



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1868

Introduced 2/20/2015, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

New Act

Creates the Firearm Dealer Licensing Act. Provides for the regulation of firearm dealers through licensure by the Department of Financial and Professional Regulation. Provides that no person may sell or otherwise transfer, expose for sale or transfer, or have in his or her possession with the intent to sell or transfer any firearm without being licensed under the Act. Provides, however, that the prohibition does not apply to a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or as a hobby, or who sells all or part of his or her personal collection of firearms. Sets forth provisions concerning application, fees, duration of licensure, license retention requirements, submissions to the Department, penalties, revocation, and suspension. Grants rulemaking authority to the Department and provides that for the purpose of determining compliance with the Act, the Act may be enforced by any municipality in which a licensee is located or, if a licensee is not located in a municipality, by the county in which a licensee is located.

LRB099 09567 JLK 29776 b

1 AN ACT concerning regulation.

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

4 Section 1. Short title. This Act may be cited as the
5 Firearm Dealer Licensing Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of Financial and
8 Professional Regulation.

9 "Firearm dealer" means any person who is:

10 (1) engaged in the business of selling firearms at
11 wholesale or retail;

12 (2) engaged in the business of repairing firearms or
13 making or fitting special barrels, stocks, or trigger
14 mechanisms to firearms; or

15 (3) a pawnbroker whose business or occupation includes
16 the taking or receiving, by way of pledge or pawn, of any
17 firearm as security for the payment or repayment of money.

18 "Licensed dealer" means any firearms dealer who is
19 licensed under both this Act and Section 923 of the federal Gun
20 Control Act of 1968 (18 U.S.C. 923).

21 "Person" means an individual, firm, association, society,
22 partnership, limited liability company, corporation, or other
23 entity.

1 "Engaged in the business" means the devotion of time,
2 attention, and labor to engaging in the activity as a regular
3 course of trade or business with the principal objective of
4 livelihood and profit. "Engaged in the business" does not
5 include the making of occasional repairs of firearms, or the
6 occasional fitting of special barrels, stocks, or trigger
7 mechanisms to firearms.

8 "Firearm" has the meaning given to that term in the Firearm
9 Owners Identification Card Act.

10 "Transfer" means the actual or attempted transfer of a
11 firearm or firearm ammunition, with or without consideration.
12 "Transfer" does not include the lease of a firearm, or the
13 provision of ammunition specifically for that firearm, if the
14 firearm and the ammunition are to be used on the lessor's
15 premises, and does not include any transfer of possession when
16 the transferor maintains supervision and control over the
17 firearm or ammunition.

18 "With the principal objective of livelihood and profit"
19 means that the intent underlying the sale or disposition is
20 predominantly one of obtaining livelihood and pecuniary gain,
21 as opposed to other intents, such as improving or liquidating a
22 personal firearms collection; however, proof of profit shall
23 not be required as to a person who engages in the regular and
24 repetitive purchase and disposition of firearms for criminal
25 purposes or terrorism.

1 Section 10. Unlicensed dealing; exemption.

2 (a) No person may sell or otherwise transfer, expose for
3 sale or transfer, or have in his or her possession with the
4 intent to sell or transfer any firearm without being licensed
5 under this Act.

6 (b) This Section does not apply to a person who makes
7 occasional sales, exchanges, or purchases of firearms for the
8 enhancement of a personal collection or as a hobby, or who
9 sells all or part of his or her personal collection of
10 firearms.

11 Section 15. License application; fees; penalty.

12 (a) The Department may grant a firearm dealer license to an
13 applicant who satisfies the following requirements:

14 (1) he or she is at least 21 years of age;

15 (2) he or she possesses a valid Firearm Owner's
16 Identification Card; and

17 (3) he or she submits to a background check conducted
18 by the Department that includes the initiation and
19 completion of an automated search of its criminal history
20 record information files and those of the Federal Bureau of
21 Investigation, including the National Instant Criminal
22 Background Check System, and of the files of the Department
23 of Human Services relating to mental health and
24 developmental disabilities to obtain any felony conviction
25 or patient hospitalization information that would

1 disqualify a person from obtaining licensure under this
2 Act.

3 (b) An application for a firearm dealer license must be
4 made on forms prescribed by the Department. The application
5 must be verified by the applicant under oath and must be
6 accompanied by the required fee.

7 (c) The applicant must submit to the Department a license
8 fee of \$300, payable at the time of application, and an
9 additional \$300 payable every 3 years thereafter for so long as
10 the license is in effect.

11 (d) The applicant must submit to fingerprinting in
12 accordance with rules adopted by the Department and must pay a
13 fingerprint processing fee in the amount set by the Department
14 by rule.

15 (e) A person who knowingly makes a false statement or
16 knowingly conceals a material fact or uses false information or
17 identification in any application for a license under this Act
18 commits a Class A misdemeanor.

19 Section 20. Duration of licensure. A license granted under
20 this Act remains in effect until it is revoked, suspended, or
21 otherwise withdrawn by the Department or until it is
22 surrendered by the licensee.

23 Section 25. License retention requirements. A license
24 granted under this Act is subject to all of the following

1 requirements:

2 (1) A licensed dealer may only transact business under
3 this Act at an address that has a zoning classification
4 that permits the operations of a retail establishment.

5 (2) A licensed dealer may not transact business in any
6 place other than the premises specified on his or her
7 license, except that a licensed dealer may display, sell,
8 or transfer firearms at a gun show open to the general
9 public or at any regular meeting of an incorporated
10 collectors club in accordance with this Act and federal
11 law.

12 (3) A licensed dealer may not violate any provision of
13 any federal or State law pertaining to the possession, use,
14 sale, or delivery of firearms.

15 (4) A licensed dealer must strictly adhere to the
16 provisions of all applicable federal and State laws and
17 local ordinances and local business license requirements.

18 (5) A separate license must be obtained for each
19 separate place of business. Before a licensed dealer moves
20 his or her place of business, he or she must promptly apply
21 to the Department for an amended license.

22 (6) The license, or a copy of the license certified by
23 the Department, must be conspicuously displayed at the
24 business premises.

25 (7) Every firearm must be unloaded when delivered.

26 (8) A licensee must obtain a certificate of

1 registration issued under the Retailers' Occupation Tax
2 Act.

3 (9) The licensee must take reasonable precautions to
4 ensure that all firearms that the licensee sells will not
5 be used illegally. These precautions include, but are not
6 limited to, the following:

7 (A) the refusal to sell a firearm to a person the
8 licensee knows or has reason to know is purchasing the
9 firearm on behalf of another person who could not
10 legally purchase the firearm;

11 (B) the refusal to sell a firearm to a person who
12 has provided a home address in a municipality or county
13 in which possession of that type of firearm is illegal,
14 unless the transferee presents reasonably satisfactory
15 evidence that the firearm will not be used or possessed
16 unlawfully in that municipality or county; and

17 (C) the refusal to sell a firearm to a person who
18 has provided a home address in a municipality or county
19 that requires registration of the firearm, unless the
20 purchaser presents satisfactory evidence of compliance
21 with the registration requirement.

22 (10) A licensee must make his or her records relating
23 to the sale of firearms available to any officer or
24 employee of the Department or of any unit of local
25 government in this State whenever the officer or employee
26 is authorized to enforce laws or ordinances pertaining to

1 firearms, provided that no officer or employee may conduct
2 any search or seizure other than an inspection of a
3 licensee's records relating to firearms sales without a
4 warrant and that nothing in this Section shall authorize
5 any search or seizure forbidden by the United States
6 Constitution or the Illinois Constitution.

7 Section 30. Submission to Department.

8 (a) A licensed dealer must, within 24 hours after making a
9 sale or transfer of a firearm to a person who is not licensed
10 as a firearm dealer, submit a report concerning that sale to
11 the Department. The report must contain the following
12 information:

13 (1) the date of the sale or transfer;

14 (2) the identity and address of the dealer;

15 (3) the name, address, age, and occupation of the
16 transferee;

17 (4) the price of the firearm; and

18 (5) the type, description, and number of the firearm.

19 (b) All records of the reports submitted under this Section
20 must be maintained by the Department on a computer database
21 capable of allowing the retrieval of information for each
22 dealer and each transferee. The computer database must also
23 contain a listing of each county or municipality that prohibits
24 one or more types of firearm, and the type or types of firearms
25 that are prohibited in that county or municipality. Information

1 in the database must be made available to any law enforcement
2 agency responsible for the enforcement of any federal, State,
3 or local law or ordinance relating to firearms, and to any
4 licensed dealer who requests information relating to a person
5 who is seeking to purchase one or more firearms from that
6 dealer. Except as specifically provided in this Section,
7 information in the database is deemed the confidential record
8 of the Department and is not subject to disclosure under any
9 other law.

10 (c) Any licensee who is required to keep a record of
11 transfer under subsection (b) of Section 3 of the Firearm
12 Owners Identification Card Act must report any transfer of a
13 firearm that occurred within the 24-month period immediately
14 preceding the effective date of this Act to the Department no
15 later than 30 days after the effective date of this Act. The
16 report must contain that information required by subsection (b)
17 of Section 3 of the Firearm Owners Identification Card Act. The
18 Department must include this report in the computer database
19 required to be maintained under this Section.

20 Section 35. Penalty. Any person who sells, or who possesses
21 with intent to sell, trade, or transfer, any firearm without
22 being licensed under this Act is guilty of a Class 4 felony.

23 Section 40. Enforcement; rulemaking.

24 (a) This Act must be enforced by the Department, and may be

1 enforced, for the purpose of determining compliance with this
2 Act, by any municipality in which the licensee is located or,
3 if the licensee is not located in a municipality, by the county
4 in which the licensee is located.

5 (b) The Department shall adopt rules necessary for the
6 implementation and administration of this Act.

7 Section 45. Revocation; suspension. The Department, after
8 due notice to the licensee and reasonable opportunity for the
9 licensee to be heard, may revoke a license or may suspend a
10 license for a period of time that the Department may deem
11 proper upon satisfactory proof that the licensee has violated
12 or permitted a violation of any requirement of this Act or is
13 no longer eligible to obtain a license under this Act. A person
14 whose license has been revoked by the Department is
15 disqualified from receiving a license under this Act for 10
16 years after the revocation. Any person who has substantially
17 participated in the operation or management of a licensee that
18 has had a license revoked may not be employed by or participate
19 in the business of any other licensee for 10 years after the
20 revocation. Proceedings for revocation or suspension under
21 this Section may be initiated by the Department or by any
22 municipality or county.