



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4290

by Rep. Ed Sullivan, Jr.

SYNOPSIS AS INTRODUCED:

430 ILCS 66/70
730 ILCS 5/5-6-1

from Ch. 38, par. 1005-6-1

Amends the Firearm Concealed Carry Act. Provides that a certified firearms instructor who knowingly provides or offers to provide a false certification that an applicant has completed firearms training as required under the Act is guilty of a Class A misdemeanor. Provides that a person guilty of this violation is not eligible for court supervision. Provides that the Department of State Police shall permanently revoke the firearms instructor certification of a person convicted of this violation. Amends the Unified Code of Corrections to make a conforming change. Effective immediately.

LRB098 15878 RLC 50923 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Firearm Concealed Carry Act is amended by
5 changing Section 70 as follows:

6 (430 ILCS 66/70)

7 Sec. 70. Violations.

8 (a) A license issued or renewed under this Act shall be
9 revoked if, at any time, the licensee is found to be ineligible
10 for a license under this Act or the licensee no longer meets
11 the eligibility requirements of the Firearm Owners
12 Identification Card Act.

13 (b) A license shall be suspended if an order of protection,
14 including an emergency order of protection, plenary order of
15 protection, or interim order of protection under Article 112A
16 of the Code of Criminal Procedure of 1963 or under the Illinois
17 Domestic Violence Act of 1986, is issued against a licensee for
18 the duration of the order, or if the Department is made aware
19 of a similar order issued against the licensee in any other
20 jurisdiction. If an order of protection is issued against a
21 licensee, the licensee shall surrender the license, as
22 applicable, to the court at the time the order is entered or to
23 the law enforcement agency or entity serving process at the

1 time the licensee is served the order. The court, law
2 enforcement agency, or entity responsible for serving the order
3 of protection shall notify the Department within 7 days and
4 transmit the license to the Department.

5 (c) A license is invalid upon expiration of the license,
6 unless the licensee has submitted an application to renew the
7 license, and the applicant is otherwise eligible to possess a
8 license under this Act.

9 (d) A licensee shall not carry a concealed firearm while
10 under the influence of alcohol, other drug or drugs,
11 intoxicating compound or combination of compounds, or any
12 combination thereof, under the standards set forth in
13 subsection (a) of Section 11-501 of the Illinois Vehicle Code.

14 A licensee in violation of this subsection (d) shall be
15 guilty of a Class A misdemeanor for a first or second violation
16 and a Class 4 felony for a third violation. The Department may
17 suspend a license for up to 6 months for a second violation and
18 shall permanently revoke a license for a third violation.

19 (e) Except as otherwise provided, a licensee in violation
20 of this Act shall be guilty of a Class B misdemeanor. A second
21 or subsequent violation is a Class A misdemeanor. The
22 Department may suspend a license for up to 6 months for a
23 second violation and shall permanently revoke a license for 3
24 or more violations of Section 65 of this Act. Any person
25 convicted of a violation under this Section shall pay a \$150
26 fee to be deposited into the Mental Health Reporting Fund, plus

1 any applicable court costs or fees.

2 (f) A licensee convicted or found guilty of a violation of
3 this Act who has a valid license and is otherwise eligible to
4 carry a concealed firearm shall only be subject to the
5 penalties under this Section and shall not be subject to the
6 penalties under Section 21-6, paragraph (4), (8), or (10) of
7 subsection (a) of Section 24-1, or subparagraph (A-5) or (B-5)
8 of paragraph (3) of subsection (a) of Section 24-1.6 of the
9 Criminal Code of 2012. Except as otherwise provided in this
10 subsection, nothing in this subsection prohibits the licensee
11 from being subjected to penalties for violations other than
12 those specified in this Act.

13 (g) A licensee whose license is revoked, suspended, or
14 denied shall, within 48 hours of receiving notice of the
15 revocation, suspension, or denial, surrender his or her
16 concealed carry license to the local law enforcement agency
17 where the person resides. The local law enforcement agency
18 shall provide the licensee a receipt and transmit the concealed
19 carry license to the Department of State Police. If the
20 licensee whose concealed carry license has been revoked,
21 suspended, or denied fails to comply with the requirements of
22 this subsection, the law enforcement agency where the person
23 resides may petition the circuit court to issue a warrant to
24 search for and seize the concealed carry license in the
25 possession and under the custody or control of the licensee
26 whose concealed carry license has been revoked, suspended, or

1 denied. The observation of a concealed carry license in the
2 possession of a person whose license has been revoked,
3 suspended, or denied constitutes a sufficient basis for the
4 arrest of that person for violation of this subsection. A
5 violation of this subsection is a Class A misdemeanor.

6 (h) A license issued or renewed under this Act shall be
7 revoked if, at any time, the licensee is found ineligible for a
8 Firearm Owner's Identification Card, or the licensee no longer
9 possesses a valid Firearm Owner's Identification Card. A
10 licensee whose license is revoked under this subsection (h)
11 shall surrender his or her concealed carry license as provided
12 for in subsection (g) of this Section.

13 This subsection shall not apply to a person who has filed
14 an application with the State Police for renewal of a Firearm
15 Owner's Identification Card and who is not otherwise ineligible
16 to obtain a Firearm Owner's Identification Card.

17 (i) A certified firearms instructor who knowingly provides
18 or offers to provide a false certification that an applicant
19 has completed firearms training as required under this Act is
20 guilty of a Class A misdemeanor. A person guilty of a violation
21 of this subsection (i) is not eligible for court supervision.
22 The Department shall permanently revoke the firearms
23 instructor certification of a person convicted under this
24 subsection (i).

25 (Source: P.A. 98-63, eff. 7-9-13; revised 11-12-13.)

1 Section 10. The Unified Code of Corrections is amended by
2 changing Section 5-6-1 as follows:

3 (730 ILCS 5/5-6-1) (from Ch. 38, par. 1005-6-1)

4 Sec. 5-6-1. Sentences of Probation and of Conditional
5 Discharge and Disposition of Supervision. The General Assembly
6 finds that in order to protect the public, the criminal justice
7 system must compel compliance with the conditions of probation
8 by responding to violations with swift, certain and fair
9 punishments and intermediate sanctions. The Chief Judge of each
10 circuit shall adopt a system of structured, intermediate
11 sanctions for violations of the terms and conditions of a
12 sentence of probation, conditional discharge or disposition of
13 supervision.

14 (a) Except where specifically prohibited by other
15 provisions of this Code, the court shall impose a sentence of
16 probation or conditional discharge upon an offender unless,
17 having regard to the nature and circumstance of the offense,
18 and to the history, character and condition of the offender,
19 the court is of the opinion that:

20 (1) his imprisonment or periodic imprisonment is
21 necessary for the protection of the public; or

22 (2) probation or conditional discharge would deprecate
23 the seriousness of the offender's conduct and would be
24 inconsistent with the ends of justice; or

25 (3) a combination of imprisonment with concurrent or

1 consecutive probation when an offender has been admitted
2 into a drug court program under Section 20 of the Drug
3 Court Treatment Act is necessary for the protection of the
4 public and for the rehabilitation of the offender.

5 The court shall impose as a condition of a sentence of
6 probation, conditional discharge, or supervision, that the
7 probation agency may invoke any sanction from the list of
8 intermediate sanctions adopted by the chief judge of the
9 circuit court for violations of the terms and conditions of the
10 sentence of probation, conditional discharge, or supervision,
11 subject to the provisions of Section 5-6-4 of this Act.

12 (b) The court may impose a sentence of conditional
13 discharge for an offense if the court is of the opinion that
14 neither a sentence of imprisonment nor of periodic imprisonment
15 nor of probation supervision is appropriate.

16 (b-1) Subsections (a) and (b) of this Section do not apply
17 to a defendant charged with a misdemeanor or felony under the
18 Illinois Vehicle Code or reckless homicide under Section 9-3 of
19 the Criminal Code of 1961 or the Criminal Code of 2012 if the
20 defendant within the past 12 months has been convicted of or
21 pleaded guilty to a misdemeanor or felony under the Illinois
22 Vehicle Code or reckless homicide under Section 9-3 of the
23 Criminal Code of 1961 or the Criminal Code of 2012.

24 (c) The court may, upon a plea of guilty or a stipulation
25 by the defendant of the facts supporting the charge or a
26 finding of guilt, defer further proceedings and the imposition

1 of a sentence, and enter an order for supervision of the
2 defendant, if the defendant is not charged with: (i) a Class A
3 misdemeanor, as defined by the following provisions of the
4 Criminal Code of 1961 or the Criminal Code of 2012: Sections
5 11-9.1; 12-3.2; 11-1.50 or 12-15; 26-5 or 48-1; 31-1; 31-6;
6 31-7; paragraphs (2) and (3) of subsection (a) of Section 21-1;
7 paragraph (1) through (5), (8), (10), and (11) of subsection
8 (a) of Section 24-1; (ii) a Class A misdemeanor violation of
9 Section 3.01, 3.03-1, or 4.01 of the Humane Care for Animals
10 Act; or (iii) a felony. If the defendant is not barred from
11 receiving an order for supervision as provided in this
12 subsection, the court may enter an order for supervision after
13 considering the circumstances of the offense, and the history,
14 character and condition of the offender, if the court is of the
15 opinion that:

16 (1) the offender is not likely to commit further
17 crimes;

18 (2) the defendant and the public would be best served
19 if the defendant were not to receive a criminal record; and

20 (3) in the best interests of justice an order of
21 supervision is more appropriate than a sentence otherwise
22 permitted under this Code.

23 (c-5) Subsections (a), (b), and (c) of this Section do not
24 apply to a defendant charged with a second or subsequent
25 violation of Section 6-303 of the Illinois Vehicle Code
26 committed while his or her driver's license, permit or

1 privileges were revoked because of a violation of Section 9-3
2 of the Criminal Code of 1961 or the Criminal Code of 2012,
3 relating to the offense of reckless homicide, or a similar
4 provision of a law of another state.

5 (d) The provisions of paragraph (c) shall not apply to a
6 defendant charged with violating Section 11-501 of the Illinois
7 Vehicle Code or a similar provision of a local ordinance when
8 the defendant has previously been:

9 (1) convicted for a violation of Section 11-501 of the
10 Illinois Vehicle Code or a similar provision of a local
11 ordinance or any similar law or ordinance of another state;
12 or

13 (2) assigned supervision for a violation of Section
14 11-501 of the Illinois Vehicle Code or a similar provision
15 of a local ordinance or any similar law or ordinance of
16 another state; or

17 (3) pleaded guilty to or stipulated to the facts
18 supporting a charge or a finding of guilty to a violation
19 of Section 11-503 of the Illinois Vehicle Code or a similar
20 provision of a local ordinance or any similar law or
21 ordinance of another state, and the plea or stipulation was
22 the result of a plea agreement.

23 The court shall consider the statement of the prosecuting
24 authority with regard to the standards set forth in this
25 Section.

26 (e) The provisions of paragraph (c) shall not apply to a

1 defendant charged with violating Section 16-25 or 16A-3 of the
2 Criminal Code of 1961 or the Criminal Code of 2012 if said
3 defendant has within the last 5 years been:

4 (1) convicted for a violation of Section 16-25 or 16A-3
5 of the Criminal Code of 1961 or the Criminal Code of 2012;
6 or

7 (2) assigned supervision for a violation of Section
8 16-25 or 16A-3 of the Criminal Code of 1961 or the Criminal
9 Code of 2012.

10 The court shall consider the statement of the prosecuting
11 authority with regard to the standards set forth in this
12 Section.

13 (f) The provisions of paragraph (c) shall not apply to a
14 defendant charged with violating Sections 15-111, 15-112,
15 15-301, paragraph (b) of Section 6-104, Section 11-605, Section
16 11-1002.5, or Section 11-1414 of the Illinois Vehicle Code or a
17 similar provision of a local ordinance.

18 (g) Except as otherwise provided in paragraph (i) of this
19 Section, the provisions of paragraph (c) shall not apply to a
20 defendant charged with violating Section 3-707, 3-708, 3-710,
21 or 5-401.3 of the Illinois Vehicle Code or a similar provision
22 of a local ordinance if the defendant has within the last 5
23 years been:

24 (1) convicted for a violation of Section 3-707, 3-708,
25 3-710, or 5-401.3 of the Illinois Vehicle Code or a similar
26 provision of a local ordinance; or

1 (2) assigned supervision for a violation of Section
2 3-707, 3-708, 3-710, or 5-401.3 of the Illinois Vehicle
3 Code or a similar provision of a local ordinance.

4 The court shall consider the statement of the prosecuting
5 authority with regard to the standards set forth in this
6 Section.

7 (h) The provisions of paragraph (c) shall not apply to a
8 defendant under the age of 21 years charged with violating a
9 serious traffic offense as defined in Section 1-187.001 of the
10 Illinois Vehicle Code:

11 (1) unless the defendant, upon payment of the fines,
12 penalties, and costs provided by law, agrees to attend and
13 successfully complete a traffic safety program approved by
14 the court under standards set by the Conference of Chief
15 Circuit Judges. The accused shall be responsible for
16 payment of any traffic safety program fees. If the accused
17 fails to file a certificate of successful completion on or
18 before the termination date of the supervision order, the
19 supervision shall be summarily revoked and conviction
20 entered. The provisions of Supreme Court Rule 402 relating
21 to pleas of guilty do not apply in cases when a defendant
22 enters a guilty plea under this provision; or

23 (2) if the defendant has previously been sentenced
24 under the provisions of paragraph (c) on or after January
25 1, 1998 for any serious traffic offense as defined in
26 Section 1-187.001 of the Illinois Vehicle Code.

1 (h-1) The provisions of paragraph (c) shall not apply to a
2 defendant under the age of 21 years charged with an offense
3 against traffic regulations governing the movement of vehicles
4 or any violation of Section 6-107 or Section 12-603.1 of the
5 Illinois Vehicle Code, unless the defendant, upon payment of
6 the fines, penalties, and costs provided by law, agrees to
7 attend and successfully complete a traffic safety program
8 approved by the court under standards set by the Conference of
9 Chief Circuit Judges. The accused shall be responsible for
10 payment of any traffic safety program fees. If the accused
11 fails to file a certificate of successful completion on or
12 before the termination date of the supervision order, the
13 supervision shall be summarily revoked and conviction entered.
14 The provisions of Supreme Court Rule 402 relating to pleas of
15 guilty do not apply in cases when a defendant enters a guilty
16 plea under this provision.

17 (i) The provisions of paragraph (c) shall not apply to a
18 defendant charged with violating Section 3-707 of the Illinois
19 Vehicle Code or a similar provision of a local ordinance if the
20 defendant has been assigned supervision for a violation of
21 Section 3-707 of the Illinois Vehicle Code or a similar
22 provision of a local ordinance.

23 (j) The provisions of paragraph (c) shall not apply to a
24 defendant charged with violating Section 6-303 of the Illinois
25 Vehicle Code or a similar provision of a local ordinance when
26 the revocation or suspension was for a violation of Section

1 11-501 or a similar provision of a local ordinance or a
2 violation of Section 11-501.1 or paragraph (b) of Section
3 11-401 of the Illinois Vehicle Code if the defendant has within
4 the last 10 years been:

5 (1) convicted for a violation of Section 6-303 of the
6 Illinois Vehicle Code or a similar provision of a local
7 ordinance; or

8 (2) assigned supervision for a violation of Section
9 6-303 of the Illinois Vehicle Code or a similar provision
10 of a local ordinance.

11 (k) The provisions of paragraph (c) shall not apply to a
12 defendant charged with violating any provision of the Illinois
13 Vehicle Code or a similar provision of a local ordinance that
14 governs the movement of vehicles if, within the 12 months
15 preceding the date of the defendant's arrest, the defendant has
16 been assigned court supervision on 2 occasions for a violation
17 that governs the movement of vehicles under the Illinois
18 Vehicle Code or a similar provision of a local ordinance. The
19 provisions of this paragraph (k) do not apply to a defendant
20 charged with violating Section 11-501 of the Illinois Vehicle
21 Code or a similar provision of a local ordinance.

22 (l) A defendant charged with violating any provision of the
23 Illinois Vehicle Code or a similar provision of a local
24 ordinance who receives a disposition of supervision under
25 subsection (c) shall pay an additional fee of \$29, to be
26 collected as provided in Sections 27.5 and 27.6 of the Clerks

1 of Courts Act. In addition to the \$29 fee, the person shall
2 also pay a fee of \$6, which, if not waived by the court, shall
3 be collected as provided in Sections 27.5 and 27.6 of the
4 Clerks of Courts Act. The \$29 fee shall be disbursed as
5 provided in Section 16-104c of the Illinois Vehicle Code. If
6 the \$6 fee is collected, \$5.50 of the fee shall be deposited
7 into the Circuit Court Clerk Operation and Administrative Fund
8 created by the Clerk of the Circuit Court and 50 cents of the
9 fee shall be deposited into the Prisoner Review Board Vehicle
10 and Equipment Fund in the State treasury.

11 (m) Any person convicted of, pleading guilty to, or placed
12 on supervision for a serious traffic violation, as defined in
13 Section 1-187.001 of the Illinois Vehicle Code, a violation of
14 Section 11-501 of the Illinois Vehicle Code, or a violation of
15 a similar provision of a local ordinance shall pay an
16 additional fee of \$35, to be disbursed as provided in Section
17 16-104d of that Code.

18 This subsection (m) becomes inoperative 7 years after
19 October 13, 2007 (the effective date of Public Act 95-154).

20 (n) The provisions of paragraph (c) shall not apply to any
21 person under the age of 18 who commits an offense against
22 traffic regulations governing the movement of vehicles or any
23 violation of Section 6-107 or Section 12-603.1 of the Illinois
24 Vehicle Code, except upon personal appearance of the defendant
25 in court and upon the written consent of the defendant's parent
26 or legal guardian, executed before the presiding judge. The

1 presiding judge shall have the authority to waive this
2 requirement upon the showing of good cause by the defendant.

3 (o) The provisions of paragraph (c) shall not apply to a
4 defendant charged with violating Section 6-303 of the Illinois
5 Vehicle Code or a similar provision of a local ordinance when
6 the suspension was for a violation of Section 11-501.1 of the
7 Illinois Vehicle Code and when:

8 (1) at the time of the violation of Section 11-501.1 of
9 the Illinois Vehicle Code, the defendant was a first
10 offender pursuant to Section 11-500 of the Illinois Vehicle
11 Code and the defendant failed to obtain a monitoring device
12 driving permit; or

13 (2) at the time of the violation of Section 11-501.1 of
14 the Illinois Vehicle Code, the defendant was a first
15 offender pursuant to Section 11-500 of the Illinois Vehicle
16 Code, had subsequently obtained a monitoring device
17 driving permit, but was driving a vehicle not equipped with
18 a breath alcohol ignition interlock device as defined in
19 Section 1-129.1 of the Illinois Vehicle Code.

20 (p) The provisions of paragraph (c) shall not apply to a
21 defendant charged with violating Section 11-601.5 of the
22 Illinois Vehicle Code or a similar provision of a local
23 ordinance.

24 (q) The provisions of paragraph (c) shall not apply to a
25 defendant charged with violating subsection (b) of Section
26 11-601 of the Illinois Vehicle Code when the defendant was

1 operating a vehicle, in an urban district, at a speed in excess
2 of 25 miles per hour over the posted speed limit.

3 (r) The provisions of paragraph (c) shall not apply to a
4 defendant charged with violating any provision of the Illinois
5 Vehicle Code or a similar provision of a local ordinance if the
6 violation was the proximate cause of the death of another and
7 the defendant's driving abstract contains a prior conviction or
8 disposition of court supervision for any violation of the
9 Illinois Vehicle Code, other than an equipment violation, or a
10 suspension, revocation, or cancellation of the driver's
11 license.

12 (s) The provisions of paragraph (c) shall not apply to a
13 defendant charged with violating subsection (i) of Section 70
14 of the Firearm Concealed Carry Act.

15 (Source: P.A. 97-333, eff. 8-12-11; 97-597, eff. 1-1-12;
16 97-831, eff. 7-1-13; 97-1108, eff. 1-1-13; 97-1150, eff.
17 1-25-13; 98-169, eff. 1-1-14.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.