



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3425

Introduced 2/10/2010, by Sen. Dan Kotowski

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1
720 ILCS 5/24-5

from Ch. 38, par. 24-1
from Ch. 38, par. 24-5

Amends the Criminal Code of 1961. Provides that it is a Class 3 felony for a person to knowingly sell, manufacture, purchase, possess, or carry any semiautomatic handgun manufactured on or after January 1, 2011 that is not microstamp-ready, or any semiautomatic handgun manufactured on or after that date if the person knows that a microstamping mechanism has been unlawfully removed from that handgun. Provides that any person who shall knowingly or intentionally change, alter, remove or obliterate the importer's or manufacturer's microstamping mechanism is guilty of a Class 2 felony.

LRB096 20316 RLC 35942 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 Sections 24-1 and 24-5 as follows:

6 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

7 Sec. 24-1. Unlawful Use of Weapons.

8 (a) A person commits the offense of unlawful use of weapons
9 when he knowingly:

10 (1) Sells, manufactures, purchases, possesses or
11 carries any bludgeon, black-jack, slung-shot, sand-club,
12 sand-bag, metal knuckles or other knuckle weapon
13 regardless of its composition, throwing star, or any knife,
14 commonly referred to as a switchblade knife, which has a
15 blade that opens automatically by hand pressure applied to
16 a button, spring or other device in the handle of the
17 knife, or a ballistic knife, which is a device that propels
18 a knifelike blade as a projectile by means of a coil
19 spring, elastic material or compressed gas; or

20 (2) Carries or possesses with intent to use the same
21 unlawfully against another, a dagger, dirk, billy,
22 dangerous knife, razor, stiletto, broken bottle or other
23 piece of glass, stun gun or taser or any other dangerous or

1 deadly weapon or instrument of like character; or

2 (3) Carries on or about his person or in any vehicle, a
3 tear gas gun projector or bomb or any object containing
4 noxious liquid gas or substance, other than an object
5 containing a non-lethal noxious liquid gas or substance
6 designed solely for personal defense carried by a person 18
7 years of age or older; or

8 (4) Carries or possesses in any vehicle or concealed on
9 or about his person except when on his land or in his own
10 abode, legal dwelling, or fixed place of business, or on
11 the land or in the legal dwelling of another person as an
12 invitee with that person's permission, any pistol,
13 revolver, stun gun or taser or other firearm, except that
14 this subsection (a) (4) does not apply to or affect
15 transportation of weapons that meet one of the following
16 conditions:

17 (i) are broken down in a non-functioning state; or

18 (ii) are not immediately accessible; or

19 (iii) are unloaded and enclosed in a case, firearm
20 carrying box, shipping box, or other container by a
21 person who has been issued a currently valid Firearm
22 Owner's Identification Card; or

23 (5) Sets a spring gun; or

24 (6) Possesses any device or attachment of any kind
25 designed, used or intended for use in silencing the report
26 of any firearm; or

1 (7) Sells, manufactures, purchases, possesses or
2 carries:

3 (i) a machine gun, which shall be defined for the
4 purposes of this subsection as any weapon, which
5 shoots, is designed to shoot, or can be readily
6 restored to shoot, automatically more than one shot
7 without manually reloading by a single function of the
8 trigger, including the frame or receiver of any such
9 weapon, or sells, manufactures, purchases, possesses,
10 or carries any combination of parts designed or
11 intended for use in converting any weapon into a
12 machine gun, or any combination or parts from which a
13 machine gun can be assembled if such parts are in the
14 possession or under the control of a person;

15 (ii) any rifle having one or more barrels less than
16 16 inches in length or a shotgun having one or more
17 barrels less than 18 inches in length or any weapon
18 made from a rifle or shotgun, whether by alteration,
19 modification, or otherwise, if such a weapon as
20 modified has an overall length of less than 26 inches;

21 ~~or~~

22 (iii) any bomb, bomb-shell, grenade, bottle or
23 other container containing an explosive substance of
24 over one-quarter ounce for like purposes, such as, but
25 not limited to, black powder bombs and Molotov
26 cocktails or artillery projectiles; or

1 (iv) any semiautomatic handgun manufactured on or
2 after January 1, 2011 that is not microstamp-ready, or
3 any semiautomatic handgun manufactured on or after
4 that date if the person knows that a microstamping
5 mechanism has been unlawfully removed from that
6 handgun. "Microstamp-ready", as used in this
7 paragraph, means that the handgun is manufactured to
8 produce a unique alpha-numeric or geometric code on at
9 least two locations on each expended cartridge case
10 that identifies the make, model, and serial number of
11 the handgun. "Microstamping mechanism", as used in
12 this paragraph, means a mechanism of the handgun
13 designed and intended to produce a unique
14 alpha-numeric or geometric code on an expended
15 cartridge that identifies the make, model, and serial
16 number of the handgun; or

17 (8) Carries or possesses any firearm, stun gun or taser
18 or other deadly weapon in any place which is licensed to
19 sell intoxicating beverages, or at any public gathering
20 held pursuant to a license issued by any governmental body
21 or any public gathering at which an admission is charged,
22 excluding a place where a showing, demonstration or lecture
23 involving the exhibition of unloaded firearms is
24 conducted.

25 This subsection (a) (8) does not apply to any auction or
26 raffle of a firearm held pursuant to a license or permit

1 issued by a governmental body, nor does it apply to persons
2 engaged in firearm safety training courses; or

3 (9) Carries or possesses in a vehicle or on or about
4 his person any pistol, revolver, stun gun or taser or
5 firearm or ballistic knife, when he is hooded, robed or
6 masked in such manner as to conceal his identity; or

7 (10) Carries or possesses on or about his person, upon
8 any public street, alley, or other public lands within the
9 corporate limits of a city, village or incorporated town,
10 except when an invitee thereon or therein, for the purpose
11 of the display of such weapon or the lawful commerce in
12 weapons, or except when on his land or in his own abode,
13 legal dwelling, or fixed place of business, or on the land
14 or in the legal dwelling of another person as an invitee
15 with that person's permission, any pistol, revolver, stun
16 gun or taser or other firearm, except that this subsection
17 (a) (10) does not apply to or affect transportation of
18 weapons that meet one of the following conditions:

19 (i) are broken down in a non-functioning state; or

20 (ii) are not immediately accessible; or

21 (iii) are unloaded and enclosed in a case, firearm
22 carrying box, shipping box, or other container by a
23 person who has been issued a currently valid Firearm
24 Owner's Identification Card.

25 A "stun gun or taser", as used in this paragraph (a)
26 means (i) any device which is powered by electrical

1 charging units, such as, batteries, and which fires one or
2 several barbs attached to a length of wire and which, upon
3 hitting a human, can send out a current capable of
4 disrupting the person's nervous system in such a manner as
5 to render him incapable of normal functioning or (ii) any
6 device which is powered by electrical charging units, such
7 as batteries, and which, upon contact with a human or
8 clothing worn by a human, can send out current capable of
9 disrupting the person's nervous system in such a manner as
10 to render him incapable of normal functioning; or

11 (11) Sells, manufactures or purchases any explosive
12 bullet. For purposes of this paragraph (a) "explosive
13 bullet" means the projectile portion of an ammunition
14 cartridge which contains or carries an explosive charge
15 which will explode upon contact with the flesh of a human
16 or an animal. "Cartridge" means a tubular metal case having
17 a projectile affixed at the front thereof and a cap or
18 primer at the rear end thereof, with the propellant
19 contained in such tube between the projectile and the cap;
20 or

21 (12) (Blank); or

22 (13) Carries or possesses on or about his or her person
23 while in a building occupied by a unit of government, a
24 billy club, other weapon of like character, or other
25 instrument of like character intended for use as a weapon.
26 For the purposes of this Section, "billy club" means a

1 short stick or club commonly carried by police officers
2 which is either telescopic or constructed of a solid piece
3 of wood or other man-made material.

4 (b) Sentence. A person convicted of a violation of
5 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10),
6 subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a
7 Class A misdemeanor. A person convicted of a violation of
8 subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 4 felony; a
9 person convicted of a violation of subsection 24-1(a)(6) or
10 24-1(a)(7)(ii), ~~or (iii)~~, or (iv) commits a Class 3 felony. A
11 person convicted of a violation of subsection 24-1(a)(7)(i)
12 commits a Class 2 felony and shall be sentenced to a term of
13 imprisonment of not less than 3 years and not more than 7
14 years, unless the weapon is possessed in the passenger
15 compartment of a motor vehicle as defined in Section 1-146 of
16 the Illinois Vehicle Code, or on the person, while the weapon
17 is loaded, in which case it shall be a Class X felony. A person
18 convicted of a second or subsequent violation of subsection
19 24-1(a)(4), 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a
20 Class 3 felony. The possession of each weapon in violation of
21 this Section constitutes a single and separate violation.

22 (c) Violations in specific places.

23 (1) A person who violates subsection 24-1(a)(6) or
24 24-1(a)(7) in any school, regardless of the time of day or
25 the time of year, in residential property owned, operated
26 or managed by a public housing agency or leased by a public

1 housing agency as part of a scattered site or mixed-income
2 development, in a public park, in a courthouse, on the real
3 property comprising any school, regardless of the time of
4 day or the time of year, on residential property owned,
5 operated or managed by a public housing agency or leased by
6 a public housing agency as part of a scattered site or
7 mixed-income development, on the real property comprising
8 any public park, on the real property comprising any
9 courthouse, in any conveyance owned, leased or contracted
10 by a school to transport students to or from school or a
11 school related activity, in any conveyance owned, leased,
12 or contracted by a public transportation agency, or on any
13 public way within 1,000 feet of the real property
14 comprising any school, public park, courthouse, public
15 transportation facility, or residential property owned,
16 operated, or managed by a public housing agency or leased
17 by a public housing agency as part of a scattered site or
18 mixed-income development commits a Class 2 felony and shall
19 be sentenced to a term of imprisonment of not less than 3
20 years and not more than 7 years.

21 (1.5) A person who violates subsection 24-1(a)(4),
22 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the
23 time of day or the time of year, in residential property
24 owned, operated, or managed by a public housing agency or
25 leased by a public housing agency as part of a scattered
26 site or mixed-income development, in a public park, in a

1 courthouse, on the real property comprising any school,
2 regardless of the time of day or the time of year, on
3 residential property owned, operated, or managed by a
4 public housing agency or leased by a public housing agency
5 as part of a scattered site or mixed-income development, on
6 the real property comprising any public park, on the real
7 property comprising any courthouse, in any conveyance
8 owned, leased, or contracted by a school to transport
9 students to or from school or a school related activity, in
10 any conveyance owned, leased, or contracted by a public
11 transportation agency, or on any public way within 1,000
12 feet of the real property comprising any school, public
13 park, courthouse, public transportation facility, or
14 residential property owned, operated, or managed by a
15 public housing agency or leased by a public housing agency
16 as part of a scattered site or mixed-income development
17 commits a Class 3 felony.

18 (2) A person who violates subsection 24-1(a)(1),
19 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the
20 time of day or the time of year, in residential property
21 owned, operated or managed by a public housing agency or
22 leased by a public housing agency as part of a scattered
23 site or mixed-income development, in a public park, in a
24 courthouse, on the real property comprising any school,
25 regardless of the time of day or the time of year, on
26 residential property owned, operated or managed by a public

1 housing agency or leased by a public housing agency as part
2 of a scattered site or mixed-income development, on the
3 real property comprising any public park, on the real
4 property comprising any courthouse, in any conveyance
5 owned, leased or contracted by a school to transport
6 students to or from school or a school related activity, in
7 any conveyance owned, leased, or contracted by a public
8 transportation agency, or on any public way within 1,000
9 feet of the real property comprising any school, public
10 park, courthouse, public transportation facility, or
11 residential property owned, operated, or managed by a
12 public housing agency or leased by a public housing agency
13 as part of a scattered site or mixed-income development
14 commits a Class 4 felony. "Courthouse" means any building
15 that is used by the Circuit, Appellate, or Supreme Court of
16 this State for the conduct of official business.

17 (3) Paragraphs (1), (1.5), and (2) of this subsection
18 (c) shall not apply to law enforcement officers or security
19 officers of such school, college, or university or to
20 students carrying or possessing firearms for use in
21 training courses, parades, hunting, target shooting on
22 school ranges, or otherwise with the consent of school
23 authorities and which firearms are transported unloaded
24 enclosed in a suitable case, box, or transportation
25 package.

26 (4) For the purposes of this subsection (c), "school"

1 means any public or private elementary or secondary school,
2 community college, college, or university.

3 (5) For the purposes of this subsection (c), "public
4 transportation agency" means a public or private agency
5 that provides for the transportation or conveyance of
6 persons by means available to the general public, except
7 for transportation by automobiles not used for conveyance
8 of the general public as passengers; and "public
9 transportation facility" means a terminal or other place
10 where one may obtain public transportation.

11 (d) The presence in an automobile other than a public
12 omnibus of any weapon, instrument or substance referred to in
13 subsection (a)(7) is prima facie evidence that it is in the
14 possession of, and is being carried by, all persons occupying
15 such automobile at the time such weapon, instrument or
16 substance is found, except under the following circumstances:
17 (i) if such weapon, instrument or instrumentality is found upon
18 the person of one of the occupants therein; or (ii) if such
19 weapon, instrument or substance is found in an automobile
20 operated for hire by a duly licensed driver in the due, lawful
21 and proper pursuit of his trade, then such presumption shall
22 not apply to the driver.

23 (e) Exemptions. Crossbows, Common or Compound bows and
24 Underwater Spearguns are exempted from the definition of
25 ballistic knife as defined in paragraph (1) of subsection (a)
26 of this Section.

1 (Source: P.A. 95-331, eff. 8-21-07; 95-809, eff. 1-1-09;
2 95-885, eff. 1-1-09; 96-41, eff. 1-1-10; 96-328, eff. 8-11-09;
3 96-742, eff. 8-25-09; revised 10-9-09.)

4 (720 ILCS 5/24-5) (from Ch. 38, par. 24-5)

5 Sec. 24-5. Defacing identification marks or microstamping
6 mechanism of firearms.

7 (a) Any person who shall knowingly or intentionally change,
8 alter, remove or obliterate the name of the importer's or
9 manufacturer's serial number or the microstamping mechanism of
10 any firearm commits a Class 2 felony.

11 (b) A person who possesses any firearm upon which any such
12 importer's or manufacturer's serial number has been changed,
13 altered, removed or obliterated commits a Class 3 felony.

14 (c) Nothing in this Section shall prevent a person from
15 making repairs, replacement of parts, or other changes to a
16 firearm if those repairs, replacement of parts, or changes
17 cause the removal of the name of the maker, model, or other
18 marks of identification other than the serial number on the
19 firearm's frame or receiver or the code of the microstamping
20 mechanism.

21 (d) A prosecution for a violation of this Section may be
22 commenced within 6 years after the commission of the offense.

23 (e) As used in this Section, "microstamping mechanism" has
24 the meaning given to that term in Section 24-1 of this Code.

25 (Source: P.A. 93-906, eff. 8-11-04.)