  
3 for its purchase has been made. However, this paragraph (g)  
4 does not apply to: (1) the sale of a firearm to a law  
5 enforcement officer if the seller of the firearm knows that  
6 the person to whom he or she is selling the firearm is a  
7 law enforcement officer or the sale of a firearm to a  
8 person who desires to purchase a firearm for use in  
9 promoting the public interest incident to his or her  
10 employment as a bank guard, armed truck guard, or other  
11 similar employment; (2) a mail order sale of a firearm to a  
12 nonresident of Illinois under which the firearm is mailed  
13 to a point outside the boundaries of Illinois; (3) the sale  
14 of a firearm to a nonresident of Illinois while at a  
15 firearm showing or display recognized by the Illinois  
16 Department of State Police; or (4) the sale of a firearm to  
17 a dealer licensed as a federal firearms dealer under  
18 Section 923 of the federal Gun Control Act of 1968 (18  
19 U.S.C. 923). For purposes of this paragraph (g),  
20 "application" means when the buyer and seller reach an  
21 agreement to purchase a firearm.

22 (h) While holding any license as a dealer, importer,  
23 manufacturer or pawnbroker under the federal Gun Control  
24 Act of 1968, manufactures, sells or delivers to any  
25 unlicensed person a handgun having a barrel, slide, frame  
26 or receiver which is a die casting of zinc alloy or any

1 other nonhomogeneous metal which will melt or deform at a  
2 temperature of less than 800 degrees Fahrenheit. For  
3 purposes of this paragraph, (1) "firearm" is defined as in  
4 the Firearm Owners Identification Card Act; and (2)  
5 "handgun" is defined as a firearm designed to be held and  
6 fired by the use of a single hand, and includes a  
7 combination of parts from which such a firearm can be  
8 assembled.

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

12 (j) Sells or gives a firearm while engaged in the  
13 business of selling firearms at wholesale or retail without  
14 being licensed as a federal firearms dealer under Section  
15 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
16 In this paragraph (j):

17 A person "engaged in the business" means a person who  
18 devotes time, attention, and labor to engaging in the  
19 activity as a regular course of trade or business with the  
20 principal objective of livelihood and profit, but does not  
21 include a person who makes occasional repairs of firearms  
22 or who occasionally fits special barrels, stocks, or  
23 trigger mechanisms to firearms.

24 "With the principal objective of livelihood and  
25 profit" means that the intent underlying the sale or  
26 disposition of firearms is predominantly one of obtaining

1           livelihood and pecuniary gain, as opposed to other intents,  
2           such as improving or liquidating a personal firearms  
3           collection; however, proof of profit shall not be required  
4           as to a person who engages in the regular and repetitive  
5           purchase and disposition of firearms for criminal purposes  
6           or terrorism.

7           (k) Sells or transfers ownership of a firearm to a  
8           person who does not display to the seller or transferor of  
9           the firearm a currently valid Firearm Owner's  
10          Identification Card that has previously been issued in the  
11          transferee's name by the Department of State Police under  
12          the provisions of the Firearm Owners Identification Card  
13          Act. This paragraph (k) does not apply to the transfer of a  
14          firearm to a person who is exempt from the requirement of  
15          possessing a Firearm Owner's Identification Card under  
16          Section 2 of the Firearm Owners Identification Card Act.  
17          For the purposes of this Section, a currently valid Firearm  
18          Owner's Identification Card means (i) a Firearm Owner's  
19          Identification Card that has not expired or (ii) if the  
20          transferor is licensed as a federal firearms dealer under  
21          Section 923 of the federal Gun Control Act of 1968 (18  
22          U.S.C. 923), an approval number issued in accordance with  
23          Section 3.1 of the Firearm Owners Identification Card Act  
24          shall be proof that the Firearm Owner's Identification Card  
25          was valid.

26          (l) Sells or gives any firearm to any person whom the

1       seller or giver knows is a street gang member. For purposes  
2       to this paragraph (l): "street gang member" has the meaning  
3       ascribed to the term "street gang member" in Section 10 of  
4       the Illinois Streetgang Terrorism Omnibus Prevention Act.

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 paragraph (c), (e), (f), (g), or (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

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

21 (5) Any person convicted of unlawful sale of firearms  
22 in violation of paragraph (a) or (i) of subsection (A) in  
23 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, in  
26 a public park, in a courthouse, on residential property

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

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

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

20 (8) A person 18 years of age or older convicted of  
21 unlawful sale of firearms in violation of paragraph (a) or  
22 (i) of subsection (A), when the firearm that was sold or  
23 given to another person under 18 years of age was used in  
24 the commission of or attempt to commit a forcible felony,  
25 shall be fined or imprisoned, or both, not to exceed the  
26 maximum provided for the most serious forcible felony so



1 committed or attempted by the person under 18 years of age  
2 who was sold or given the firearm.

3 (9) Any person convicted of unlawful sale of firearms  
4 in violation of paragraph (d) of subsection (A) commits a  
5 Class 3 felony.

6 (10) Any person convicted of unlawful sale of firearms  
7 in violation of paragraph (l) of subsection (A) commits a  
8 Class 1 felony.

9 (D) For purposes of this Section:

10 "School" means a public or private elementary or secondary  
11 school, community college, college, or university.

12 "School related activity" means any sporting, social,  
13 academic, or other activity for which students' attendance or  
14 participation is sponsored, organized, or funded in whole or in  
15 part by a school or school district.

16 (E) A prosecution for a violation of paragraph (k) of  
17 subsection (A) of this Section may be commenced within 6 years  
18 after the commission of the offense. A prosecution for a  
19 violation of this Section other than paragraph (g) of  
20 subsection (A) of this Section may be commenced within 5 years  
21 after the commission of the offense defined in the particular  
22 paragraph.

23 (Source: P.A. 95-331, eff. 8-21-07; 95-735, eff. 7-16-08;  
24 96-190, eff. 1-1-10.)".