

**SB0034**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB0034**

Introduced 1/27/2011, by Sen. Kyle McCarter

**SYNOPSIS AS INTRODUCED:**

65 ILCS 5/3.1-15-25  
720 ILCS 5/24-1.6

from Ch. 24, par. 3.1-15-25

Amends provisions of the Illinois Municipal Code stating that certain municipal officials are conservators of the peace after completion of a training course administered by the Illinois Law Enforcement Training Standards Board. Provides that those provisions do not apply to any alderman, councilman, or trustee of a municipality that restricts or prohibits the private ownership or possession of any firearms by residents of that municipality by ordinance or resolution. Amends the Criminal Code of 1961. Provides that a violation of the offense of aggravated unlawful use of a weapon by any alderman, councilman, or trustee of a municipality not entitled to carry or possess a firearm in accordance with those provisions of the Illinois Municipal Code is a Class 3 felony. Effective immediately.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning firearms.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by  
5 changing Section 3.1-15-25 as follows:

6 (65 ILCS 5/3.1-15-25) (from Ch. 24, par. 3.1-15-25)

7 Sec. 3.1-15-25. Conservators of the peace; service of  
8 warrants.

9 (a) After receiving a certificate attesting to the  
10 successful completion of a training course administered by the  
11 Illinois Law Enforcement Training Standards Board, the mayor,  
12 aldermen, president, trustees, marshal, deputy marshals, and  
13 policemen in municipalities shall be conservators of the peace.  
14 Those persons and others authorized by ordinance shall have  
15 power (i) to arrest or cause to be arrested, with or without  
16 process, all persons who break the peace or are found violating  
17 any municipal ordinance or any criminal law of the State, (ii)  
18 to commit arrested persons for examination, (iii) if necessary,  
19 to detain arrested persons in custody over night or Sunday in  
20 any safe place or until they can be brought before the proper  
21 court, and (iv) to exercise all other powers as conservators of  
22 the peace prescribed by the corporate authorities.

23 (b) All warrants for the violation of municipal ordinances

1 or the State criminal law, directed to any person, may be  
2 served and executed within the limits of a municipality by any  
3 policeman or marshal of the municipality. For that purpose,  
4 policemen and marshals have all the common law and statutory  
5 powers of sheriffs.

6 (c) This Section does not apply to any alderman,  
7 councilman, or trustee of a municipality that restricts or  
8 prohibits the private ownership or possession of any firearms  
9 by residents of that municipality by ordinance or resolution.

10 (Source: P.A. 90-540, eff. 12-1-97.)

11 Section 10. The Criminal Code of 1961 is amended by  
12 changing Section 24-1.6 as follows:

13 (720 ILCS 5/24-1.6)

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

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

17 (1) Carries on or about his or her person or in any  
18 vehicle or concealed on or about his or her person except  
19 when on his or her land or in his or her abode, legal  
20 dwelling, or fixed place of business, or on the land or in  
21 the legal dwelling of another person as an invitee with  
22 that person's permission, any pistol, revolver, stun gun or  
23 taser or other firearm; or

24 (2) Carries or possesses on or about his or her person,

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

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

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

14 (B) the firearm possessed was uncased, unloaded  
15 and the ammunition for the weapon was immediately  
16 accessible at the time of the offense; or

17 (C) the person possessing the firearm has not been  
18 issued a currently valid Firearm Owner's  
19 Identification Card; or

20 (D) the person possessing the weapon was  
21 previously adjudicated a delinquent minor under the  
22 Juvenile Court Act of 1987 for an act that if committed  
23 by an adult would be a felony; or

24 (E) the person possessing the weapon was engaged in  
25 a misdemeanor violation of the Cannabis Control Act, in  
26 a misdemeanor violation of the Illinois Controlled

1 Substances Act, or in a misdemeanor violation of the  
2 Methamphetamine Control and Community Protection Act;  
3 or

4 (F) (blank); or

5 (G) the person possessing the weapon had a order of  
6 protection issued against him or her within the  
7 previous 2 years; or

8 (H) the person possessing the weapon was engaged in  
9 the commission or attempted commission of a  
10 misdemeanor involving the use or threat of violence  
11 against the person or property of another; or

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

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

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

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

23 (ii) are not immediately accessible; or

24 (iii) are unloaded and enclosed in a case, firearm  
25 carrying box, shipping box, or other container by a  
26 person who has been issued a currently valid Firearm

1 Owner's Identification Card.

2 (d) Sentence.

3 (1) Aggravated unlawful use of a weapon is a Class 4  
4 felony; aggravated unlawful use of a weapon by any  
5 alderman, councilman, or trustee of a municipality not  
6 entitled to carry or possess a firearm in accordance with  
7 Section 3.1-15-25 of the Illinois Municipal Code is a Class  
8 3 felony; a second or subsequent offense is a Class 2  
9 felony for which the person shall be sentenced to a term of  
10 imprisonment of not less than 3 years and not more than 7  
11 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 one  
19 year and not more than 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 3 years and not more than 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.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.