

SB3218



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3218

Introduced 2/1/2012, by Sen. Dan Kotowski

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 1961. Provides that it is a Class 1 felony to sell or give a firearm to a person whom the seller or giver knows is a streetgang member.

LRB097 18315 RLC 63541 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 24-3 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 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 (l) 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 (m) Sells or gives a firearm to a person whom the
15 seller or giver knows is a streetgang member. For purposes
16 of this paragraph (m), "streetgang member" has the meaning
17 ascribed to the term "streetgang member" in Section 10 of
18 the Illinois Streetgang Terrorism Omnibus Prevention Act.

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

1 if that firearm was legally held or acquired within 6 months
2 after the enactment of that Public Act.

3 (C) Sentence.

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

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

10 (3) Any person convicted of unlawful sale or delivery
11 of firearms in violation of paragraph (a) of subsection (A)
12 commits a Class 2 felony.

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

1 property comprising a school, at a school related activity,
2 or on or within 1,000 feet of any conveyance owned, leased,
3 or contracted by a school or school district to transport
4 students to or from school or a school related activity,
5 regardless of the time of day or time of year at which the
6 offense was committed, commits a Class 1 felony for which
7 the sentence shall be a term of imprisonment of no less
8 than 5 years and no more than 15 years.

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

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

1 commits a Class A misdemeanor. A second or subsequent
2 violation is a Class 4 felony.

3 (7) Any person convicted of unlawful sale or delivery
4 of firearms in violation of paragraph (k) of subsection (A)
5 commits a Class 4 felony. A third or subsequent conviction
6 for a violation of paragraph (k) of subsection (A) is a
7 Class 1 felony.

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

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

20 (10) Any person convicted of unlawful sale or delivery
21 of firearms in violation of paragraph (l) of subsection (A)
22 commits a Class 2 felony if the delivery is of one firearm.
23 Any person convicted of unlawful sale or delivery of
24 firearms in violation of paragraph (l) of subsection (A)
25 commits a Class 1 felony if the delivery is of not less
26 than 2 and not more than 5 firearms at the same time or

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

1 (11) A person convicted of unlawful sale or delivery of
2 firearms in violation of paragraph (m) of subsection (A)
3 commits a Class 1 felony.

4 (D) For purposes of this Section:

5 "School" means a public or private elementary or secondary
6 school, community college, college, or university.

7 "School related activity" means any sporting, social,
8 academic, or other activity for which students' attendance or
9 participation is sponsored, organized, or funded in whole or in
10 part by a school or school district.

11 (E) A prosecution for a violation of paragraph (k) of
12 subsection (A) of this Section may be commenced within 6 years
13 after the commission of the offense. A prosecution for a
14 violation of this Section other than paragraph (g) of
15 subsection (A) of this Section may be commenced within 5 years
16 after the commission of the offense defined in the particular
17 paragraph.

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