

**SB2635**



**100TH GENERAL ASSEMBLY**

**State of Illinois**

**2017 and 2018**

**SB2635**

Introduced 2/8/2018, by Sen. Dale Fowler

**SYNOPSIS AS INTRODUCED:**

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 2012. Provides that the waiting period for withholding delivery of a firearm after application for its purchase has been made does not apply to the transfer of an operable firearm in exchange for another operable firearm. Effective immediately.

LRB100 17001 SLF 32149 b

**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 24-3 as follows:

6 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

7 Sec. 24-3. Unlawful sale or delivery of firearms.

8 (A) A person commits the offense of unlawful sale or  
9 delivery of firearms when he or she knowingly does any of the  
10 following:

11 (a) Sells or gives any firearm of a size which may be  
12 concealed upon the person to any person under 18 years of  
13 age.

14 (b) Sells or gives any firearm to a person under 21  
15 years of age who has been convicted of a misdemeanor other  
16 than a traffic offense or adjudged delinquent.

17 (c) Sells or gives any firearm to any narcotic addict.

18 (d) Sells or gives any firearm to any person who has  
19 been convicted of a felony under the laws of this or any  
20 other jurisdiction.

21 (e) Sells or gives any firearm to any person who has  
22 been a patient in a mental institution within the past 5  
23 years. In this subsection (e):

1            "Mental institution" means any hospital,  
2            institution, clinic, evaluation facility, mental  
3            health center, or part thereof, which is used primarily  
4            for the care or treatment of persons with mental  
5            illness.

6            "Patient in a mental institution" means the person  
7            was admitted, either voluntarily or involuntarily, to  
8            a mental institution for mental health treatment,  
9            unless the treatment was voluntary and solely for an  
10           alcohol abuse disorder and no other secondary  
11           substance abuse disorder or mental illness.

12           (f) Sells or gives any firearms to any person who is a  
13           person with an intellectual disability.

14           (g) Delivers any firearm of a size which may be  
15           concealed upon the person, incidental to a sale, without  
16           withholding delivery of such firearm for at least 72 hours  
17           after application for its purchase has been made, or  
18           delivers any rifle, shotgun or other long gun, or a stun  
19           gun or taser, incidental to a sale, without withholding  
20           delivery of such rifle, shotgun or other long gun, or a  
21           stun gun or taser for at least 24 hours after application  
22           for its purchase has been made. However, this paragraph (g)  
23           does not apply to: (1) the sale of a firearm to a law  
24           enforcement officer if the seller of the firearm knows that  
25           the person to whom he or she is selling the firearm is a  
26           law enforcement officer or the sale of a firearm to a

1 person who desires to purchase a firearm for use in  
2 promoting the public interest incident to his or her  
3 employment as a bank guard, armed truck guard, or other  
4 similar employment; (2) a mail order sale of a firearm from  
5 a federally licensed firearms dealer to a nonresident of  
6 Illinois under which the firearm is mailed to a federally  
7 licensed firearms dealer outside the boundaries of  
8 Illinois; (3) the sale of a firearm to a nonresident of  
9 Illinois while at a firearm showing or display recognized  
10 by the Illinois Department of State Police; (4) the sale of  
11 a firearm to a dealer licensed as a federal firearms dealer  
12 under Section 923 of the federal Gun Control Act of 1968  
13 (18 U.S.C. 923); ~~or~~ (5) the transfer or sale of any rifle,  
14 shotgun, or other long gun to a resident registered  
15 competitor or attendee or non-resident registered  
16 competitor or attendee by any dealer licensed as a federal  
17 firearms dealer under Section 923 of the federal Gun  
18 Control Act of 1968 at competitive shooting events held at  
19 the World Shooting Complex sanctioned by a national  
20 governing body; or (6) the transfer of an operable firearm  
21 in exchange for another operable firearm. For purposes of  
22 transfers or sales under subparagraph (5) of this paragraph  
23 (g), the Department of Natural Resources shall give notice  
24 to the Department of State Police at least 30 calendar days  
25 prior to any competitive shooting events at the World  
26 Shooting Complex sanctioned by a national governing body.

1 The notification shall be made on a form prescribed by the  
2 Department of State Police. The sanctioning body shall  
3 provide a list of all registered competitors and attendees  
4 at least 24 hours before the events to the Department of  
5 State Police. Any changes to the list of registered  
6 competitors and attendees shall be forwarded to the  
7 Department of State Police as soon as practicable. The  
8 Department of State Police must destroy the list of  
9 registered competitors and attendees no later than 30 days  
10 after the date of the event. Nothing in this paragraph (g)  
11 relieves a federally licensed firearm dealer from the  
12 requirements of conducting a NICS background check through  
13 the Illinois Point of Contact under 18 U.S.C. 922(t). For  
14 purposes of this paragraph (g): "application" means when  
15 the buyer and seller reach an agreement to purchase a  
16 firearm; and "another operable firearm" means any operable  
17 handgun in exchange for any operable handgun or any  
18 operable long gun in exchange for any operable long gun.  
19 For purposes of this paragraph (g), "national governing  
20 body" means a group of persons who adopt rules and  
21 formulate policy on behalf of a national firearm sporting  
22 organization.

23 (h) While holding any license as a dealer, importer,  
24 manufacturer or pawnbroker under the federal Gun Control  
25 Act of 1968, manufactures, sells or delivers to any  
26 unlicensed person a handgun having a barrel, slide, frame

1 or receiver which is a die casting of zinc alloy or any  
2 other nonhomogeneous metal which will melt or deform at a  
3 temperature of less than 800 degrees Fahrenheit. For  
4 purposes of this paragraph, (1) "firearm" is defined as in  
5 the Firearm Owners Identification Card Act; and (2)  
6 "handgun" is defined as a firearm designed to be held and  
7 fired by the use of a single hand, and includes a  
8 combination of parts from which such a firearm can be  
9 assembled.

10 (i) Sells or gives a firearm of any size to any person  
11 under 18 years of age who does not possess a valid Firearm  
12 Owner's Identification Card.

13 (j) Sells or gives a firearm while engaged in the  
14 business of selling firearms at wholesale or retail without  
15 being licensed as a federal firearms dealer under Section  
16 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
17 In this paragraph (j):

18 A person "engaged in the business" means a person who  
19 devotes time, attention, and labor to engaging in the  
20 activity as a regular course of trade or business with the  
21 principal objective of livelihood and profit, but does not  
22 include a person who makes occasional repairs of firearms  
23 or who occasionally fits special barrels, stocks, or  
24 trigger mechanisms to firearms.

25 "With the principal objective of livelihood and  
26 profit" means that the intent underlying the sale or

1 disposition of firearms is predominantly one of obtaining  
2 livelihood and pecuniary gain, as opposed to other intents,  
3 such as improving or liquidating a personal firearms  
4 collection; however, proof of profit shall not be required  
5 as to a person who engages in the regular and repetitive  
6 purchase and disposition of firearms for criminal purposes  
7 or terrorism.

8 (k) Sells or transfers ownership of a firearm to a  
9 person who does not display to the seller or transferor of  
10 the firearm either: (1) a currently valid Firearm Owner's  
11 Identification Card that has previously been issued in the  
12 transferee's name by the Department of State Police under  
13 the provisions of the Firearm Owners Identification Card  
14 Act; or (2) a currently valid license to carry a concealed  
15 firearm that has previously been issued in the transferee's  
16 name by the Department of State Police under the Firearm  
17 Concealed Carry Act. This paragraph (k) does not apply to  
18 the transfer of a firearm to a person who is exempt from  
19 the requirement of possessing a Firearm Owner's  
20 Identification Card under Section 2 of the Firearm Owners  
21 Identification Card Act. For the purposes of this Section,  
22 a currently valid Firearm Owner's Identification Card  
23 means (i) a Firearm Owner's Identification Card that has  
24 not expired or (ii) an approval number issued in accordance  
25 with subsection (a-10) of subsection 3 or Section 3.1 of  
26 the Firearm Owners Identification Card Act shall be proof

1           that the Firearm Owner's Identification Card was valid.

2           (1) In addition to the other requirements of this  
3           paragraph (k), all persons who are not federally  
4           licensed firearms dealers must also have complied with  
5           subsection (a-10) of Section 3 of the Firearm Owners  
6           Identification Card Act by determining the validity of  
7           a purchaser's Firearm Owner's Identification Card.

8           (2) All sellers or transferors who have complied  
9           with the requirements of subparagraph (1) of this  
10          paragraph (k) shall not be liable for damages in any  
11          civil action arising from the use or misuse by the  
12          transferee of the firearm transferred, except for  
13          willful or wanton misconduct on the part of the seller  
14          or transferor.

15          (1) Not being entitled to the possession of a firearm,  
16          delivers the firearm, knowing it to have been stolen or  
17          converted. It may be inferred that a person who possesses a  
18          firearm with knowledge that its serial number has been  
19          removed or altered has knowledge that the firearm is stolen  
20          or converted.

21          (B) Paragraph (h) of subsection (A) does not include  
22          firearms sold within 6 months after enactment of Public Act  
23          78-355 (approved August 21, 1973, effective October 1, 1973),  
24          nor is any firearm legally owned or possessed by any citizen or  
25          purchased by any citizen within 6 months after the enactment of  
26          Public Act 78-355 subject to confiscation or seizure under the



1 provisions of that Public Act. Nothing in Public Act 78-355  
2 shall be construed to prohibit the gift or trade of any firearm  
3 if that firearm was legally held or acquired within 6 months  
4 after the enactment of that Public Act.

5 (C) Sentence.

6 (1) Any person convicted of unlawful sale or delivery  
7 of firearms in violation of paragraph (c), (e), (f), (g),  
8 or (h) of subsection (A) commits a Class 4 felony.

9 (2) Any person convicted of unlawful sale or delivery  
10 of firearms in violation of paragraph (b) or (i) of  
11 subsection (A) commits a Class 3 felony.

12 (3) Any person convicted of unlawful sale or delivery  
13 of firearms in violation of paragraph (a) of subsection (A)  
14 commits a Class 2 felony.

15 (4) Any person convicted of unlawful sale or delivery  
16 of firearms in violation of paragraph (a), (b), or (i) of  
17 subsection (A) in any school, on the real property  
18 comprising a school, within 1,000 feet of the real property  
19 comprising a school, at a school related activity, or on or  
20 within 1,000 feet of any conveyance owned, leased, or  
21 contracted by a school or school district to transport  
22 students to or from school or a school related activity,  
23 regardless of the time of day or time of year at which the  
24 offense was committed, commits a Class 1 felony. Any person  
25 convicted of a second or subsequent violation of unlawful  
26 sale or delivery of firearms in violation of paragraph (a),

1 (b), or (i) of subsection (A) in any school, on the real  
2 property comprising a school, within 1,000 feet of the real  
3 property comprising a school, at a school related activity,  
4 or on or within 1,000 feet of any conveyance owned, leased,  
5 or contracted by a school or school district to transport  
6 students to or from school or a school related activity,  
7 regardless of the time of day or time of year at which the  
8 offense was committed, commits a Class 1 felony for which  
9 the sentence shall be a term of imprisonment of no less  
10 than 5 years and no more than 15 years.

11 (5) Any person convicted of unlawful sale or delivery  
12 of firearms in violation of paragraph (a) or (i) of  
13 subsection (A) in residential property owned, operated, or  
14 managed by a public housing agency or leased by a public  
15 housing agency as part of a scattered site or mixed-income  
16 development, in a public park, in a courthouse, on  
17 residential property owned, operated, or managed by a  
18 public housing agency or leased by a public housing agency  
19 as part of a scattered site or mixed-income development, on  
20 the real property comprising any public park, on the real  
21 property comprising any courthouse, or on any public way  
22 within 1,000 feet of the real property comprising any  
23 public park, courthouse, or residential property owned,  
24 operated, or managed by a public housing agency or leased  
25 by a public housing agency as part of a scattered site or  
26 mixed-income development commits a Class 2 felony.

1           (6) Any person convicted of unlawful sale or delivery  
2 of firearms in violation of paragraph (j) of subsection (A)  
3 commits a Class A misdemeanor. A second or subsequent  
4 violation is a Class 4 felony.

5           (7) Any person convicted of unlawful sale or delivery  
6 of firearms in violation of paragraph (k) of subsection (A)  
7 commits a Class 4 felony, except that a violation of  
8 subparagraph (1) of paragraph (k) of subsection (A) shall  
9 not be punishable as a crime or petty offense. A third or  
10 subsequent conviction for a violation of paragraph (k) of  
11 subsection (A) is a Class 1 felony.

12           (8) A person 18 years of age or older convicted of  
13 unlawful sale or delivery of firearms in violation of  
14 paragraph (a) or (i) of subsection (A), when the firearm  
15 that was sold or given to another person under 18 years of  
16 age was used in the commission of or attempt to commit a  
17 forcible felony, shall be fined or imprisoned, or both, not  
18 to exceed the maximum provided for the most serious  
19 forcible felony so committed or attempted by the person  
20 under 18 years of age who was sold or given the firearm.

21           (9) Any person convicted of unlawful sale or delivery  
22 of firearms in violation of paragraph (d) of subsection (A)  
23 commits a Class 3 felony.

24           (10) Any person convicted of unlawful sale or delivery  
25 of firearms in violation of paragraph (l) of subsection (A)  
26 commits a Class 2 felony if the delivery is of one firearm.

1 Any person convicted of unlawful sale or delivery of  
2 firearms in violation of paragraph (1) of subsection (A)  
3 commits a Class 1 felony if the delivery is of not less  
4 than 2 and not more than 5 firearms at the same time or  
5 within a one year period. Any person convicted of unlawful  
6 sale or delivery of firearms in violation of paragraph (1)  
7 of subsection (A) commits a Class X felony for which he or  
8 she shall be sentenced to a term of imprisonment of not  
9 less than 6 years and not more than 30 years if the  
10 delivery is of not less than 6 and not more than 10  
11 firearms at the same time or within a 2 year period. Any  
12 person convicted of unlawful sale or delivery of firearms  
13 in violation of paragraph (1) of subsection (A) commits a  
14 Class X felony for which he or she shall be sentenced to a  
15 term of imprisonment of not less than 6 years and not more  
16 than 40 years if the delivery is of not less than 11 and  
17 not more than 20 firearms at the same time or within a 3  
18 year period. Any person convicted of unlawful sale or  
19 delivery of firearms in violation of paragraph (1) of  
20 subsection (A) commits a Class X felony for which he or she  
21 shall be sentenced to a term of imprisonment of not less  
22 than 6 years and not more than 50 years if the delivery is  
23 of not less than 21 and not more than 30 firearms at the  
24 same time or within a 4 year period. Any person convicted  
25 of unlawful sale or delivery of firearms in violation of  
26 paragraph (1) of subsection (A) commits a Class X felony

1 for which he or she shall be sentenced to a term of  
2 imprisonment of not less than 6 years and not more than 60  
3 years if the delivery is of 31 or more firearms at the same  
4 time or within a 5 year period.

5 (D) For purposes of this Section:

6 "School" means a public or private elementary or secondary  
7 school, community college, college, or university.

8 "School related activity" means any sporting, social,  
9 academic, or other activity for which students' attendance or  
10 participation is sponsored, organized, or funded in whole or in  
11 part by a school or school district.

12 (E) A prosecution for a violation of paragraph (k) of  
13 subsection (A) of this Section may be commenced within 6 years  
14 after the commission of the offense. A prosecution for a  
15 violation of this Section other than paragraph (g) of  
16 subsection (A) of this Section may be commenced within 5 years  
17 after the commission of the offense defined in the particular  
18 paragraph.

19 (Source: P.A. 98-508, eff. 8-19-13; 99-29, eff. 7-10-15;  
20 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.