

1                                    AMENDMENT TO HOUSE BILL 403

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 403, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5            "Section 1. Short title. This Act may be cited as the  
6 Firearms Retail Sale Licensing Act.

7            Section 5. Definitions. In this Act:

8            "Adjudicated as a disabled person" means adjudicated as a  
9 disabled person under the Probate Act of 1975 or the laws of  
10 another state.

11           "BATF" means the Bureau of Alcohol, Tobacco and Firearms  
12 of the United States Department of the Treasury.

13           "Cannabis" has the meaning ascribed to it in the Cannabis  
14 Control Act.

15           "Controlled substance" has the meaning ascribed to it in  
16 the Illinois Controlled Substances Act.

17           "Crime punishable by imprisonment for a term exceeding  
18 one year" does not include:

19                    (A) any federal or State offenses pertaining to  
20 antitrust violations, unfair trade practices, restraints  
21 of trade, or other similar offenses relating to the  
22 regulation of business practices, or

1           (B) any State offense classified by the laws of the  
2 State as a misdemeanor and punishable by a term of  
3 imprisonment of 2 years or less. What constitutes a  
4 conviction of such a crime must be determined in  
5 accordance with the law of the jurisdiction in which the  
6 proceedings were held. Any conviction which has been  
7 expunged, or set aside or for which a person has been  
8 pardoned or has had civil rights restored must not be  
9 considered a conviction for purposes of this Act, unless  
10 such pardon, expungement, or restoration of civil rights  
11 expressly provides that the person may not ship,  
12 transport, possess, or receive firearms.

13 "Department" means the Department of State Police.

14 "Dealer" means:

15           (A) any person engaged in the business of selling  
16 firearms at wholesale or retail,

17           (B) any person engaged in the business of repairing  
18 firearms or of making or fitting special barrels, stocks,  
19 or trigger mechanisms to firearms, or

20           (C) any person who is a pawnbroker.

21 "Licensed dealer" means any dealer who is licensed under  
22 the provisions of this Act.

23 "Pawnbroker" means any person whose business or  
24 occupation includes the taking or receiving, by way of pledge  
25 or pawn, of any firearm as security for the payment or  
26 repayment of money.

27 "Engaged in the business", as applied to a dealer in  
28 firearms, means a person who devotes time, attention, and  
29 labor to engaging in such activity as a regular course of  
30 trade or business with the principal objective of livelihood  
31 and profit, but such term does not include a person who makes  
32 occasional repairs of firearms or who occasionally fits  
33 special barrels, stocks, or trigger mechanisms to firearms,  
34 as defined in Section 921 (a)(11)(B) of the federal Gun

1 Control Act of 1968.

2 "With the principal objective of livelihood and profit"  
3 means that the intent underlying the sale or disposition of  
4 firearms is predominantly one of obtaining livelihood and  
5 pecuniary gain, as opposed to other intents, such as  
6 improving or liquidating a personal firearms collection;  
7 provided that proof of profit is not required as to a person  
8 who engages in the regular and repetitive purchase and  
9 disposition of firearms for criminal purposes or terrorism.

10 "Firearm" has the meaning ascribed to it in Section 1.1  
11 of the Firearm Owners Identification Card Act.

12 "Handgun" has the meaning ascribed to it in paragraph  
13 (h)(2) of subsection (A) of Section 24-3 of the Criminal Code  
14 of 1961.

15 "Fugitive from justice" means any person who has fled  
16 from any State to avoid prosecution for a crime or to avoid  
17 giving testimony in any criminal proceeding.

18 "Indictment" means an indictment or information in any  
19 court under which a crime punishable by imprisonment for a  
20 term exceeding one year may be prosecuted.

21 "Licensed dealer" means any firearm dealer who is  
22 required to be licensed under both this Act and Section 923  
23 of the federal Gun Control Act of 1968 (18 U.S.C. 923).

24 "Mental condition" means having been adjudicated by the  
25 State as having a state of mind manifested by violent,  
26 suicidal, threatening or assaultive behavior.

27 "Multiple handgun sale" means the sale of 2 or more  
28 handguns to the same person within 5 business days by the  
29 same licensed dealer who is not licensed under this Act.

30 "Person" means any individual, corporation, company,  
31 association, firm, partnership, society, or joint stock  
32 company.

33 Section 10. Unlicensed firearms dealer; prohibition. No

1 person, required to be licensed under this Act, may knowingly  
2 sell or otherwise transfer, expose for sale or transfer, or  
3 have in his or her possession with intent to sell or transfer  
4 any firearm without being licensed under this Act. This  
5 prohibition does not apply to a person who makes occasional  
6 sales, exchanges, or purchases of firearms for the  
7 enhancement of a personal collection or as a hobby, who sells  
8 all or part of his or her personal collection of firearms, or  
9 who is not required to be licensed under this Act or Section  
10 921(a)(21) of the Gun Control Act of 1968 (18 U.S.C.  
11 921(a)(21)).

12 Section 15. License application; requirements.

13 (a) Each applicant for a firearms dealer license must:

14 (1) Make application on blank forms prepared and  
15 furnished at convenient locations throughout the State  
16 by the Department of State Police; and

17 (2) Submit evidence under penalty of perjury to the  
18 Department of State Police that:

19 (i) The applicant is 21 years of age or over;  
20 or

21 (ii) In the case of a corporation,  
22 partnership, or association, an individual  
23 possessing, directly or indirectly, the power to  
24 direct or cause the direction of management and  
25 policies of the corporation, partnership, or  
26 association:

27 (A) has not been convicted of a felony  
28 under the laws of this or any other  
29 jurisdiction;

30 (B) has not been convicted of and is not  
31 under indictment for a crime punishable by  
32 imprisonment for a term exceeding one year;

33 (C) is not a fugitive from justice;

1 (D) is not addicted to narcotics, a  
2 controlled substance, or cannabis;

3 (E) has not been adjudicated as a  
4 disabled person or committed to a mental  
5 institution and does not have a mental  
6 condition that poses a clear and present danger  
7 to the applicant, another person, or the  
8 community.

9 (F) is not an alien who is illegally or  
10 unlawfully present in the United States under  
11 the laws of the United States;

12 (G) is not a former citizen of the United  
13 States who has renounced his or her  
14 citizenship;

15 (b) The provisions of subdivision (a)(2)(ii) do not  
16 apply to a person who has been granted relief from  
17 disabilities under subsection (c) of Section 925 of Title 18  
18 of the United States Code or to a licensed dealer who is  
19 indicted if, before the expiration of the term of the  
20 existing license, timely application is made for a new  
21 license during the term of indictment and until any  
22 conviction under the indictment becomes final.

23 (c) The applicant must submit a full set of legible  
24 fingerprints on forms prescribed by the Department.

25 (d) The applicant must have in the State premises from  
26 which he or she conducts business subject to a license under  
27 this Act or from which he or she intends to conduct such  
28 business within a reasonable period of time. This subsection  
29 (d) does not apply to a federally licensed firearm dealer  
30 whose primary place of business is located in another state.

31 The applicant must certify that the business to be  
32 conducted under the license is not prohibited under local law  
33 where the licensed premise is located.

34 (e) The applicant must submit to the Department an

1 application fee of \$150.

2 (f) A license granted under this Act expires 3 years  
3 from its date of issue.

4 (g) No later than 30 days after the filing of a proper  
5 application and appropriate fee, submitted under Section 15  
6 of this Act, the Department must issue a license to the  
7 applicant that entitles the licensee to transport, ship,  
8 receive, and sell firearms and firearm ammunition during the  
9 period stated in the license. Nothing in this Act shall be  
10 construed to prohibit a licensed dealer from maintaining and  
11 disposing of a personal collection of firearms or firearms  
12 ammunition, subject only to the restrictions that apply in 18  
13 U.S.C. 923 of the Gun Control Act of 1968 and the Firearm  
14 Owners Identification Card Act.

15 Section 20. License retention.

16 (a) A person licensed under this Act must at all times  
17 have in effect a valid license issued by the United States  
18 Treasury Bureau of Alcohol, Tobacco and Firearms under 18  
19 U.S.C. 923 of the Gun Control Act of 1968.

20 (b) Business will not be conducted under a license until  
21 the requirements of local zoning ordinances have been met.

22 (c) A licensed dealer may not knowingly violate any  
23 provision of federal and State laws pertaining to the  
24 acquisition, sale, or transfer of firearms or firearms  
25 ammunition.

26 (d) Licensed dealers must participate in the dial up  
27 system as provided in Section 3.1 of the Firearm Owners  
28 Identification Card Act.

29 (e) Licensed dealers may display, sell, or transfer  
30 firearms or transact business at gun shows open to the  
31 general public or at any regular meeting or banquet of an  
32 incorporated collectors club, association, or membership  
33 organization in accordance with this Act and federal law.

1 (f) A separate license must be obtained for each  
2 separate place of business. However, nothing in this Section  
3 must require a separate or additional license for a licensed  
4 dealer conducting business in accordance with item (e) of  
5 this Section at gun shows open to the general public or at  
6 any regular meeting or banquet of an incorporated collectors  
7 club, association, or membership organization.

8 (g) The license or a copy of the license issued by the  
9 Department must be displayed on the premise at a location  
10 where it can easily be read.

11 (h) The licensee must obtain a certificate of  
12 registration issued under the Retailers' Occupation Tax Act.

13 Section 25. Enforcement; hearings; suspension;  
14 revocation; notice.

15 (a) This Act must be enforced by the Department for the  
16 purpose of determining compliance with this Act. The  
17 Department may conduct one unannounced compliance inspection  
18 per year. Inspections may not disrupt the normal business  
19 operations of the licensee.

20 (b) The Department, after 30 days notice to the licensee  
21 and reasonable opportunity for the licensee to be heard, may  
22 revoke a license or may suspend a license up to one year upon  
23 satisfactory proof that the licensee has violated or  
24 permitted a violation of any requirement of this Act or is no  
25 longer eligible to obtain a license under Section 15. A  
26 person whose license has been revoked by the Department is  
27 disqualified to receive a license for 5 years after the  
28 revocation. Proceedings for revocation or suspension under  
29 this Section may only be initiated by the Department.

30 Section 30. Submission to the Department;

31 (a) Within 48 hours of discovering evidence of a  
32 break-in at a licensee's place of business listed on his or

1 her license, he or she must report the incident to the  
2 Department.

3 (b) Within 48 hours of discovering evidence of a theft  
4 or loss of firearms or ammunition from his or her inventory,  
5 the licensee must report the incident to the Department.

6 (c) Within 48 hours of discovering evidence of a lost or  
7 stolen shipment of firearms or firearms ammunition, the  
8 licensee must report the incident to the Department.

9 (d) Within 7 days of making a sale of multiple handguns,  
10 the licensee must forward a copy of the multiple purchase  
11 form to the Department. Unless required for a open criminal  
12 investigation, the Department must destroy any and all  
13 records or copies pertaining to the multiple purchase form  
14 with in 30 days. All records maintained by the licensee are  
15 the property of the licensee and may not be removed from his  
16 or her property without the licensee's consent or by court  
17 order.

18 Section 35. Penalties

19 (a) A person who knowingly makes a false statement or  
20 knowingly conceals a material fact or uses false information  
21 or identification in any application for a license under this  
22 Act commits a Class A misdemeanor.

23 (b) A person who is engaged in the business of selling  
24 firearms or ammunition without a license under this Act  
25 commits a Class A misdemeanor for the first offense. A second  
26 or subsequent offense is a Class 4 felony. In any other  
27 action or proceeding under the provisions of this Act, the  
28 court, when it finds that such action was without foundation  
29 or was initiated vexatiously, frivolously, or in bad faith  
30 must allow the prevailing party, other than the State or unit  
31 of local government, a reasonable attorney's fee, and the  
32 State or unit of local government which brought such action  
33 must be liable therefor.



1 Section 40. Exemptions. The following persons are not  
2 required to be licensed under this Act:

- 3 (1) Persons considered licensed collectors by the BATF.
- 4 (2) Any person who is not engaged in the business.

5 Section 105. The Criminal Code of 1961 is amended by  
6 changing Section 24-3.1 as follows:

7 (720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

8 Sec. 24-3.1. Unlawful possession of firearms and firearm  
9 ammunition.

10 (a) A person commits the offense of unlawful possession  
11 of firearms or firearm ammunition when:

12 (1) He is under 18 years of age and has in his  
13 possession any firearm of a size which may be concealed  
14 upon the person; or

15 (2) He is under 21 years of age, has been convicted  
16 of a misdemeanor other than a traffic offense or adjudged  
17 delinquent and has any firearms or firearm ammunition in  
18 his possession; or

19 (3) He is a narcotic addict and has any firearms or  
20 firearm ammunition in his possession; or

21 (4) He has been a patient in a mental hospital  
22 within the past 5 years and has any firearms or firearm  
23 ammunition in his possession; or

24 (5) He is mentally retarded and has any firearms or  
25 firearm ammunition in his possession; or

26 (6) He has in his possession any explosive bullet.

27 For purposes of this paragraph "explosive bullet" means  
28 the projectile portion of an ammunition cartridge which  
29 contains or carries an explosive charge which will explode  
30 upon contact with the flesh of a human or an animal.  
31 "Cartridge" means a tubular metal case having a projectile  
32 affixed at the front thereof and a cap or primer at the rear

1 end thereof, with the propellant contained in such tube  
2 between the projectile and the cap; or

3 (b) Sentence.

4 Unlawful possession of firearms, other than handguns, and  
5 firearm ammunition is a Class A misdemeanor. Unlawful  
6 possession of handguns is a Class 4 felony.

7 (c) The provisions of any ordinance or resolution  
8 adopted before, on, or after the effective date of this  
9 amendatory Act of the 92nd General Assembly by any unit of  
10 local government that imposes restrictions or limitations on  
11 the acquisition, possession, transportation, storage,  
12 purchase, sale, or other dealing in rifles and shotguns and  
13 ammunition, components, accessories, and accoutrements of  
14 rifles and shotguns in a manner other than those that are  
15 imposed by subsection (a) of this Section are invalid, except  
16 as authorized by this Code, and all those existing ordinances  
17 and resolutions are void.

18 (d) A unit of local government, including a home rule  
19 unit, may not regulate the acquisition, possession,  
20 transportation, storage, purchase, sale, or other dealing in  
21 rifles and shotguns, and may not regulate ammunition,  
22 components, accessories, or accoutrements for rifles and  
23 shotguns in a manner inconsistent with subsection (a). This  
24 Section is limitation under subsection (i) of Section 6 of  
25 Article VII of the Illinois Constitution on the concurrent  
26 exercise by home rule units of powers and functions exercised  
27 by the State.

28 (Source: P.A. 91-696, eff. 4-13-00.)

29 Section 999. Effective date. This Act takes effect upon  
30 becoming law, except that the Firearms Retail Sale Licensing  
31 Act takes effect July 1, 2002."