

HB5319



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5319

by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

720 ILCS 5/33A-1

from Ch. 38, par. 33A-1

Amends the Criminal Code of 2012 concerning armed violence. Defines a "Category III weapon" as a bludgeon, black-jack, slungshot, sand-bag, sand-club, metal knuckles, billy, or other dangerous weapon or instrument of like character used by the defendant in a similar manner. Effective immediately.

LRB098 18187 RLC 53316 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 Section 33A-1 as follows:

6 (720 ILCS 5/33A-1) (from Ch. 38, par. 33A-1)

7 Sec. 33A-1. Legislative intent and definitions.

8 (a) Legislative findings. The legislature finds and
9 declares the following:

10 (1) The use of a dangerous weapon in the commission of
11 a felony offense poses a much greater threat to the public
12 health, safety, and general welfare, than when a weapon is
13 not used in the commission of the offense.

14 (2) Further, the use of a firearm greatly facilitates
15 the commission of a criminal offense because of the more
16 lethal nature of a firearm and the greater perceived threat
17 produced in those confronted by a person wielding a
18 firearm. Unlike other dangerous weapons such as knives and
19 clubs, the use of a firearm in the commission of a criminal
20 felony offense significantly escalates the threat and the
21 potential for bodily harm, and the greater range of the
22 firearm increases the potential for harm to more persons.
23 Not only are the victims and bystanders at greater risk

1 when a firearm is used, but also the law enforcement
2 officers whose duty is to confront and apprehend the armed
3 suspect.

4 (3) Current law does contain offenses involving the use
5 or discharge of a gun toward or against a person, such as
6 aggravated battery with a firearm, aggravated discharge of
7 a firearm, and reckless discharge of a firearm; however,
8 the General Assembly has legislated greater penalties for
9 the commission of a felony while in possession of a firearm
10 because it deems such acts as more serious.

11 (b) Legislative intent.

12 (1) In order to deter the use of firearms in the
13 commission of a felony offense, the General Assembly deems
14 it appropriate for a greater penalty to be imposed when a
15 firearm is used or discharged in the commission of an
16 offense than the penalty imposed for using other types of
17 weapons and for the penalty to increase on more serious
18 offenses.

19 (2) With the additional elements of the discharge of a
20 firearm and great bodily harm inflicted by a firearm being
21 added to armed violence and other serious felony offenses,
22 it is the intent of the General Assembly to punish those
23 elements more severely during commission of a felony
24 offense than when those elements stand alone as the act of
25 the offender.

26 (3) It is the intent of the 91st General Assembly that

1 should Public Act 88-680 be declared unconstitutional for a
2 violation of Article 4, Section 8 of the 1970 Constitution
3 of the State of Illinois, the amendatory changes made by
4 Public Act 88-680 to Article 33A of the Criminal Code of
5 1961 and which are set forth as law in this amendatory Act
6 of the 91st General Assembly are hereby reenacted by this
7 amendatory Act of the 91st General Assembly.

8 (c) Definitions.

9 (1) "Armed with a dangerous weapon". A person is
10 considered armed with a dangerous weapon for purposes of
11 this Article, when he or she carries on or about his or her
12 person or is otherwise armed with a Category I, Category
13 II, or Category III weapon.

14 (2) A Category I weapon is a handgun, sawed-off
15 shotgun, sawed-off rifle, any other firearm small enough to
16 be concealed upon the person, semiautomatic firearm, or
17 machine gun. A Category II weapon is any other rifle,
18 shotgun, spring gun, other firearm, stun gun or taser as
19 defined in paragraph (a) of Section 24-1 of this Code,
20 knife with a blade of at least 3 inches in length, dagger,
21 dirk, switchblade knife, stiletto, axe, hatchet, or other
22 deadly or dangerous weapon or instrument of like character.
23 As used in this subsection (b) "semiautomatic firearm"
24 means a repeating firearm that utilizes a portion of the
25 energy of a firing cartridge to extract the fired cartridge
26 case and chamber the next round and that requires a

1 separate pull of the trigger to fire each cartridge.

2 (3) A Category III weapon is a bludgeon, black-jack,
3 slungshot, sand-bag, sand-club, metal knuckles, billy, or
4 other dangerous weapon or instrument of like character used
5 by the defendant in a similar manner.

6 (Source: P.A. 91-404, eff. 1-1-00; 91-696, eff. 4-13-00.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.