

**HB3354**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**HB3354**

Introduced 2/24/2011, by Rep. Michael J. Zalewski

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/24-1.1

from Ch. 38, par. 24-1.1

Amends the Criminal Code of 1961. Provides that unlawful use or possession of a weapons by a felon who is not confined to a penal institution or who is on parole or mandatory supervised release is an offense for which the person shall receive a mandatory sentence of imprisonment. Effective immediately.

LRB097 10756 RLC 51160 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 24-1.1 as follows:

6 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

7 Sec. 24-1.1. Unlawful Use or Possession of Weapons by  
8 Felons or Persons in the Custody of the Department of  
9 Corrections Facilities.

10 (a) It is unlawful for a person to knowingly possess on or  
11 about his person or on his land or in his own abode or fixed  
12 place of business any weapon prohibited under Section 24-1 of  
13 this Act or any firearm or any firearm ammunition if the person  
14 has been convicted of a felony under the laws of this State or  
15 any other jurisdiction. This Section shall not apply if the  
16 person has been granted relief by the Director of the  
17 Department of State Police under Section 10 of the Firearm  
18 Owners Identification Card Act.

19 (b) It is unlawful for any person confined in a penal  
20 institution, which is a facility of the Illinois Department of  
21 Corrections, to possess any weapon prohibited under Section  
22 24-1 of this Code or any firearm or firearm ammunition,  
23 regardless of the intent with which he possesses it.

1 (c) It shall be an affirmative defense to a violation of  
2 subsection (b), that such possession was specifically  
3 authorized by rule, regulation, or directive of the Illinois  
4 Department of Corrections or order issued pursuant thereto.

5 (d) The defense of necessity is not available to a person  
6 who is charged with a violation of subsection (b) of this  
7 Section.

8 (e) Sentence. Violation of this Section by a person not  
9 confined in a penal institution shall be a Class 3 felony for  
10 which the person, ~~if sentenced to a term of imprisonment,~~ shall  
11 be sentenced to no less than 2 years and no more than 10 years  
12 and any second or subsequent violation shall be a Class 2  
13 felony for which the person shall be sentenced to a term of  
14 imprisonment of not less than 3 years and not more than 14  
15 years. Violation of this Section by a person not confined in a  
16 penal institution who has been convicted of a forcible felony,  
17 a felony violation of Article 24 of this Code or of the Firearm  
18 Owners Identification Card Act, stalking or aggravated  
19 stalking, or a Class 2 or greater felony under the Illinois  
20 Controlled Substances Act, the Cannabis Control Act, or the  
21 Methamphetamine Control and Community Protection Act is a Class  
22 2 felony for which the person shall be sentenced to not less  
23 than 3 years and not more than 14 years. Violation of this  
24 Section by a person who is on parole or mandatory supervised  
25 release is a Class 2 felony for which the person, ~~if sentenced~~  
26 ~~to a term of imprisonment,~~ shall be sentenced to not less than

1 3 years and not more than 14 years. Violation of this Section  
2 by a person not confined in a penal institution is a Class X  
3 felony when the firearm possessed is a machine gun. Any person  
4 who violates this Section while confined in a penal  
5 institution, which is a facility of the Illinois Department of  
6 Corrections, is guilty of a Class 1 felony, if he possesses any  
7 weapon prohibited under Section 24-1 of this Code regardless of  
8 the intent with which he possesses it, a Class X felony if he  
9 possesses any firearm, firearm ammunition or explosive, and a  
10 Class X felony for which the offender shall be sentenced to not  
11 less than 12 years and not more than 50 years when the firearm  
12 possessed is a machine gun. A violation of this Section while  
13 wearing or in possession of body armor as defined in Section  
14 33F-1 is a Class X felony punishable by a term of imprisonment  
15 of not less than 10 years and not more than 40 years. The  
16 possession of each firearm or firearm ammunition in violation  
17 of this Section constitutes a single and separate violation.

18 (Source: P.A. 94-72, eff. 1-1-06; 94-284, eff. 7-21-05; 94-556,  
19 eff. 9-11-05; 95-331, eff. 8-21-07.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.