



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4375

by Rep. Rita Mayfield

#### SYNOPSIS AS INTRODUCED:

430 ILCS 65/8

from Ch. 38, par. 83-8

430 ILCS 66/70

720 ILCS 5/24-4.1

Amends the Firearm Owners Identification Card Act. Provides that the Department of State Police shall suspend for 5 years the Firearm Owner's Identification Card of a person who has been convicted of a third violation of the provision of the Criminal Code of 2012 that makes it an offense for a person who possesses or acquires a firearm and thereafter loses the firearm, or if the firearm is stolen from the person, to fail to report the loss or theft to the local law enforcement agency within 72 hours after obtaining knowledge of the loss or theft. Amends the Firearm Concealed Carry Act. Provides that the Department of State Police shall suspend for 5 years the concealed carry license of a person who has been convicted of a third violation of that Criminal Code of 2012 provision. Amends the Criminal Code of 2012. Provides that a fourth or subsequent violation is a Class 4 felony (rather than a Class A misdemeanor). Effective immediately.

LRB099 15584 RLC 39875 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 Firearm Owners Identification Card Act is  
5 amended by changing Section 8 as follows:

6 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

7 Sec. 8. Grounds for denial and revocation. The Department  
8 of State Police has authority to deny an application for or to  
9 revoke and seize a Firearm Owner's Identification Card  
10 previously issued under this Act only if the Department finds  
11 that the applicant or the person to whom such card was issued  
12 is or was at the time of issuance:

13 (a) A person under 21 years of age who has been  
14 convicted of a misdemeanor other than a traffic offense or  
15 adjudged delinquent;

16 (b) A person under 21 years of age who does not have  
17 the written consent of his parent or guardian to acquire  
18 and possess firearms and firearm ammunition, or whose  
19 parent or guardian has revoked such written consent, or  
20 where such parent or guardian does not qualify to have a  
21 Firearm Owner's Identification Card;

22 (c) A person convicted of a felony under the laws of  
23 this or any other jurisdiction;

1 (d) A person addicted to narcotics;

2 (e) A person who has been a patient of a mental health  
3 facility within the past 5 years or a person who has been a  
4 patient in a mental health facility more than 5 years ago  
5 who has not received the certification required under  
6 subsection (u) of this Section. An active law enforcement  
7 officer employed by a unit of government who is denied,  
8 revoked, or has his or her Firearm Owner's Identification  
9 Card seized under this subsection (e) may obtain relief as  
10 described in subsection (c-5) of Section 10 of this Act if  
11 the officer did not act in a manner threatening to the  
12 officer, another person, or the public as determined by the  
13 treating clinical psychologist or physician, and the  
14 officer seeks mental health treatment;

15 (f) A person whose mental condition is of such a nature  
16 that it poses a clear and present danger to the applicant,  
17 any other person or persons or the community;

18 (g) A person who has an intellectual disability;

19 (h) A person who intentionally makes a false statement  
20 in the Firearm Owner's Identification Card application;

21 (i) An alien who is unlawfully present in the United  
22 States under the laws of the United States;

23 (i-5) An alien who has been admitted to the United  
24 States under a non-immigrant visa (as that term is defined  
25 in Section 101(a)(26) of the Immigration and Nationality  
26 Act (8 U.S.C. 1101(a)(26))), except that this subsection

1 (i-5) does not apply to any alien who has been lawfully  
2 admitted to the United States under a non-immigrant visa if  
3 that alien is:

4 (1) admitted to the United States for lawful  
5 hunting or sporting purposes;

6 (2) an official representative of a foreign  
7 government who is:

8 (A) accredited to the United States Government  
9 or the Government's mission to an international  
10 organization having its headquarters in the United  
11 States; or

12 (B) en route to or from another country to  
13 which that alien is accredited;

14 (3) an official of a foreign government or  
15 distinguished foreign visitor who has been so  
16 designated by the Department of State;

17 (4) a foreign law enforcement officer of a friendly  
18 foreign government entering the United States on  
19 official business; or

20 (5) one who has received a waiver from the Attorney  
21 General of the United States pursuant to 18 U.S.C.  
22 922(y)(3);

23 (j) (Blank);

24 (k) A person who has been convicted within the past 5  
25 years of battery, assault, aggravated assault, violation  
26 of an order of protection, or a substantially similar

1 offense in another jurisdiction, in which a firearm was  
2 used or possessed;

3 (l) A person who has been convicted of domestic  
4 battery, aggravated domestic battery, or a substantially  
5 similar offense in another jurisdiction committed before,  
6 on or after January 1, 2012 (the effective date of Public  
7 Act 97-158). If the applicant or person who has been  
8 previously issued a Firearm Owner's Identification Card  
9 under this Act knowingly and intelligently waives the right  
10 to have an offense described in this paragraph (l) tried by  
11 a jury, and by guilty plea or otherwise, results in a  
12 conviction for an offense in which a domestic relationship  
13 is not a required element of the offense but in which a  
14 determination of the applicability of 18 U.S.C. 922(g)(9)  
15 is made under Section 112A-11.1 of the Code of Criminal  
16 Procedure of 1963, an entry by the court of a judgment of  
17 conviction for that offense shall be grounds for denying an  
18 application for and for revoking and seizing a Firearm  
19 Owner's Identification Card previously issued to the  
20 person under this Act;

21 (m) (Blank);

22 (n) A person who is prohibited from acquiring or  
23 possessing firearms or firearm ammunition by any Illinois  
24 State statute or by federal law;

25 (o) A minor subject to a petition filed under Section  
26 5-520 of the Juvenile Court Act of 1987 alleging that the

1 minor is a delinquent minor for the commission of an  
2 offense that if committed by an adult would be a felony;

3 (p) An adult who had been adjudicated a delinquent  
4 minor under the Juvenile Court Act of 1987 for the  
5 commission of an offense that if committed by an adult  
6 would be a felony;

7 (q) A person who is not a resident of the State of  
8 Illinois, except as provided in subsection (a-10) of  
9 Section 4;

10 (r) A person who has been adjudicated as a person with  
11 a mental disability;

12 (s) A person who has been found to have a developmental  
13 disability;

14 (t) A person involuntarily admitted into a mental  
15 health facility; or

16 (u) A person who has had his or her Firearm Owner's  
17 Identification Card revoked or denied under subsection (e)  
18 of this Section or item (iv) of paragraph (2) of subsection  
19 (a) of Section 4 of this Act because he or she was a  
20 patient in a mental health facility as provided in  
21 subsection (e) of this Section, shall not be permitted to  
22 obtain a Firearm Owner's Identification Card, after the  
23 5-year period has lapsed, unless he or she has received a  
24 mental health evaluation by a physician, clinical  
25 psychologist, or qualified examiner as those terms are  
26 defined in the Mental Health and Developmental

1           Disabilities Code, and has received a certification that he  
2           or she is not a clear and present danger to himself,  
3           herself, or others. The physician, clinical psychologist,  
4           or qualified examiner making the certification and his or  
5           her employer shall not be held criminally, civilly, or  
6           professionally liable for making or not making the  
7           certification required under this subsection, except for  
8           willful or wanton misconduct. This subsection does not  
9           apply to a person whose firearm possession rights have been  
10          restored through administrative or judicial action under  
11          Section 10 or 11 of this Act.

12          Upon revocation of a person's Firearm Owner's  
13          Identification Card, the Department of State Police shall  
14          provide notice to the person and the person shall comply with  
15          Section 9.5 of this Act.

16          The Department of State Police shall suspend for 5 years  
17          the Firearm Owner's Identification Card of a person who has  
18          been convicted of a third violation of Section 24-4.1 of the  
19          Criminal Code of 2012.

20          (Source: P.A. 98-63, eff. 7-9-13; 98-508, eff. 8-19-13; 98-756,  
21          eff. 7-16-14; 99-143, eff. 7-27-15.)

22          Section 10. The Firearm Concealed Carry Act is amended by  
23          changing Section 70 as follows:

24                 (430 ILCS 66/70)

1           Sec. 70. Violations.

2           (a) A license issued or renewed under this Act shall be  
3           revoked if, at any time, the licensee is found to be ineligible  
4           for a license under this Act or the licensee no longer meets  
5           the eligibility requirements of the Firearm Owners  
6           Identification Card Act.

7           (b) A license shall be suspended if an order of protection,  
8           including an emergency order of protection, plenary order of  
9           protection, or interim order of protection under Article 112A  
10          of the Code of Criminal Procedure of 1963 or under the Illinois  
11          Domestic Violence Act of 1986, is issued against a licensee for  
12          the duration of the order, or if the Department is made aware  
13          of a similar order issued against the licensee in any other  
14          jurisdiction. If an order of protection is issued against a  
15          licensee, the licensee shall surrender the license, as  
16          applicable, to the court at the time the order is entered or to  
17          the law enforcement agency or entity serving process at the  
18          time the licensee is served the order. The court, law  
19          enforcement agency, or entity responsible for serving the order  
20          of protection shall notify the Department within 7 days and  
21          transmit the license to the Department.

22          (c) A license is invalid upon expiration of the license,  
23          unless the licensee has submitted an application to renew the  
24          license, and the applicant is otherwise eligible to possess a  
25          license under this Act.

26          (d) A licensee shall not carry a concealed firearm while



1 under the influence of alcohol, other drug or drugs,  
2 intoxicating compound or combination of compounds, or any  
3 combination thereof, under the standards set forth in  
4 subsection (a) of Section 11-501 of the Illinois Vehicle Code.

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

10 (e) Except as otherwise provided, a licensee in violation  
11 of this Act shall be guilty of a Class B misdemeanor. A second  
12 or subsequent violation is a Class A misdemeanor. The  
13 Department may suspend a license for up to 6 months for a  
14 second violation and shall permanently revoke a license for 3  
15 or more violations of Section 65 of this Act. Any person  
16 convicted of a violation under this Section shall pay a \$150  
17 fee to be deposited into the Mental Health Reporting Fund, plus  
18 any applicable court costs or fees.

19 (f) A licensee convicted or found guilty of a violation of  
20 this Act who has a valid license and is otherwise eligible to  
21 carry a concealed firearm shall only be subject to the  
22 penalties under this Section and shall not be subject to the  
23 penalties under Section 21-6, paragraph (4), (8), or (10) of  
24 subsection (a) of Section 24-1, or subparagraph (A-5) or (B-5)  
25 of paragraph (3) of subsection (a) of Section 24-1.6 of the  
26 Criminal Code of 2012. Except as otherwise provided in this

1 subsection, nothing in this subsection prohibits the licensee  
2 from being subjected to penalties for violations other than  
3 those specified in this Act.

4 (g) A licensee whose license is revoked, suspended, or  
5 denied shall, within 48 hours of receiving notice of the  
6 revocation, suspension, or denial, surrender his or her  
7 concealed carry license to the local law enforcement agency  
8 where the person resides. The local law enforcement agency  
9 shall provide the licensee a receipt and transmit the concealed  
10 carry license to the Department of State Police. If the  
11 licensee whose concealed carry license has been revoked,  
12 suspended, or denied fails to comply with the requirements of  
13 this subsection, the law enforcement agency where the person  
14 resides may petition the circuit court to issue a warrant to  
15 search for and seize the concealed carry license in the  
16 possession and under the custody or control of the licensee  
17 whose concealed carry license has been revoked, suspended, or  
18 denied. The observation of a concealed carry license in the  
19 possession of a person whose license has been revoked,  
20 suspended, or denied constitutes a sufficient basis for the  
21 arrest of that person for violation of this subsection. A  
22 violation of this subsection is a Class A misdemeanor.

23 (h) A license issued or renewed under this Act shall be  
24 revoked if, at any time, the licensee is found ineligible for a  
25 Firearm Owner's Identification Card, or the licensee no longer  
26 possesses a valid Firearm Owner's Identification Card. A

1 licensee whose license is revoked under this subsection (h)  
2 shall surrender his or her concealed carry license as provided  
3 for in subsection (g) of this Section.

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

8 (i) A certified firearms instructor who knowingly provides  
9 or offers to provide a false certification that an applicant  
10 has completed firearms training as required under this Act is  
11 guilty of a Class A misdemeanor. A person guilty of a violation  
12 of this subsection (i) is not eligible for court supervision.  
13 The Department shall permanently revoke the firearms  
14 instructor certification of a person convicted under this  
15 subsection (i).

16 (j) The Department of State Police shall suspend for 5  
17 years the license of a person who has been convicted of a third  
18 violation of Section 24-4.1 of the Criminal Code of 2012.

19 (Source: P.A. 98-63, eff. 7-9-13; 98-756, eff. 7-16-14; 98-899,  
20 eff. 8-15-14.)

21 Section 15. The Criminal Code of 2012 is amended by  
22 changing Section 24-4.1 as follows:

23 (720 ILCS 5/24-4.1)

24 Sec. 24-4.1. Report of lost or stolen firearms.

1 (a) If a person who possesses a valid Firearm Owner's  
2 Identification Card and who possesses or acquires a firearm  
3 thereafter loses the firearm, or if the firearm is stolen from  
4 the person, the person must report the loss or theft to the  
5 local law enforcement agency within 72 hours after obtaining  
6 knowledge of the loss or theft.

7 (b) A law enforcement agency having jurisdiction shall take  
8 a written report and shall, as soon as practical, enter the  
9 firearm's serial number as stolen into the Law Enforcement  
10 Agencies Data System (LEADS).

11 (c) A person shall not be in violation of this Section if:

12 (1) the failure to report is due to an act of God, act  
13 of war, or inability of a law enforcement agency to receive  
14 the report;

15 (2) the person is hospitalized, in a coma, or is  
16 otherwise seriously physically or mentally impaired as to  
17 prevent the person from reporting; or

18 (3) the person's designee makes a report if the person  
19 is unable to make the report.

20 (d) Sentence. A person who violates this Section is guilty  
21 of a petty offense for a first violation. A second ~~or~~  
22 ~~subsequent~~ violation of this Section is a Class A misdemeanor.  
23 A third violation of this Section is a Class A misdemeanor and  
24 shall result in a 5 year suspension of the person's Firearm  
25 Owner's Identification Card under Section 8 of the Firearm  
26 Owners Identification Card Act and license under subsection (j)

1 of Section 70 of the Firearm Concealed Carry Act. A fourth or  
2 subsequent violation is a Class 4 felony.

3 (Source: P.A. 98-508, eff. 8-19-13.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.