



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1708

by Rep. Michael Unes

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1.2-5  
720 ILCS 5/24-2

Amends the Criminal Code of 1961. Provides that the offense of unlawful use of weapons relating to the possession of any device or attachment of any kind designed, used, or intended for use in silencing the report of a firearm and the offense of aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm do not apply to a peace officer while serving as a member of a tactical response team or special operations team. Provides that a peace officer may not personally own or apply for ownership of a device or attachment of any kind designed, used, or intended for use in silencing the report of any firearm. Provides that these devices shall be owned and maintained by lawfully recognized units of government whose duties include the investigation of criminal acts.

LRB097 06749 RLC 50456 b

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 24-1.2-5 and 24-2 as follows:

6 (720 ILCS 5/24-1.2-5)

7 Sec. 24-1.2-5. Aggravated discharge of a machine gun or a  
8 firearm equipped with a device designed or used for silencing  
9 the report of a firearm.

10 (a) A person commits aggravated discharge of a machine gun  
11 or a firearm equipped with a device designed or used for  
12 silencing the report of a firearm when he or she knowingly or  
13 intentionally:

14 (1) Discharges a machine gun or a firearm equipped with  
15 a device designed or used for silencing the report of a  
16 firearm at or into a building he or she knows to be  
17 occupied and the machine gun or the firearm equipped with a  
18 device designed or used for silencing the report of a  
19 firearm is discharged from a place or position outside that  
20 building;

21 (2) Discharges a machine gun or a firearm equipped with  
22 a device designed or used for silencing the report of a  
23 firearm in the direction of another person or in the

1 direction of a vehicle he or she knows to be occupied;

2 (3) Discharges a machine gun or a firearm equipped with  
3 a device designed or used for silencing the report of a  
4 firearm in the direction of a person he or she knows to be  
5 a peace officer, a person summoned or directed by a peace  
6 officer, a correctional institution employee, or a fireman  
7 while the officer, employee or fireman is engaged in the  
8 execution of any of his or her official duties, or to  
9 prevent the officer, employee or fireman from performing  
10 his or her official duties, or in retaliation for the  
11 officer, employee or fireman performing his or her official  
12 duties;

13 (4) Discharges a machine gun or a firearm equipped with  
14 a device designed or used for silencing the report of a  
15 firearm in the direction of a vehicle he or she knows to be  
16 occupied by a peace officer, a person summoned or directed  
17 by a peace officer, a correctional institution employee or  
18 a fireman while the officer, employee or fireman is engaged  
19 in the execution of any of his or her official duties, or  
20 to prevent the officer, employee or fireman from performing  
21 his or her official duties, or in retaliation for the  
22 officer, employee or fireman performing his or her official  
23 duties;

24 (5) Discharges a machine gun or a firearm equipped with  
25 a device designed or used for silencing the report of a  
26 firearm in the direction of a person he or she knows to be

1 an emergency medical technician - ambulance, emergency  
2 medical technician - intermediate, emergency medical  
3 technician - paramedic, ambulance driver, or other medical  
4 assistance or first aid personnel, employed by a  
5 municipality or other governmental unit, while the  
6 emergency medical technician - ambulance, emergency  
7 medical technician - intermediate, emergency medical  
8 technician - paramedic, ambulance driver, or other medical  
9 assistance or first aid personnel is engaged in the  
10 execution of any of his or her official duties, or to  
11 prevent the emergency medical technician - ambulance,  
12 emergency medical technician - intermediate, emergency  
13 medical technician - paramedic, ambulance driver, or other  
14 medical assistance or first aid personnel from performing  
15 his or her official duties, or in retaliation for the  
16 emergency medical technician - ambulance, emergency  
17 medical technician - intermediate, emergency medical  
18 technician - paramedic, ambulance driver, or other medical  
19 assistance or first aid personnel performing his or her  
20 official duties;

21 (6) Discharges a machine gun or a firearm equipped with  
22 a device designed or used for silencing the report of a  
23 firearm in the direction of a vehicle he or she knows to be  
24 occupied by an emergency medical technician - ambulance,  
25 emergency medical technician - intermediate, emergency  
26 medical technician - paramedic, ambulance driver, or other

1 medical assistance or first aid personnel, employed by a  
2 municipality or other governmental unit, while the  
3 emergency medical technician - ambulance, emergency  
4 medical technician - intermediate, emergency medical  
5 technician - paramedic, ambulance driver, or other medical  
6 assistance or first aid personnel is engaged in the  
7 execution of any of his or her official duties, or to  
8 prevent the emergency medical technician - ambulance,  
9 emergency medical technician - intermediate, emergency  
10 medical technician - paramedic, ambulance driver, or other  
11 medical assistance or first aid personnel from performing  
12 his or her official duties, or in retaliation for the  
13 emergency medical technician - ambulance, emergency  
14 medical technician - intermediate, emergency medical  
15 technician - paramedic, ambulance driver, or other medical  
16 assistance or first aid personnel performing his or her  
17 official duties;

18 (7) Discharges a machine gun or a firearm equipped with  
19 a device designed or used for silencing the report of a  
20 firearm in the direction of a person he or she knows to be  
21 an emergency management worker while the emergency  
22 management worker is engaged in the execution of any of his  
23 or her official duties, or to prevent the emergency  
24 management worker from performing his or her official  
25 duties, or in retaliation for the emergency management  
26 worker performing his or her official duties; or

1           (8) Discharges a machine gun or a firearm equipped with  
2           a device designed or used for silencing the report of a  
3           firearm in the direction of a vehicle he or she knows to be  
4           occupied by an emergency management worker while the  
5           emergency management worker is engaged in the execution of  
6           any of his or her official duties, or to prevent the  
7           emergency management worker from performing his or her  
8           official duties, or in retaliation for the emergency  
9           management worker performing his or her official duties.

10          (b) A violation of subsection (a) (1) or subsection (a) (2)  
11          of this Section is a Class X felony. A violation of subsection  
12          (a) (3), (a) (4), (a) (5), (a) (6), (a) (7), or (a) (8) of this  
13          Section is a Class X felony for which the sentence shall be a  
14          term of imprisonment of no less than 12 years and no more than  
15          50 years.

16          (c) For the purpose of this Section, "machine gun" has the  
17          meaning ascribed to it in clause (i) of paragraph (7) of  
18          subsection (a) of Section 24-1 of this Code.

19          (d) This Section does not apply to a peace officer while  
20          serving as a member of a tactical response team or special  
21          operations team. A peace officer may not personally own or  
22          apply for ownership of a device or attachment of any kind  
23          designed, used, or intended for use in silencing the report of  
24          any firearm. These devices shall be owned and maintained by  
25          lawfully recognized units of government whose duties include  
26          the investigation of criminal acts.

1 (Source: P.A. 94-243, eff. 1-1-06.)

2 (720 ILCS 5/24-2)

3 Sec. 24-2. Exemptions.

4 (a) Subsections 24-1(a)(3), 24-1(a)(4), 24-1(a)(10), and  
5 24-1(a)(13) and Section 24-1.6 do not apply to or affect any of  
6 the following:

7 (1) Peace officers, and any person summoned by a peace  
8 officer to assist in making arrests or preserving the  
9 peace, while actually engaged in assisting such officer.

10 (2) Wardens, superintendents and keepers of prisons,  
11 penitentiaries, jails and other institutions for the  
12 detention of persons accused or convicted of an offense,  
13 while in the performance of their official duty, or while  
14 commuting between their homes and places of employment.

15 (3) Members of the Armed Services or Reserve Forces of  
16 the United States or the Illinois National Guard or the  
17 Reserve Officers Training Corps, while in the performance  
18 of their official duty.

19 (4) Special agents employed by a railroad or a public  
20 utility to perform police functions, and guards of armored  
21 car companies, while actually engaged in the performance of  
22 the duties of their employment or commuting between their  
23 homes and places of employment; and watchmen while actually  
24 engaged in the performance of the duties of their  
25 employment.

1           (5) Persons licensed as private security contractors,  
2 private detectives, or private alarm contractors, or  
3 employed by an agency certified by the Department of  
4 Professional Regulation, if their duties include the  
5 carrying of a weapon under the provisions of the Private  
6 Detective, Private Alarm, Private Security, Fingerprint  
7 Vendor, and Locksmith Act of 2004, while actually engaged  
8 in the performance of the duties of their employment or  
9 commuting between their homes and places of employment,  
10 provided that such commuting is accomplished within one  
11 hour from departure from home or place of employment, as  
12 the case may be. Persons exempted under this subdivision  
13 (a)(5) shall be required to have completed a course of  
14 study in firearms handling and training approved and  
15 supervised by the Department of Professional Regulation as  
16 prescribed by Section 28 of the Private Detective, Private  
17 Alarm, Private Security, Fingerprint Vendor, and Locksmith  
18 Act of 2004, prior to becoming eligible for this exemption.  
19 The Department of Professional Regulation shall provide  
20 suitable documentation demonstrating the successful  
21 completion of the prescribed firearms training. Such  
22 documentation shall be carried at all times when such  
23 persons are in possession of a concealable weapon.

24           (6) Any person regularly employed in a commercial or  
25 industrial operation as a security guard for the protection  
26 of persons employed and private property related to such



1 commercial or industrial operation, while actually engaged  
2 in the performance of his or her duty or traveling between  
3 sites or properties belonging to the employer, and who, as  
4 a security guard, is a member of a security force of at  
5 least 5 persons registered with the Department of  
6 Professional Regulation; provided that such security guard  
7 has successfully completed a course of study, approved by  
8 and supervised by the Department of Professional  
9 Regulation, consisting of not less than 40 hours of  
10 training that includes the theory of law enforcement,  
11 liability for acts, and the handling of weapons. A person  
12 shall be considered eligible for this exemption if he or  
13 she has completed the required 20 hours of training for a  
14 security officer and 20 hours of required firearm training,  
15 and has been issued a firearm control card by the  
16 Department of Professional Regulation. Conditions for the  
17 renewal of firearm control cards issued under the  
18 provisions of this Section shall be the same as for those  
19 cards issued under the provisions of the Private Detective,  
20 Private Alarm, Private Security, Fingerprint Vendor, and  
21 Locksmith Act of 2004. Such firearm control card shall be  
22 carried by the security guard at all times when he or she  
23 is in possession of a concealable weapon.

24 (7) Agents and investigators of the Illinois  
25 Legislative Investigating Commission authorized by the  
26 Commission to carry the weapons specified in subsections

1           24-1(a)(3) and 24-1(a)(4), while on duty in the course of  
2           any investigation for the Commission.

3           (8) Persons employed by a financial institution for the  
4           protection of other employees and property related to such  
5           financial institution, while actually engaged in the  
6           performance of their duties, commuting between their homes  
7           and places of employment, or traveling between sites or  
8           properties owned or operated by such financial  
9           institution, provided that any person so employed has  
10          successfully completed a course of study, approved by and  
11          supervised by the Department of Professional Regulation,  
12          consisting of not less than 40 hours of training which  
13          includes theory of law enforcement, liability for acts, and  
14          the handling of weapons. A person shall be considered to be  
15          eligible for this exemption if he or she has completed the  
16          required 20 hours of training for a security officer and 20  
17          hours of required firearm training, and has been issued a  
18          firearm control card by the Department of Professional  
19          Regulation. Conditions for renewal of firearm control  
20          cards issued under the provisions of this Section shall be  
21          the same as for those issued under the provisions of the  
22          Private Detective, Private Alarm, Private Security,  
23          Fingerprint Vendor, and Locksmith Act of 2004. Such firearm  
24          control card shall be carried by the person so trained at  
25          all times when such person is in possession of a  
26          concealable weapon. For purposes of this subsection,

1 "financial institution" means a bank, savings and loan  
2 association, credit union or company providing armored car  
3 services.

4 (9) Any person employed by an armored car company to  
5 drive an armored car, while actually engaged in the  
6 performance of his duties.

7 (10) Persons who have been classified as peace officers  
8 pursuant to the Peace Officer Fire Investigation Act.

9 (11) Investigators of the Office of the State's  
10 Attorneys Appellate Prosecutor authorized by the board of  
11 governors of the Office of the State's Attorneys Appellate  
12 Prosecutor to carry weapons pursuant to Section 7.06 of the  
13 State's Attorneys Appellate Prosecutor's Act.

14 (12) Special investigators appointed by a State's  
15 Attorney under Section 3-9005 of the Counties Code.

16 (12.5) Probation officers while in the performance of  
17 their duties, or while commuting between their homes,  
18 places of employment or specific locations that are part of  
19 their assigned duties, with the consent of the chief judge  
20 of the circuit for which they are employed.

21 (13) Court Security Officers while in the performance  
22 of their official duties, or while commuting between their  
23 homes and places of employment, with the consent of the  
24 Sheriff.

25 (13.5) A person employed as an armed security guard at  
26 a nuclear energy, storage, weapons or development site or

1 facility regulated by the Nuclear Regulatory Commission  
2 who has completed the background screening and training  
3 mandated by the rules and regulations of the Nuclear  
4 Regulatory Commission.

5 (14) Manufacture, transportation, or sale of weapons  
6 to persons authorized under subdivisions (1) through  
7 (13.5) of this subsection to possess those weapons.

8 (b) Subsections 24-1(a)(4) and 24-1(a)(10) and Section  
9 24-1.6 do not apply to or affect any of the following:

10 (1) Members of any club or organization organized for  
11 the purpose of practicing shooting at targets upon  
12 established target ranges, whether public or private, and  
13 patrons of such ranges, while such members or patrons are  
14 using their firearms on those target ranges.

15 (2) Duly authorized military or civil organizations  
16 while parading, with the special permission of the  
17 Governor.

18 (3) Hunters, trappers or fishermen with a license or  
19 permit while engaged in hunting, trapping or fishing.

20 (4) Transportation of weapons that are broken down in a  
21 non-functioning state or are not immediately accessible.

22 (5) Carrying or possessing any pistol, revolver, stun  
23 gun or taser or other firearm on the land or in the legal  
24 dwelling of another person as an invitee with that person's  
25 permission.

26 (c) Subsection 24-1(a)(7) does not apply to or affect any

1 of the following:

2 (1) Peace officers while in performance of their  
3 official duties.

4 (2) Wardens, superintendents and keepers of prisons,  
5 penitentiaries, jails and other institutions for the  
6 detention of persons accused or convicted of an offense.

7 (3) Members of the Armed Services or Reserve Forces of  
8 the United States or the Illinois National Guard, while in  
9 the performance of their official duty.

10 (4) Manufacture, transportation, or sale of machine  
11 guns to persons authorized under subdivisions (1) through  
12 (3) of this subsection to possess machine guns, if the  
13 machine guns are broken down in a non-functioning state or  
14 are not immediately accessible.

15 (5) Persons licensed under federal law to manufacture  
16 any weapon from which 8 or more shots or bullets can be  
17 discharged by a single function of the firing device, or  
18 ammunition for such weapons, and actually engaged in the  
19 business of manufacturing such weapons or ammunition, but  
20 only with respect to activities which are within the lawful  
21 scope of such business, such as the manufacture,  
22 transportation, or testing of such weapons or ammunition.  
23 This exemption does not authorize the general private  
24 possession of any weapon from which 8 or more shots or  
25 bullets can be discharged by a single function of the  
26 firing device, but only such possession and activities as

1 are within the lawful scope of a licensed manufacturing  
2 business described in this paragraph.

3 During transportation, such weapons shall be broken  
4 down in a non-functioning state or not immediately  
5 accessible.

6 (6) The manufacture, transport, testing, delivery,  
7 transfer or sale, and all lawful commercial or experimental  
8 activities necessary thereto, of rifles, shotguns, and  
9 weapons made from rifles or shotguns, or ammunition for  
10 such rifles, shotguns or weapons, where engaged in by a  
11 person operating as a contractor or subcontractor pursuant  
12 to a contract or subcontract for the development and supply  
13 of such rifles, shotguns, weapons or ammunition to the  
14 United States government or any branch of the Armed Forces  
15 of the United States, when such activities are necessary  
16 and incident to fulfilling the terms of such contract.

17 The exemption granted under this subdivision (c)(6)  
18 shall also apply to any authorized agent of any such  
19 contractor or subcontractor who is operating within the  
20 scope of his employment, where such activities involving  
21 such weapon, weapons or ammunition are necessary and  
22 incident to fulfilling the terms of such contract.

23 During transportation, any such weapon shall be broken  
24 down in a non-functioning state, or not immediately  
25 accessible.

26 (d) Subsection 24-1(a)(1) does not apply to the purchase,

1 possession or carrying of a black-jack or slung-shot by a peace  
2 officer.

3 (e) Subsection 24-1(a)(8) does not apply to any owner,  
4 manager or authorized employee of any place specified in that  
5 subsection nor to any law enforcement officer.

6 (f) Subsection 24-1(a)(4) and subsection 24-1(a)(10) and  
7 Section 24-1.6 do not apply to members of any club or  
8 organization organized for the purpose of practicing shooting  
9 at targets upon established target ranges, whether public or  
10 private, while using their firearms on those target ranges.

11 (g) Subsections 24-1(a)(11) and 24-3.1(a)(6) do not apply  
12 to:

13 (1) Members of the Armed Services or Reserve Forces of  
14 the United States or the Illinois National Guard, while in  
15 the performance of their official duty.

16 (2) Bonafide collectors of antique or surplus military  
17 ordinance.

18 (3) Laboratories having a department of forensic  
19 ballistics, or specializing in the development of  
20 ammunition or explosive ordinance.

21 (4) Commerce, preparation, assembly or possession of  
22 explosive bullets by manufacturers of ammunition licensed  
23 by the federal government, in connection with the supply of  
24 those organizations and persons exempted by subdivision  
25 (g)(1) of this Section, or like organizations and persons  
26 outside this State, or the transportation of explosive

1 bullets to any organization or person exempted in this  
2 Section by a common carrier or by a vehicle owned or leased  
3 by an exempted manufacturer.

4 (g-5) Subsection 24-1(a)(6) does not apply to or affect  
5 persons licensed under federal law to manufacture any device or  
6 attachment of any kind designed, used, or intended for use in  
7 silencing the report of any firearm, firearms, or ammunition  
8 for those firearms equipped with those devices, and actually  
9 engaged in the business of manufacturing those devices,  
10 firearms, or ammunition, but only with respect to activities  
11 that are within the lawful scope of that business, such as the  
12 manufacture, transportation, or testing of those devices,  
13 firearms, or ammunition. This exemption does not authorize the  
14 general private possession of any device or attachment of any  
15 kind designed, used, or intended for use in silencing the  
16 report of any firearm, but only such possession and activities  
17 as are within the lawful scope of a licensed manufacturing  
18 business described in this subsection (g-5). During  
19 transportation, these ~~those~~ devices shall be detached from any  
20 weapon or not immediately accessible.

21 (g-6) Subsections 24-1(a)(4) and 24-1(a)(10) and Section  
22 24-1.6 do not apply to or affect any parole agent or parole  
23 supervisor who meets the qualifications and conditions  
24 prescribed in Section 3-14-1.5 of the Unified Code of  
25 Corrections.

26 (g-7) Subsection 24-1(a)(6) does not apply to a peace



1 officer while serving as a member of a tactical response team  
2 or special operations team. A peace officer may not personally  
3 own or apply for ownership of a device or attachment of any  
4 kind designed, used, or intended for use in silencing the  
5 report of any firearm. These devices shall be owned and  
6 maintained by lawfully recognized units of government whose  
7 duties include the investigation of criminal acts.

8 (g-10) Subsections 24-1(a)(4), 24-1(a)(8), and  
9 24-1(a)(10), and Sections 24-1.6 and 24-3.1 do not apply to an  
10 athlete's possession, transport on official Olympic and  
11 Paralympic transit systems established for athletes, or use of  
12 competition firearms sanctioned by the International Olympic  
13 Committee, the International Paralympic Committee, the  
14 International Shooting Sport Federation, or USA Shooting in  
15 connection with such athlete's training for and participation  
16 in shooting competitions at the 2016 Olympic and Paralympic  
17 Games and sanctioned test events leading up to the 2016 Olympic  
18 and Paralympic Games.

19 (h) An information or indictment based upon a violation of  
20 any subsection of this Article need not negative any exemptions  
21 contained in this Article. The defendant shall have the burden  
22 of proving such an exemption.

23 (i) Nothing in this Article shall prohibit, apply to, or  
24 affect the transportation, carrying, or possession, of any  
25 pistol or revolver, stun gun, taser, or other firearm consigned  
26 to a common carrier operating under license of the State of

1 Illinois or the federal government, where such transportation,  
2 carrying, or possession is incident to the lawful  
3 transportation in which such common carrier is engaged; and  
4 nothing in this Article shall prohibit, apply to, or affect the  
5 transportation, carrying, or possession of any pistol,  
6 revolver, stun gun, taser, or other firearm, not the subject of  
7 and regulated by subsection 24-1(a)(7) or subsection 24-2(c) of  
8 this Article, which is unloaded and enclosed in a case, firearm  
9 carrying box, shipping box, or other container, by the  
10 possessor of a valid Firearm Owners Identification Card.

11 (Source: P.A. 95-331, eff. 8-21-07; 95-613, eff. 9-11-07;  
12 95-885, eff. 1-1-09; 96-7, eff. 4-3-09; 96-230, eff. 1-1-10;  
13 96-742, eff. 8-25-09; 96-1000, eff. 7-2-10.)