

HB4935



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4935

Introduced 2/3/2012, by Rep. Tom Cross

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 1961. Makes a technical change in a Section concerning the unlawful sale of firearms.

LRB097 17977 RLC 63200 b

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 24-3 as follows:

6 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

7 Sec. 24-3. Unlawful sale or delivery of firearms.

8 (A) A person commits the ~~the~~ offense of unlawful sale or
9 delivery of firearms when he or she knowingly does any of the
10 following:

11 (a) Sells or gives any firearm of a size which may be
12 concealed upon the person to any person under 18 years of
13 age.

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

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

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

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

1 (f) Sells or gives any firearms to any person who is
2 intellectually disabled.

3 (g) Delivers any firearm of a size which may be
4 concealed upon the person, incidental to a sale, without
5 withholding delivery of such firearm for at least 72 hours
6 after application for its purchase has been made, or
7 delivers any rifle, shotgun or other long gun, or a stun
8 gun or taser, incidental to a sale, without withholding
9 delivery of such rifle, shotgun or other long gun, or a
10 stun gun or taser for at least 24 hours after application
11 for its purchase has been made. However, this paragraph (g)
12 does not apply to: (1) the sale of a firearm to a law
13 enforcement officer if the seller of the firearm knows that
14 the person to whom he or she is selling the firearm is a
15 law enforcement officer or the sale of a firearm to a
16 person who desires to purchase a firearm for use in
17 promoting the public interest incident to his or her
18 employment as a bank guard, armed truck guard, or other
19 similar employment; (2) a mail order sale of a firearm to a
20 nonresident of Illinois under which the firearm is mailed
21 to a point outside the boundaries of Illinois; (3) the sale
22 of a firearm to a nonresident of Illinois while at a
23 firearm showing or display recognized by the Illinois
24 Department of State Police; or (4) the sale of a firearm to
25 a dealer licensed as a federal firearms dealer under
26 Section 923 of the federal Gun Control Act of 1968 (18

1 U.S.C. 923). For purposes of this paragraph (g),
2 "application" means when the buyer and seller reach an
3 agreement to purchase a firearm.

4 (h) While holding any license as a dealer, importer,
5 manufacturer or pawnbroker under the federal Gun Control
6 Act of 1968, manufactures, sells or delivers to any
7 unlicensed person a handgun having a barrel, slide, frame
8 or receiver which is a die casting of zinc alloy or any
9 other nonhomogeneous metal which will melt or deform at a
10 temperature of less than 800 degrees Fahrenheit. For
11 purposes of this paragraph, (1) "firearm" is defined as in
12 the Firearm Owners Identification Card Act; and (2)
13 "handgun" is defined as a firearm designed to be held and
14 fired by the use of a single hand, and includes a
15 combination of parts from which such a firearm can be
16 assembled.

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

20 (j) Sells or gives a firearm while engaged in the
21 business of selling firearms at wholesale or retail without
22 being licensed as a federal firearms dealer under Section
23 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
24 In this paragraph (j):

25 A person "engaged in the business" means a person who
26 devotes time, attention, and labor to engaging in the

1 activity as a regular course of trade or business with the
2 principal objective of livelihood and profit, but does not
3 include a person who makes occasional repairs of firearms
4 or who occasionally fits special barrels, stocks, or
5 trigger mechanisms to firearms.

6 "With the principal objective of livelihood and
7 profit" means that the intent underlying the sale or
8 disposition of firearms is predominantly one of obtaining
9 livelihood and pecuniary gain, as opposed to other intents,
10 such as improving or liquidating a personal firearms
11 collection; however, proof of profit shall not be required
12 as to a person who engages in the regular and repetitive
13 purchase and disposition of firearms for criminal purposes
14 or terrorism.

15 (k) Sells or transfers ownership of a firearm to a
16 person who does not display to the seller or transferor of
17 the firearm a currently valid Firearm Owner's
18 Identification Card that has previously been issued in the
19 transferee's name by the Department of State Police under
20 the provisions of the Firearm Owners Identification Card
21 Act. This paragraph (k) does not apply to the transfer of a
22 firearm to a person who is exempt from the requirement of
23 possessing a Firearm Owner's Identification Card under
24 Section 2 of the Firearm Owners Identification Card Act.
25 For the purposes of this Section, a currently valid Firearm
26 Owner's Identification Card means (i) a Firearm Owner's

1 Identification Card that has not expired or (ii) if the
2 transferor is licensed as a federal firearms dealer under
3 Section 923 of the federal Gun Control Act of 1968 (18
4 U.S.C. 923), an approval number issued in accordance with
5 Section 3.1 of the Firearm Owners Identification Card Act
6 shall be proof that the Firearm Owner's Identification Card
7 was valid.

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

14 (B) Paragraph (h) of subsection (A) does not include
15 firearms sold within 6 months after enactment of Public Act
16 78-355 (approved August 21, 1973, effective October 1, 1973),
17 nor is any firearm legally owned or possessed by any citizen or
18 purchased by any citizen within 6 months after the enactment of
19 Public Act 78-355 subject to confiscation or seizure under the
20 provisions of that Public Act. Nothing in Public Act 78-355
21 shall be construed to prohibit the gift or trade of any firearm
22 if that firearm was legally held or acquired within 6 months
23 after the enactment of that Public Act.

24 (C) Sentence.

25 (1) Any person convicted of unlawful sale or delivery
26 of firearms in violation of paragraph (c), (e), (f), (g),

1 or (h) of subsection (A) commits a Class 4 felony.

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

5 (3) Any person convicted of unlawful sale or delivery
6 of firearms in violation of paragraph (a) of subsection (A)
7 commits a Class 2 felony.

8 (4) Any person convicted of unlawful sale or delivery
9 of firearms in violation of paragraph (a), (b), or (i) of
10 subsection (A) in any school, on the real property
11 comprising a school, within 1,000 feet of the real property
12 comprising a school, at a school related activity, or on or
13 within 1,000 feet of any conveyance owned, leased, or
14 contracted by a school or school district to transport
15 students to or from school or a school related activity,
16 regardless of the time of day or time of year at which the
17 offense was committed, commits a Class 1 felony. Any person
18 convicted of a second or subsequent violation of unlawful
19 sale or delivery of firearms in violation of paragraph (a),
20 (b), or (i) of subsection (A) in any school, on the real
21 property comprising a school, within 1,000 feet of the real
22 property comprising a school, at a school related activity,
23 or on or within 1,000 feet of any conveyance owned, leased,
24 or contracted by a school or school district to transport
25 students to or from school or a school related activity,
26 regardless of the time of day or time of year at which the

1 offense was committed, commits a Class 1 felony for which
2 the sentence shall be a term of imprisonment of no less
3 than 5 years and no more than 15 years.

4 (5) Any person convicted of unlawful sale or delivery
5 of firearms in violation of paragraph (a) or (i) of
6 subsection (A) in residential property owned, operated, or
7 managed by a public housing agency or leased by a public
8 housing agency as part of a scattered site or mixed-income
9 development, in a public park, in a courthouse, on
10 residential property owned, operated, or managed by a
11 public housing agency or leased by a public housing agency
12 as part of a scattered site or mixed-income development, on
13 the real property comprising any public park, on the real
14 property comprising any courthouse, or on any public way
15 within 1,000 feet of the real property comprising any
16 public park, courthouse, or residential property owned,
17 operated, or managed by a public housing agency or leased
18 by a public housing agency as part of a scattered site or
19 mixed-income development commits a Class 2 felony.

20 (6) Any person convicted of unlawful sale or delivery
21 of firearms in violation of paragraph (j) of subsection (A)
22 commits a Class A misdemeanor. A second or subsequent
23 violation is a Class 4 felony.

24 (7) Any person convicted of unlawful sale or delivery
25 of firearms in violation of paragraph (k) of subsection (A)
26 commits a Class 4 felony. A third or subsequent conviction

1 for a violation of paragraph (k) of subsection (A) is a
2 Class 1 felony.

3 (8) A person 18 years of age or older convicted of
4 unlawful sale or delivery of firearms in violation of
5 paragraph (a) or (i) of subsection (A), when the firearm
6 that was sold or given to another person under 18 years of
7 age was used in the commission of or attempt to commit a
8 forcible felony, shall be fined or imprisoned, or both, not
9 to exceed the maximum provided for the most serious
10 forcible felony so committed or attempted by the person
11 under 18 years of age who was sold or given the firearm.

12 (9) Any person convicted of unlawful sale or delivery
13 of firearms in violation of paragraph (d) of subsection (A)
14 commits a Class 3 felony.

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

1 delivery is of not less than 6 and not more than 10
2 firearms at the same time or within a 2 year period. Any
3 person convicted of unlawful sale or delivery of firearms
4 in violation of paragraph (1) of subsection (A) commits a
5 Class X felony for which he or she shall be sentenced to a
6 term of imprisonment of not less than 6 years and not more
7 than 40 years if the delivery is of not less than 11 and
8 not more than 20 firearms at the same time or within a 3
9 year period. Any person convicted of unlawful sale or
10 delivery of firearms in violation of paragraph (1) of
11 subsection (A) commits a Class X felony for which he or she
12 shall be sentenced to a term of imprisonment of not less
13 than 6 years and not more than 50 years if the delivery is
14 of not less than 21 and not more than 30 firearms at the
15 same time or within a 4 year period. Any person convicted
16 of unlawful sale or delivery of firearms in violation of
17 paragraph (1) of subsection (A) commits a Class X felony
18 for which he or she shall be sentenced to a term of
19 imprisonment of not less than 6 years and not more than 60
20 years if the delivery is of 31 or more firearms at the same
21 time or within a 5 year period.

22 (D) For purposes of this Section:

23 "School" means a public or private elementary or secondary
24 school, community college, college, or university.

25 "School related activity" means any sporting, social,
26 academic, or other activity for which students' attendance or

1 participation is sponsored, organized, or funded in whole or in
2 part by a school or school district.

3 (E) A prosecution for a violation of paragraph (k) of
4 subsection (A) of this Section may be commenced within 6 years
5 after the commission of the offense. A prosecution for a
6 violation of this Section other than paragraph (g) of
7 subsection (A) of this Section may be commenced within 5 years
8 after the commission of the offense defined in the particular
9 paragraph.

10 (Source: P.A. 96-190, eff. 1-1-10; 97-227, eff. 1-1-12; 97-347,
11 eff. 1-1-12; revised 9-14-11.)