



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3431

Introduced 2/24/2011, by Rep. Dennis M. Reboletti

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-16

720 ILCS 5/16-16.1

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 1961. Eliminates delivery as an element of possession of a stolen firearm and as an element of aggravated possession of a stolen firearm. In the statute concerning the aggravated possession of a stolen firearm, changes a reference from more than 31 firearms to 31 or more firearms. Establishes the elements of those offenses in the statute concerning unlawful sale of firearms. Changes the name of the offense to unlawful sale or delivery of firearms.

LRB097 06691 RLC 46778 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 16-16, 16-16.1, and 24-3 as follows:

6 (720 ILCS 5/16-16)

7 Sec. 16-16. Possession of a stolen firearm.

8 (a) A person commits possession of a stolen firearm when he  
9 or she, not being entitled to the possession of a firearm,  
10 possesses ~~or delivers~~ the firearm, knowing it to have been  
11 stolen or converted. It may be inferred that a person who  
12 possesses a firearm with knowledge that its serial number has  
13 been removed or altered has knowledge that the firearm is  
14 stolen or converted.

15 (b) Possession of a stolen firearm is a Class 2 felony.

16 (Source: P.A. 91-544, eff. 1-1-00.)

17 (720 ILCS 5/16-16.1)

18 Sec. 16-16.1. Aggravated possession of a stolen firearm.

19 (a) A person commits aggravated possession of a stolen  
20 firearm when he or she:

21 (1) Not being entitled to the possession of not less  
22 than 2 and not more than 5 firearms, possesses ~~or delivers~~

1 those firearms at the same time or within a one year  
2 period, knowing the firearms to have been stolen or  
3 converted.

4 (2) Not being entitled to the possession of not less  
5 than 6 and not more than 10 firearms, possesses ~~or delivers~~  
6 those firearms at the same time or within a 2 year period,  
7 knowing the firearms to have been stolen or converted.

8 (3) Not being entitled to the possession of not less  
9 than 11 and not more than 20 firearms, possesses ~~or~~  
10 ~~delivers~~ those firearms at the same time or within a 3 year  
11 period, knowing the firearms to have been stolen or  
12 converted.

13 (4) Not being entitled to the possession of not less  
14 than 21 and not more than 30 firearms, possesses ~~or~~  
15 ~~delivers~~ those firearms at the same time or within a 4 year  
16 period, knowing the firearms to have been stolen or  
17 converted.

18 (5) Not being entitled to the possession of ~~more than~~  
19 31 or more firearms, possesses ~~or delivers~~ those firearms  
20 at the same time or within a 5 year period, knowing the  
21 firearms to have been stolen or converted.

22 (b) It may be inferred that a person who possesses a  
23 firearm with knowledge that its serial number has been removed  
24 or altered has knowledge that the firearm is stolen or  
25 converted.

26 (c) Sentence.

1 (1) A person who violates paragraph (1) of subsection  
2 (a) of this Section commits a Class 1 felony.

3 (2) A person who violates paragraph (2) of subsection  
4 (a) of this Section commits a Class X felony for which he  
5 or she shall be sentenced to a term of imprisonment of not  
6 less than 6 years and not more than 30 years.

7 (3) A person who violates paragraph (3) of subsection  
8 (a) of this Section commits a Class X felony for which he  
9 or she shall be sentenced to a term of imprisonment of not  
10 less than 6 years and not more than 40 years.

11 (4) A person who violates paragraph (4) of subsection  
12 (a) of this Section commits a Class X felony for which he  
13 or she shall be sentenced to a term of imprisonment of not  
14 less than 6 years and not more than 50 years.

15 (5) A person who violates paragraph (5) of subsection  
16 (a) of this Section commits a Class X felony for which he  
17 or she shall be sentenced to a term of imprisonment of not  
18 less than 6 years and not more than 60 years.

19 (Source: P.A. 91-544, eff. 1-1-00.)

20 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

21 Sec. 24-3. Unlawful sale or delivery of firearms ~~Sale of~~  
22 ~~Firearms~~.

23 (A) A person commits the offense of unlawful sale or  
24 delivery of firearms when he or she knowingly does any of the  
25 following:

1           (a) Sells or gives any firearm of a size which may be  
2           concealed upon the person to any person under 18 years of  
3           age.

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

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

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

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

14          (f) Sells or gives any firearms to any person who is  
15          mentally retarded.

16          (g) Delivers any firearm of a size which may be  
17          concealed upon the person, incidental to a sale, without  
18          withholding delivery of such firearm for at least 72 hours  
19          after application for its purchase has been made, or  
20          delivers any rifle, shotgun or other long gun, or a stun  
21          gun or taser, incidental to a sale, without withholding  
22          delivery of such rifle, shotgun or other long gun, or a  
23          stun gun or taser for at least 24 hours after application  
24          for its purchase has been made. However, this paragraph (g)  
25          does not apply to: (1) the sale of a firearm to a law  
26          enforcement officer if the seller of the firearm knows that

1 the person to whom he or she is selling the firearm is a  
2 law enforcement officer or the sale of a firearm to a  
3 person who desires to purchase a firearm for use in  
4 promoting the public interest incident to his or her  
5 employment as a bank guard, armed truck guard, or other  
6 similar employment; (2) a mail order sale of a firearm to a  
7 nonresident of Illinois under which the firearm is mailed  
8 to a point outside the boundaries of Illinois; (3) the sale  
9 of a firearm to a nonresident of Illinois while at a  
10 firearm showing or display recognized by the Illinois  
11 Department of State Police; or (4) the sale of a firearm to  
12 a dealer licensed as a federal firearms dealer under  
13 Section 923 of the federal Gun Control Act of 1968 (18  
14 U.S.C. 923). For purposes of this paragraph (g),  
15 "application" means when the buyer and seller reach an  
16 agreement to purchase a firearm.

17 (h) While holding any license as a dealer, importer,  
18 manufacturer or pawnbroker under the federal Gun Control  
19 Act of 1968, manufactures, sells or delivers to any  
20 unlicensed person a handgun having a barrel, slide, frame  
21 or receiver which is a die casting of zinc alloy or any  
22 other nonhomogeneous metal which will melt or deform at a  
23 temperature of less than 800 degrees Fahrenheit. For  
24 purposes of this paragraph, (1) "firearm" is defined as in  
25 the Firearm Owners Identification Card Act; and (2)  
26 "handgun" is defined as a firearm designed to be held and

1 fired by the use of a single hand, and includes a  
2 combination of parts from which such a firearm can be  
3 assembled.

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

7 (j) Sells or gives a firearm while engaged in the  
8 business of selling firearms at wholesale or retail without  
9 being licensed as a federal firearms dealer under Section  
10 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
11 In this paragraph (j):

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

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

1 or terrorism.

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

21 (l) Not being entitled to the possession of a firearm,  
22 delivers the firearm, knowing it to have been stolen or  
23 converted. It may be inferred that a person who possesses a  
24 firearm with knowledge that its serial number has been  
25 removed or altered has knowledge that the firearm is stolen  
26 or converted.



1 (B) Paragraph (h) of subsection (A) does not include  
2 firearms sold within 6 months after enactment of Public Act  
3 78-355 (approved August 21, 1973, effective October 1, 1973),  
4 nor is any firearm legally owned or possessed by any citizen or  
5 purchased by any citizen within 6 months after the enactment of  
6 Public Act 78-355 subject to confiscation or seizure under the  
7 provisions of that Public Act. Nothing in Public Act 78-355  
8 shall be construed to prohibit the gift or trade of any firearm  
9 if that firearm was legally held or acquired within 6 months  
10 after the enactment of that Public Act.

11 (C) Sentence.

12 (1) Any person convicted of unlawful sale or delivery  
13 of firearms in violation of paragraph (c), (e), (f), (g),  
14 or (h) of subsection (A) commits a Class 4 felony.

15 (2) Any person convicted of unlawful sale or delivery  
16 of firearms in violation of paragraph (b) or (i) of  
17 subsection (A) commits a Class 3 felony.

18 (3) Any person convicted of unlawful sale or delivery  
19 of firearms in violation of paragraph (a) of subsection (A)  
20 commits a Class 2 felony.

21 (4) Any person convicted of unlawful sale or delivery  
22 of firearms in violation of paragraph (a), (b), or (i) of  
23 subsection (A) in any school, on the real property  
24 comprising a school, within 1,000 feet of the real property  
25 comprising a school, at a school related activity, or on or  
26 within 1,000 feet of any conveyance owned, leased, or

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

17           (5) Any person convicted of unlawful sale or delivery  
18          of firearms in violation of paragraph (a) or (i) of  
19          subsection (A) in residential property owned, operated, or  
20          managed by a public housing agency or leased by a public  
21          housing agency as part of a scattered site or mixed-income  
22          development, in a public park, in a courthouse, on  
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, on  
26          the real property comprising any public park, on the real

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

7 (6) Any person convicted of unlawful sale or delivery  
8 of firearms in violation of paragraph (j) of subsection (A)  
9 commits a Class A misdemeanor. A second or subsequent  
10 violation is a Class 4 felony.

11 (7) Any person convicted of unlawful sale or delivery  
12 of firearms in violation of paragraph (k) of subsection (A)  
13 commits a Class 4 felony. A third or subsequent conviction  
14 for a violation of paragraph (k) of subsection (A) is a  
15 Class 1 felony.

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

25 (9) Any person convicted of unlawful sale or delivery  
26 of firearms in violation of paragraph (d) of subsection (A)

1 commits a Class 3 felony.

2 (10) Any person convicted of unlawful sale or delivery  
3 of firearms in violation of paragraph (1) of subsection (A)  
4 commits a Class 2 felony if the delivery is of one firearm.  
5 Any person convicted of unlawful sale or delivery of  
6 firearms in violation of paragraph (1) of subsection (A)  
7 commits a Class 1 felony if the delivery is of not less  
8 than 2 and not more than 5 firearms at the same time or  
9 within a one year period. Any person convicted of unlawful  
10 sale or delivery of firearms in violation of paragraph (1)  
11 of subsection (A) commits a Class X felony for which he or  
12 she shall be sentenced to a term of imprisonment of not  
13 less than 6 years and not more than 30 years if the  
14 delivery is of not less than 6 and not more than 10  
15 firearms at the same time or within a 2 year period. Any  
16 person convicted of unlawful sale or delivery of firearms  
17 in violation of paragraph (1) of subsection (A) commits a  
18 Class X felony for which he or she shall be sentenced to a  
19 term of imprisonment of not less than 6 years and not more  
20 than 40 years if the delivery is of not less than 11 and  
21 not more than 20 firearms at the same time or within a 3  
22 year period. Any person convicted of unlawful sale or  
23 delivery of firearms in violation of paragraph (1) of  
24 subsection (A) commits a Class X felony for which he or she  
25 shall be sentenced to a term of imprisonment of not less  
26 than 6 years and not more than 50 years if the delivery is

1       of not less than 21 and not more than 30 firearms at the  
2       same time or within a 4 year period. Any person convicted  
3       of unlawful sale or delivery of firearms in violation of  
4       paragraph (l) of subsection (A) commits a Class X felony  
5       for which he or she shall be sentenced to a term of  
6       imprisonment of not less than 6 years and not more than 60  
7       years if the delivery is of 31 or more firearms at the same  
8       time or within a 5 year period.

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.)