



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4457

Introduced 1/30/2012, by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1.1
720 ILCS 5/24-1.6

from Ch. 38, par. 24-1.1

Amends the Criminal Code of 1961. Enhances the penalties for unlawful use or possession of weapons by felons and for aggravated unlawful use of a weapon.

LRB097 18451 RLC 63679 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 24-1.1 and 24-1.6 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 shall be sentenced to no less than 5 ~~2~~ years
11 and no more than 10 years and any second or subsequent
12 violation shall be a Class 2 felony for which the person shall
13 be sentenced to a term of imprisonment of not less than 7 ~~3~~
14 years and not more than 14 years. Violation of this Section by
15 a person not confined in a penal institution who has been
16 convicted of a forcible felony, a felony violation of Article
17 24 of this Code or of the Firearm Owners Identification Card
18 Act, stalking or aggravated stalking, or a Class 2 or greater
19 felony under the Illinois Controlled Substances Act, the
20 Cannabis Control Act, or the Methamphetamine Control and
21 Community Protection Act is a Class 2 felony for which the
22 person shall be sentenced to not less than 7 ~~3~~ years and not
23 more than 14 years. Violation of this Section by a person who
24 is on parole or mandatory supervised release is a Class 2
25 felony for which the person shall be sentenced to not less than
26 7 ~~3~~ years and not more than 14 years. Violation of this Section

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

17 (Source: P.A. 97-237, eff. 1-1-12.)

18 (720 ILCS 5/24-1.6)

19 Sec. 24-1.6. Aggravated unlawful use of a weapon.

20 (a) A person commits the offense of aggravated unlawful use
21 of a weapon when he or she knowingly:

22 (1) Carries on or about his or her person or in any
23 vehicle or concealed on or about his or her person except
24 when on his or her land or in his or her abode, legal
25 dwelling, or fixed place of business, or on the land or in

1 the legal dwelling of another person as an invitee with
2 that person's permission, any pistol, revolver, stun gun or
3 taser or other firearm; or

4 (2) Carries or possesses on or about his or her person,
5 upon any public street, alley, or other public lands within
6 the corporate limits of a city, village or incorporated
7 town, except when an invitee thereon or therein, for the
8 purpose of the display of such weapon or the lawful
9 commerce in weapons, or except when on his or her own land
10 or in his or her own abode, legal dwelling, or fixed place
11 of business, or on the land or in the legal dwelling of
12 another person as an invitee with that person's permission,
13 any pistol, revolver, stun gun or taser or other firearm;
14 and

15 (3) One of the following factors is present:

16 (A) the firearm possessed was uncased, loaded and
17 immediately accessible at the time of the offense; or

18 (B) the firearm possessed was uncased, unloaded
19 and the ammunition for the weapon was immediately
20 accessible at the time of the offense; or

21 (C) the person possessing the firearm has not been
22 issued a currently valid Firearm Owner's
23 Identification Card; or

24 (D) the person possessing the weapon was
25 previously adjudicated a delinquent minor under the
26 Juvenile Court Act of 1987 for an act that if committed

1 by an adult would be a felony; or

2 (E) the person possessing the weapon was engaged in
3 a misdemeanor violation of the Cannabis Control Act, in
4 a misdemeanor violation of the Illinois Controlled
5 Substances Act, or in a misdemeanor violation of the
6 Methamphetamine Control and Community Protection Act;
7 or

8 (F) (blank); or

9 (G) the person possessing the weapon had a order of
10 protection issued against him or her within the
11 previous 2 years; or

12 (H) the person possessing the weapon was engaged in
13 the commission or attempted commission of a
14 misdemeanor involving the use or threat of violence
15 against the person or property of another; or

16 (I) the person possessing the weapon was under 21
17 years of age and in possession of a handgun as defined
18 in Section 24-3, unless the person under 21 is engaged
19 in lawful activities under the Wildlife Code or
20 described in subsection 24-2(b)(1), (b)(3), or
21 24-2(f).

22 (b) "Stun gun or taser" as used in this Section has the
23 same definition given to it in Section 24-1 of this Code.

24 (c) This Section does not apply to or affect the
25 transportation or possession of weapons that:

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

1 (ii) are not immediately accessible; or
2 (iii) are unloaded and enclosed in a case, firearm
3 carrying box, shipping box, or other container by a
4 person who has been issued a currently valid Firearm
5 Owner's Identification Card.

6 (d) Sentence.

7 (1) Aggravated unlawful use of a weapon is a Class 4
8 felony; a second or subsequent offense is a Class 2 felony
9 for which the person shall be sentenced to a term of
10 imprisonment of not less than 7 ~~3~~ years and not more than
11 14 ~~7~~ years.

12 (2) Except as otherwise provided in paragraphs (3) and
13 (4) of this subsection (d), a first offense of aggravated
14 unlawful use of a weapon committed with a firearm by a
15 person 18 years of age or older where the factors listed in
16 both items (A) and (C) of paragraph (3) of subsection (a)
17 are present is a Class 4 felony, for which the person shall
18 be sentenced to a term of imprisonment of not less than 3
19 years ~~one year~~ and not more than 6 ~~3~~ years.

20 (3) Aggravated unlawful use of a weapon by a person who
21 has been previously convicted of a felony in this State or
22 another jurisdiction is a Class 2 felony for which the
23 person shall be sentenced to a term of imprisonment of not
24 less than 7 ~~3~~ years and not more than 14 ~~7~~ years.

25 (4) Aggravated unlawful use of a weapon while wearing
26 or in possession of body armor as defined in Section 33F-1

1 by a person who has not been issued a valid Firearms
2 Owner's Identification Card in accordance with Section 5 of
3 the Firearm Owners Identification Card Act is a Class X
4 felony.

5 (e) The possession of each firearm in violation of this
6 Section constitutes a single and separate violation.

7 (Source: P.A. 95-331, eff. 8-21-07; 96-742, eff. 8-25-09;
8 96-829, eff. 12-3-09; 96-1107, eff. 1-1-11.)