

1                                    AMENDMENT TO HOUSE BILL 482

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 482 by replacing  
3 the title with the following:

4            "AN ACT in relation to firearms."; and

5 by replacing everything after the enacting clause with the  
6 following:

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

9            Section 5. Definitions. In this Act:

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

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

15           "Cannabis" has the meaning ascribed to it in the Cannabis  
16 Control Act.

17           "Controlled substance" has the meaning ascribed to it in  
18 the Illinois Controlled Substances Act.

19           "Crime punishable by imprisonment for a term exceeding  
20 one year" does not include:

21                (A) any federal or State offenses pertaining to

1 antitrust violations, unfair trade practices, restraints  
2 of trade, or other similar offenses relating to the  
3 regulation of business practices, or

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

16 "Department" means the Department of State Police.

17 "Dealer" means:

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

20 (B) any person engaged in the business of repairing  
21 firearms or of making or fitting special barrels, stocks,  
22 or trigger mechanisms to firearms, or

23 (C) any person who is a pawnbroker.

24 "Licensed dealer" means any dealer who is licensed under  
25 the provisions of this Act.

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

30 "Engaged in the business", as applied to a dealer in  
31 firearms, means a person who devotes time, attention, and  
32 labor to engaging in such activity as a regular course of  
33 trade or business with the principal objective of livelihood  
34 and profit, but such term does not include a person who makes

1 occasional repairs of firearms or who occasionally fits  
2 special barrels, stocks, or trigger mechanisms to firearms,  
3 as defined in Section 921 (a)(11)(B) of the federal Gun  
4 Control Act of 1968.

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

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

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

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

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

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

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

30 "Multiple handgun sale" means the sale of 2 or more  
31 handguns to the same person within 5 business days by the  
32 same licensed dealer.

33 "Person" means any individual, corporation, company,  
34 association, firm, partnership, society, or joint stock

1 company.

2 Section 10. Unlicensed firearms dealer; prohibition. No  
3 person, required to be licensed under this Act, may knowingly  
4 sell or otherwise transfer, expose for sale or transfer, or  
5 have in his or her possession with intent to sell or transfer  
6 any firearm without being licensed under this Act. This  
7 prohibition does not apply to a person who makes occasional  
8 sales, exchanges, or purchases of firearms for the  
9 enhancement of a personal collection or as a hobby, who sells  
10 all or part of his or her personal collection of firearms, or  
11 who is not required to be licensed under this Act or Section  
12 921(a)(21) of the Gun Control Act of 1968 (18 U.S.C.  
13 921(a)(21)).

14 Section 15. License application; requirements.

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

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

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

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

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

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

32 (B) has not been convicted of and is not

1 under indictment for a crime punishable by  
2 imprisonment for a term exceeding one year;

3 (C) is not a fugitive from justice;

4 (D) is not addicted to narcotics, a  
5 controlled substance, or cannabis;

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

12 (F) is not an alien who is illegally or  
13 unlawfully present in the United States under  
14 the laws of the United States;

15 (G) is not a former citizen of the United  
16 States who has renounced his or her  
17 citizenship;

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

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

28 (d) The applicant must have in the State premises from  
29 which he or she conducts business subject to a license under  
30 this Act or from which he or she intends to conduct such  
31 business within a reasonable period of time.

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

1 (e) The applicant must submit to the Department an  
2 application fee of \$150.

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

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

16 Section 20. License retention.

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

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

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

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

30 (e) Licensed dealers may display, sell, or transfer  
31 firearms or transact business at gun shows open to the  
32 general public or at any regular meeting or banquet of an  
33 incorporated collectors club, association, or membership

1 organization in accordance with this Act and federal law.

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

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

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

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

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

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

31 Section 30. Submission to the Department;

32 (a) Within 48 hours of discovering evidence of a

1 break-in at a licensee's place of business listed on his or  
2 her license, he or she must report the incident to the  
3 Department.

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

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

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

19 Section 35. Penalties

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

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



1 must be liable therefor.

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

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

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

8 (720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

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

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

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

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

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

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

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

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

28 For purposes of this paragraph "explosive bullet" means  
29 the projectile portion of an ammunition cartridge which  
30 contains or carries an explosive charge which will explode  
31 upon contact with the flesh of a human or an animal.

1 "Cartridge" means a tubular metal case having a projectile  
2 affixed at the front thereof and a cap or primer at the rear  
3 end thereof, with the propellant contained in such tube  
4 between the projectile and the cap; or

5 (b) Sentence.

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

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

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