



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2463

by Rep. Robert F Martwick

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1	from Ch. 38, par. 24-1
720 ILCS 5/24-1.1	from Ch. 38, par. 24-1.1
720 ILCS 5/24-1.6	

Amends the Criminal Code of 2012. Provides for enhanced penalties for various offenses involving the unlawful use or possession of firearms.

LRB098 09023 RLC 39159 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 2012 is amended by changing
5 Sections 24-1, 24-1.1, and 24-1.6 as follows:

6 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

7 Sec. 24-1. Unlawful Use of Weapons.

8 (a) A person commits the offense of unlawful use of weapons
9 when he knowingly:

10 (1) Sells, manufactures, purchases, possesses or
11 carries any bludgeon, black-jack, slung-shot, sand-club,
12 sand-bag, metal knuckles or other knuckle weapon
13 regardless of its composition, throwing star, or any knife,
14 commonly referred to as a switchblade knife, which has a
15 blade that opens automatically by hand pressure applied to
16 a button, spring or other device in the handle of the
17 knife, or a ballistic knife, which is a device that propels
18 a knifelike blade as a projectile by means of a coil
19 spring, elastic material or compressed gas; or

20 (2) Carries or possesses with intent to use the same
21 unlawfully against another, a dagger, dirk, billy,
22 dangerous knife, razor, stiletto, broken bottle or other
23 piece of glass, stun gun or taser or any other dangerous or

1 deadly weapon or instrument of like character; or

2 (3) Carries on or about his person or in any vehicle, a
3 tear gas gun projector or bomb or any object containing
4 noxious liquid gas or substance, other than an object
5 containing a non-lethal noxious liquid gas or substance
6 designed solely for personal defense carried by a person 18
7 years of age or older; or

8 (4) Carries or possesses in any vehicle or concealed on
9 or about his person except when on his land or in his own
10 abode, legal dwelling, or fixed place of business, or on
11 the land or in the legal dwelling of another person as an
12 invitee with that person's permission, any pistol,
13 revolver, stun gun or taser or other firearm, except that
14 this subsection (a) (4) does not apply to or affect
15 transportation of weapons that meet one of the following
16 conditions:

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

18 (ii) are not immediately accessible; or

19 (iii) are unloaded and enclosed in a case, firearm
20 carrying box, shipping box, or other container by a
21 person who has been issued a currently valid Firearm
22 Owner's Identification Card; or

23 (5) Sets a spring gun; or

24 (6) Possesses any device or attachment of any kind
25 designed, used or intended for use in silencing the report
26 of any firearm; or

1 (7) Sells, manufactures, purchases, possesses or
2 carries:

3 (i) a machine gun, which shall be defined for the
4 purposes of this subsection as any weapon, which
5 shoots, is designed to shoot, or can be readily
6 restored to shoot, automatically more than one shot
7 without manually reloading by a single function of the
8 trigger, including the frame or receiver of any such
9 weapon, or sells, manufactures, purchases, possesses,
10 or carries any combination of parts designed or
11 intended for use in converting any weapon into a
12 machine gun, or any combination or parts from which a
13 machine gun can be assembled if such parts are in the
14 possession or under the control of a person;

15 (ii) any rifle having one or more barrels less than
16 16 inches in length or a shotgun having one or more
17 barrels less than 18 inches in length or any weapon
18 made from a rifle or shotgun, whether by alteration,
19 modification, or otherwise, if such a weapon as
20 modified has an overall length of less than 26 inches;
21 or

22 (iii) any bomb, bomb-shell, grenade, bottle or
23 other container containing an explosive substance of
24 over one-quarter ounce for like purposes, such as, but
25 not limited to, black powder bombs and Molotov
26 cocktails or artillery projectiles; or

1 (8) Carries or possesses any firearm, stun gun or taser
2 or other deadly weapon in any place which is licensed to
3 sell intoxicating beverages, or at any public gathering
4 held pursuant to a license issued by any governmental body
5 or any public gathering at which an admission is charged,
6 excluding a place where a showing, demonstration or lecture
7 involving the exhibition of unloaded firearms is
8 conducted.

9 This subsection (a) (8) does not apply to any auction or
10 raffle of a firearm held pursuant to a license or permit
11 issued by a governmental body, nor does it apply to persons
12 engaged in firearm safety training courses; or

13 (9) Carries or possesses in a vehicle or on or about
14 his person any pistol, revolver, stun gun or taser or
15 firearm or ballistic knife, when he is hooded, robed or
16 masked in such manner as to conceal his identity; or

17 (10) Carries or possesses on or about his person, upon
18 any public street, alley, or other public lands within the
19 corporate limits of a city, village or incorporated town,
20 except when an invitee thereon or therein, for the purpose
21 of the display of such weapon or the lawful commerce in
22 weapons, or except when on his land or in his own abode,
23 legal dwelling, or fixed place of business, or on the land
24 or in the legal dwelling of another person as an invitee
25 with that person's permission, any pistol, revolver, stun
26 gun or taser or other firearm, except that this subsection

1 (a) (10) does not apply to or affect transportation of
2 weapons that meet one of the following conditions:

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

4 (ii) are not immediately accessible; or

5 (iii) are unloaded and enclosed in a case, firearm
6 carrying box, shipping box, or other container by a
7 person who has been issued a currently valid Firearm
8 Owner's Identification Card.

9 A "stun gun or taser", as used in this paragraph (a)
10 means (i) any device which is powered by electrical
11 charging units, such as, batteries, and which fires one or
12 several barbs attached to a length of wire and which, upon
13 hitting a human, can send out a current capable of
14 disrupting the person's nervous system in such a manner as
15 to render him incapable of normal functioning or (ii) any
16 device which is powered by electrical charging units, such
17 as batteries, and which, upon contact with a human or
18 clothing worn by a human, can send out current capable of
19 disrupting the person's nervous system in such a manner as
20 to render him incapable of normal functioning; or

21 (11) Sells, manufactures or purchases any explosive
22 bullet. For purposes of this paragraph (a) "explosive
23 bullet" means the projectile portion of an ammunition
24 cartridge which contains or carries an explosive charge
25 which will explode upon contact with the flesh of a human
26 or an animal. "Cartridge" means a tubular metal case having

1 a projectile affixed at the front thereof and a cap or
2 primer at the rear end thereof, with the propellant
3 contained in such tube between the projectile and the cap;
4 or

5 (12) (Blank); or

6 (13) Carries or possesses on or about his or her person
7 while in a building occupied by a unit of government, a
8 billy club, other weapon of like character, or other
9 instrument of like character intended for use as a weapon.
10 For the purposes of this Section, "billy club" means a
11 short stick or club commonly carried by police officers
12 which is either telescopic or constructed of a solid piece
13 of wood or other man-made material.

14 (b) Sentence. A person convicted of a violation of
15 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10),
16 subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a
17 Class 4 ~~felony~~ ~~A misdemeanor~~. A person convicted of a violation
18 of subsection 24-1(a)(8) or 24-1(a)(9) commits a Class 3 ~~4~~
19 felony; a person convicted of a violation of subsection
20 24-1(a)(6) or 24-1(a)(7)(ii) or (iii) commits a Class 2 ~~3~~
21 felony. A person convicted of a violation of subsection
22 24-1(a)(7)(i) commits a Class X ~~2~~ felony ~~and shall be sentenced~~
23 ~~to a term of imprisonment of not less than 3 years and not more~~
24 ~~than 7 years, unless the weapon is possessed in the passenger~~
25 ~~compartment of a motor vehicle as defined in Section 1-146 of~~
26 ~~the Illinois Vehicle Code, or on the person, while the weapon~~

1 ~~is loaded, in which case it shall be a Class X felony.~~ A person
2 convicted of a second or subsequent violation of subsection
3 24-1(a)(4), 24-1(a)(8), 24-1(a)(9), or 24-1(a)(10) commits a
4 Class 2 ~~3~~ felony. The possession of each weapon in violation of
5 this Section constitutes a single and separate violation.

6 (c) Violations in specific places.

7 (1) A person who violates subsection 24-1(a)(6) or
8 24-1(a)(7) in any school, regardless of the time of day or
9 the time of year, in residential property owned, operated
10 or managed by a public housing agency or leased by a public
11 housing agency as part of a scattered site or mixed-income
12 development, in a public park, in a courthouse, on the real
13 property comprising any school, regardless of the time of
14 day or the time of year, on residential property owned,
15 operated or managed by a public housing agency or leased by
16 a public housing agency as part of a scattered site or
17 mixed-income development, on the real property comprising
18 any public park, on the real property comprising any
19 courthouse, in any conveyance owned, leased or contracted
20 by a school to transport students to or from school or a
21 school related activity, in any conveyance owned, leased,
22 or contracted by a public transportation agency, or on any
23 public way within 1,000 feet of the real property
24 comprising any school, public park, courthouse, public
25 transportation facility, or residential property owned,
26 operated, or managed by a public housing agency or leased

1 by a public housing agency as part of a scattered site or
2 mixed-income development commits a Class X ~~2~~ felony ~~and~~
3 ~~shall be sentenced to a term of imprisonment of not less~~
4 ~~than 3 years and not more than 7 years.~~

5 (1.5) A person who violates subsection 24-1(a)(4),
6 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the
7 time of day or the time of year, in residential property
8 owned, operated, or managed by a public housing agency or
9 leased by a public housing agency as part of a scattered
10 site or mixed-income development, in a public park, in a
11 courthouse, on the real property comprising any school,
12 regardless of the time of day or the time of year, on
13 residential property owned, operated, or managed by a
14 public housing agency or leased by a public housing agency
15 as part of a scattered site or mixed-income development, on
16 the real property comprising any public park, on the real
17 property comprising any courthouse, in any conveyance
18 owned, leased, or contracted by a school to transport
19 students to or from school or a school related activity, in
20 any conveyance owned, leased, or contracted by a public
21 transportation agency, or on any public way within 1,000
22 feet of the real property comprising any school, public
23 park, courthouse, public transportation facility, or
24 residential property owned, operated, or managed by a
25 public housing agency or leased by a public housing agency
26 as part of a scattered site or mixed-income development

1 commits a Class 2 ~~3~~ felony.

2 (2) A person who violates subsection 24-1(a)(1),
3 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the
4 time of day or the time of year, in residential property
5 owned, operated or managed by a public housing agency or
6 leased by a public housing agency as part of a scattered
7 site or mixed-income development, in a public park, in a
8 courthouse, on the real property comprising any school,
9 regardless of the time of day or the time of year, on
10 residential property owned, operated or managed by a public
11 housing agency or leased by a public housing agency as part
12 of a scattered site or mixed-income development, on the
13 real property comprising any public park, on the real
14 property comprising any courthouse, in any conveyance
15 owned, leased or contracted by a school to transport
16 students to or from school or a school related activity, in
17 any conveyance owned, leased, or contracted by a public
18 transportation agency, or on any public way within 1,000
19 feet of the real property comprising any school, public
20 park, courthouse, public transportation facility, or
21 residential property owned, operated, or managed by a
22 public housing agency or leased by a public housing agency
23 as part of a scattered site or mixed-income development
24 commits a Class 3 ~~4~~ felony. "Courthouse" means any building
25 that is used by the Circuit, Appellate, or Supreme Court of
26 this State for the conduct of official business.

1 (3) Paragraphs (1), (1.5), and (2) of this subsection
2 (c) shall not apply to law enforcement officers or security
3 officers of such school, college, or university or to
4 students carrying or possessing firearms for use in
5 training courses, parades, hunting, target shooting on
6 school ranges, or otherwise with the consent of school
7 authorities and which firearms are transported unloaded
8 enclosed in a suitable case, box, or transportation
9 package.

10 (4) For the purposes of this subsection (c), "school"
11 means any public or private elementary or secondary school,
12 community college, college, or university.

13 (5) For the purposes of this subsection (c), "public
14 transportation agency" means a public or private agency
15 that provides for the transportation or conveyance of
16 persons by means available to the general public, except
17 for transportation by automobiles not used for conveyance
18 of the general public as passengers; and "public
19 transportation facility" means a terminal or other place
20 where one may obtain public transportation.

21 (d) The presence in an automobile other than a public
22 omnibus of any weapon, instrument or substance referred to in
23 subsection (a)(7) is prima facie evidence that it is in the
24 possession of, and is being carried by, all persons occupying
25 such automobile at the time such weapon, instrument or
26 substance is found, except under the following circumstances:

1 (i) if such weapon, instrument or instrumentality is found upon
2 the person of one of the occupants therein; or (ii) if such
3 weapon, instrument or substance is found in an automobile
4 operated for hire by a duly licensed driver in the due, lawful
5 and proper pursuit of his trade, then such presumption shall
6 not apply to the driver.

7 (e) Exemptions. Crossbows, Common or Compound bows and
8 Underwater Spearguns are exempted from the definition of
9 ballistic knife as defined in paragraph (1) of subsection (a)
10 of this Section.

11 (Source: P.A. 95-331, eff. 8-21-07; 95-809, eff. 1-1-09;
12 95-885, eff. 1-1-09; 96-41, eff. 1-1-10; 96-328, eff. 8-11-09;
13 96-742, eff. 8-25-09; 96-1000, eff. 7-2-10.)

14 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

15 Sec. 24-1.1. Unlawful Use or Possession of Weapons by
16 Felons or Persons in the Custody of the Department of
17 Corrections Facilities.

18 (a) It is unlawful for a person to knowingly possess on or
19 about his person or on his land or in his own abode or fixed
20 place of business any weapon prohibited under Section 24-1 of
21 this Act or any firearm or any firearm ammunition if the person
22 has been convicted of a felony under the laws of this State or
23 any other jurisdiction. This Section shall not apply if the
24 person has been granted relief by the Director of the
25 Department of State Police under Section 10 of the Firearm

1 Owners Identification Card Act.

2 (b) It is unlawful for any person confined in a penal
3 institution, which is a facility of the Illinois Department of
4 Corrections, to possess any weapon prohibited under Section
5 24-1 of this Code or any firearm or firearm ammunition,
6 regardless of the intent with which he possesses it.

7 (c) It shall be an affirmative defense to a violation of
8 subsection (b), that such possession was specifically
9 authorized by rule, regulation, or directive of the Illinois
10 Department of Corrections or order issued pursuant thereto.

11 (d) The defense of necessity is not available to a person
12 who is charged with a violation of subsection (b) of this
13 Section.

14 (e) Sentence. Violation of this Section by a person not
15 confined in a penal institution shall be a Class X 3 felony ~~for~~
16 ~~which the person shall be sentenced to no less than 2 years and~~
17 ~~no more than 10 years and any second or subsequent violation~~
18 ~~shall be a Class 2 felony for which the person shall be~~
19 ~~sentenced to a term of imprisonment of not less than 3 years~~
20 ~~and not more than 14 years. Violation of this Section by a~~
21 ~~person not confined in a penal institution who has been~~
22 ~~convicted of a forcible felony, a felony violation of Article~~
23 ~~24 of this Code or of the Firearm Owners Identification Card~~
24 ~~Act, stalking or aggravated stalking, or a Class 2 or greater~~
25 ~~felony under the Illinois Controlled Substances Act, the~~
26 ~~Cannabis Control Act, or the Methamphetamine Control and~~

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

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

1 (720 ILCS 5/24-1.6)

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

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

5 (1) Carries on or about his or her person or in any
6 vehicle or concealed on or about his or her person except
7 when on his or her land or in his or her abode, legal
8 dwelling, or fixed place of business, or on the land or in
9 the legal dwelling of another person as an invitee with
10 that person's permission, any pistol, revolver, stun gun or
11 taser or other firearm; or

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

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

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

26 (B) the firearm possessed was uncased, unloaded

1 and the ammunition for the weapon was immediately
2 accessible at the time of the offense; or

3 (C) the person possessing the firearm has not been
4 issued a currently valid Firearm Owner's
5 Identification Card; or

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

10 (E) the person possessing the weapon was engaged in
11 a misdemeanor violation of the Cannabis Control Act, in
12 a misdemeanor violation of the Illinois Controlled
13 Substances Act, or in a misdemeanor violation of the
14 Methamphetamine Control and Community Protection Act;
15 or

16 (F) (blank); or

17 (G) the person possessing the weapon had a order of
18 protection issued against him or her within the
19 previous 2 years; or

20 (H) the person possessing the weapon was engaged in
21 the commission or attempted commission of a
22 misdemeanor involving the use or threat of violence
23 against the person or property of another; or

24 (I) the person possessing the weapon was under 21
25 years of age and in possession of a handgun as defined
26 in Section 24-3, unless the person under 21 is engaged

1 in lawful activities under the Wildlife Code or
2 described in subsection 24-2(b)(1), (b)(3), or
3 24-2(f).

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

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

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

9 (ii) are not immediately accessible; or

10 (iii) are unloaded and enclosed in a case, firearm
11 carrying box, shipping box, or other container by a
12 person who has been issued a currently valid Firearm
13 Owner's Identification Card.

14 (d) Sentence.

15 (1) Aggravated unlawful use of a weapon is a Class 2 ~~4~~
16 felony; a second or subsequent offense is a Class 1 ~~2~~
17 felony for which the person shall be sentenced to a term of
18 imprisonment of not less than 4 ~~3~~ years and not more than
19 15 ~~7~~ years.

20 (2) Except as otherwise provided in paragraphs (3) and
21 (4) of this subsection (d), a first offense of aggravated
22 unlawful use of a weapon committed with a firearm by a
23 person 18 years of age or older where the factors listed in
24 both items (A) and (C) of paragraph (3) of subsection (a)
25 are present is a Class 2 ~~4~~ felony, for which the person
26 shall be sentenced to a term of imprisonment of not less

1 than 3 years ~~one year~~ and not more than 7 ~~3~~ years.

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

7 (4) Aggravated unlawful use of a weapon while wearing
8 or in possession of body armor as defined in Section 33F-1
9 by a person who has not been issued a valid Firearms
10 Owner's Identification Card in accordance with Section 5 of
11 the Firearm Owners Identification Card Act is a Class X
12 felony.

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

15 (Source: P.A. 95-331, eff. 8-21-07; 96-742, eff. 8-25-09;
16 96-829, eff. 12-3-09; 96-1107, eff. 1-1-11.)