



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by Edward J. Acevedo

SYNOPSIS AS INTRODUCED:

720 ILCS 5/3-5	from Ch. 38, par. 3-5
720 ILCS 5/12-2	from Ch. 38, par. 12-2
720 ILCS 5/24-1.1	from Ch. 38, par. 24-1.1
720 ILCS 5/24-1.6	
720 ILCS 5/24-3	from Ch. 38, par. 24-3
720 ILCS 5/24-3A	
720 ILCS 5/Art. 24-3B heading new	
720 ILCS 5/24-3B.5 new	
720 ILCS 5/24-3B.10 new	
720 ILCS 5/24-3B.15 new	
720 ILCS 5/24-3B.20 new	
720 ILCS 5/24-3B.25 new	
720 ILCS 5/24-3B.30 new	
720 ILCS 5/24-3B.35 new	
720 ILCS 5/24-3B.40 new	
720 ILCS 5/24-3B.45 new	

Amends the Criminal Code of 1961. Provides that a prosecution for unlawful sale of firearms, unlawful purchase of a firearm, gunrunning, or defacing identification marks of firearms may be commenced within 10 years after the commission of the offense. Enhances the penalties for various offenses committed while armed with a firearm while wearing or in possession of body armor. Enhances the penalties for gunrunning based upon the the number of firearms illegally transferred. Provides that the offense of unlawful sale of firearms applies to the sale or gift of a firearm to a person who does not possess a valid Firearm Owner's Identification Card and who is required to possess the Card before the person may purchase or receive a firearm. Provides for the forfeiture of property used to commit the offense of gunrunning and for the forfeiture of any moneys, profits, or proceeds a person acquired in whole or in part as a result of committing the offense of gunrunning. Effective immediately.

LRB093 20898 RLC 46857 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 1961 is amended by changing
5 Sections 3-5, 12-2, 24-1.1, 24-1.6, 24-3, and 24-3A and by
6 adding Article 24-3B as follows:

7 (720 ILCS 5/3-5) (from Ch. 38, par. 3-5)

8 Sec. 3-5. General Limitations.

9 (a) A prosecution for: (1) first degree murder, attempt to
10 commit first degree murder, second degree murder, involuntary
11 manslaughter, reckless homicide, concealment of homicidal
12 death, treason, arson, aggravated arson, forgery, or (2) any
13 offense involving sexual conduct or sexual penetration as
14 defined by Section 12-12 of this Code in which the DNA profile
15 of the offender is obtained and entered into a DNA database
16 within 10 years after the commission of the offense and the
17 identity of the offender is unknown after a diligent
18 investigation by law enforcement authorities, may be commenced
19 at any time. Clause (2) of this subsection (a) applies only if
20 the victim reported the offense to law enforcement authorities
21 within 2 years after the commission of the offense unless a
22 longer period for reporting the offense to law enforcement
23 authorities is provided in Section 3-6.

24 (a-5) A prosecution for unlawful sale of firearms, unlawful
25 purchase of a firearm, gunrunning, or defacing identification
26 marks of firearms may be commenced within 10 years after the
27 commission of the offense.

28 (b) Unless the statute describing the offense provides
29 otherwise, or the period of limitation is extended by Section
30 3-6, a prosecution for any offense not designated in Subsection
31 (a) must be commenced within 3 years after the commission of
32 the offense if it is a felony, or within one year and 6 months

1 after its commission if it is a misdemeanor.

2 (Source: P.A. 91-801, eff. 6-13-00; 92-752, eff. 8-2-02.)

3 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

4 Sec. 12-2. Aggravated assault.

5 (a) A person commits an aggravated assault, when, in
6 committing an assault, he:

7 (1) Uses a deadly weapon or any device manufactured and
8 designed to be substantially similar in appearance to a
9 firearm, other than by discharging a firearm in the
10 direction of another person, a peace officer, a person
11 summoned or directed by a peace officer, a correctional
12 officer or a fireman or in the direction of a vehicle
13 occupied by another person, a peace officer, a person
14 summoned or directed by a peace officer, a correctional
15 officer or a fireman while the officer or fireman is
16 engaged in the execution of any of his official duties, or
17 to prevent the officer or fireman from performing his
18 official duties, or in retaliation for the officer or
19 fireman performing his official duties;

20 (2) Is hooded, robed or masked in such manner as to
21 conceal his identity or any device manufactured and
22 designed to be substantially similar in appearance to a
23 firearm;

24 (3) Knows the individual assaulted to be a teacher or
25 other person employed in any school and such teacher or
26 other employee is upon the grounds of a school or grounds
27 adjacent thereto, or is in any part of a building used for
28 school purposes;

29 (4) Knows the individual assaulted to be a supervisor,
30 director, instructor or other person employed in any park
31 district and such supervisor, director, instructor or
32 other employee is upon the grounds of the park or grounds
33 adjacent thereto, or is in any part of a building used for
34 park purposes;

35 (5) Knows the individual assaulted to be a caseworker,

1 investigator, or other person employed by the State
2 Department of Public Aid, a County Department of Public
3 Aid, or the Department of Human Services (acting as
4 successor to the Illinois Department of Public Aid under
5 the Department of Human Services Act) and such caseworker,
6 investigator, or other person is upon the grounds of a
7 public aid office or grounds adjacent thereto, or is in any
8 part of a building used for public aid purposes, or upon
9 the grounds of a home of a public aid applicant, recipient
10 or any other person being interviewed or investigated in
11 the employees' discharge of his duties, or on grounds
12 adjacent thereto, or is in any part of a building in which
13 the applicant, recipient, or other such person resides or
14 is located;

15 (6) Knows the individual assaulted to be a peace
16 officer, or a community policing volunteer, or a fireman
17 while the officer or fireman is engaged in the execution of
18 any of his official duties, or to prevent the officer,
19 community policing volunteer, or fireman from performing
20 his official duties, or in retaliation for the officer,
21 community policing volunteer, or fireman performing his
22 official duties, and the assault is committed other than by
23 the discharge of a firearm in the direction of the officer
24 or fireman or in the direction of a vehicle occupied by the
25 officer or fireman;

26 (7) Knows the individual assaulted to be an emergency
27 medical technician - ambulance, emergency medical
28 technician - intermediate, emergency medical technician -
29 paramedic, ambulance driver or other medical assistance or
30 first aid personnel engaged in the execution of any of his
31 official duties, or to prevent the emergency medical
32 technician - ambulance, emergency medical technician -
33 intermediate, emergency medical technician - paramedic,
34 ambulance driver, or other medical assistance or first aid
35 personnel from performing his official duties, or in
36 retaliation for the emergency medical technician -

1 ambulance, emergency medical technician - intermediate,
2 emergency medical technician - paramedic, ambulance
3 driver, or other medical assistance or first aid personnel
4 performing his official duties;

5 (8) Knows the individual assaulted to be the driver,
6 operator, employee or passenger of any transportation
7 facility or system engaged in the business of
8 transportation of the public for hire and the individual
9 assaulted is then performing in such capacity or then using
10 such public transportation as a passenger or using any area
11 of any description designated by the transportation
12 facility or system as a vehicle boarding, departure, or
13 transfer location;

14 (9) Or the individual assaulted is on or about a public
15 way, public property, or public place of accommodation or
16 amusement;

17 (10) Knows the individual assaulted to be an employee
18 of the State of Illinois, a municipal corporation therein
19 or a political subdivision thereof, engaged in the
20 performance of his authorized duties as such employee;

21 (11) Knowingly and without legal justification,
22 commits an assault on a physically handicapped person;

23 (12) Knowingly and without legal justification,
24 commits an assault on a person 60 years of age or older;

25 (13) Discharges a firearm;

26 (14) Knows the individual assaulted to be a
27 correctional officer, while the officer is engaged in the
28 execution of any of his or her official duties, or to
29 prevent the officer from performing his or her official
30 duties, or in retaliation for the officer performing his or
31 her official duties;

32 (15) Knows the individual assaulted to be a
33 correctional employee or an employee of the Department of
34 Human Services supervising or controlling sexually
35 dangerous persons or sexually violent persons, while the
36 employee is engaged in the execution of any of his or her

1 official duties, or to prevent the employee from performing
2 his or her official duties, or in retaliation for the
3 employee performing his or her official duties, and the
4 assault is committed other than by the discharge of a
5 firearm in the direction of the employee or in the
6 direction of a vehicle occupied by the employee; or

7 (16) Knows the individual assaulted to be an employee
8 of a police or sheriff's department engaged in the
9 performance of his or her official duties as such employee.

10 (a-5) A person commits an aggravated assault when he or she
11 knowingly and without lawful justification shines or flashes a
12 laser gunsight or other laser device that is attached or
13 affixed to a firearm, or used in concert with a firearm, so
14 that the laser beam strikes near or in the immediate vicinity
15 of any person.

16 (b) Sentence.

17 Aggravated assault as defined in paragraphs (1) through (5)
18 and (8) through (12) of subsection (a) of this Section is a
19 Class A misdemeanor. Aggravated assault as defined in paragraph
20 (1) of subsection (a) of this Section while armed with a
21 firearm and while wearing or in possession of body armor as
22 defined in Section 33F-1 of this Code is a Class 2 felony.
23 Aggravated assault as defined in paragraph (1) of subsection
24 (a) of this Section while using a device manufactured and
25 designed to be substantially similar in appearance to a firearm
26 and while wearing or in possession of body armor as defined in
27 Section 33F-1 of this Code is a Class 4 felony. Aggravated
28 assault as defined in paragraphs (13), (14), and (15) of
29 subsection (a) of this Section and as defined in subsection
30 (a-5) of this Section is a Class 4 felony. Aggravated assault
31 as defined in paragraphs (6), (7), and (16) of subsection (a)
32 of this Section is a Class A misdemeanor if a firearm is not
33 used in the commission of the assault. Aggravated assault as
34 defined in paragraphs (6), (7), and (16) of subsection (a) of
35 this Section is a Class 4 felony if a firearm is used in the
36 commission of the assault.

1 (Source: P.A. 91-672, eff. 1-1-00; 92-841, eff. 8-22-02;
2 92-865, eff. 1-3-03; revised 1-9-03.)

3 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

4 Sec. 24-1.1. Unlawful Use or Possession of Weapons by
5 Felons or Persons in the Custody of the Department of
6 Corrections Facilities.

7 (a) It is unlawful for a person to knowingly possess on or
8 about his person or on his land or in his own abode or fixed
9 place of business any weapon prohibited under Section 24-1 of
10 this Act or any firearm or any firearm ammunition if the person
11 has been convicted of a felony under the laws of this State or
12 any other jurisdiction. This Section shall not apply if the
13 person has been granted relief by the Director of the
14 Department of State Police under Section 10 of the Firearm
15 Owners Identification Card Act.

16 (b) It is unlawful for any person confined in a penal
17 institution, which is a facility of the Illinois Department of
18 Corrections, to possess any weapon prohibited under Section
19 24-1 of this Code or any firearm or firearm ammunition,
20 regardless of the intent with which he possesses it.

21 (c) It shall be an affirmative defense to a violation of
22 subsection (b), that such possession was specifically
23 authorized by rule, regulation, or directive of the Illinois
24 Department of Corrections or order issued pursuant thereto.

25 (d) The defense of necessity is not available to a person
26 who is charged with a violation of subsection (b) of this
27 Section.

28 (e) Sentence. Violation of this Section by a person not
29 confined in a penal institution shall be a Class 3 felony for
30 which the person, if sentenced to a term of imprisonment, shall
31 be sentenced to no less than 2 years and no more than 10 years.
32 Violation of this Section by a person not confined in a penal
33 institution who has been convicted of a forcible felony, a
34 felony violation of Article 24 of this Code or of the Firearm
35 Owners Identification Card Act, stalking or aggravated

1 stalking, or a Class 2 or greater felony under the Illinois
2 Controlled Substances Act or the Cannabis Control Act is a
3 Class 2 felony for which the person, if sentenced to a term of
4 imprisonment, shall be sentenced to not less than 3 years and
5 not more than 14 years. Violation of this Section by a person
6 who is on parole or mandatory supervised release is a Class 2
7 felony for which the person, if sentenced to a term of
8 imprisonment, shall be sentenced to not less than 3 years and
9 not more than 14 years. Violation of this Section by a person
10 not confined in a penal institution is a Class X felony when
11 the firearm possessed is a machine gun. Any person who violates
12 this Section while confined in a penal institution, which is a
13 facility of the Illinois Department of Corrections, is guilty
14 of a Class 1 felony, if he possesses any weapon prohibited
15 under Section 24-1 of this Code regardless of the intent with
16 which he possesses it, a Class X felony if he possesses any
17 firearm, firearm ammunition or explosive, and a Class X felony
18 for which the offender shall be sentenced to not less than 12
19 years and not more than 50 years when the firearm possessed is
20 a machine gun. A violation of this Section while wearing or in
21 possession of body armor as defined in Section 33F-1 is a Class
22 X felony.

23 (Source: P.A. 91-544, eff. 1-1-00.)

24 (720 ILCS 5/24-1.6)

25 Sec. 24-1.6. Aggravated unlawful use of a weapon.

26 (a) A person commits the offense of aggravated unlawful use
27 of a weapon when he or she knowingly:

28 (1) Carries on or about his or her person or in any
29 vehicle or concealed on or about his or her person except
30 when on his or her land or in his or her abode or fixed
31 place of business any pistol, revolver, stun gun or taser
32 or other firearm; or

33 (2) Carries or possesses on or about his or her person,
34 upon any public street, alley, or other public lands within
35 the corporate limits of a city, village or incorporated

1 town, except when an invitee thereon or therein, for the
2 purpose of the display of such weapon or the lawful
3 commerce in weapons, or except when on his or her own land
4 or in his or her own abode or fixed place of business, any
5 pistol, revolver, stun gun or taser or other firearm; and

6 (3) One of the following factors is present:

7 (A) the firearm possessed was uncased, loaded and
8 immediately accessible at the time of the offense; or

9 (B) the firearm possessed was uncased, unloaded
10 and the ammunition for the weapon was immediately
11 accessible at the time of the offense; or

12 (C) the person possessing the firearm has not been
13 issued a currently valid Firearm Owner's
14 Identification Card; or

15 (D) the person possessing the weapon was
16 previously adjudicated a delinquent minor under the
17 Juvenile Court Act of 1987 for an act that if committed
18 by an adult would be a felony; or

19 (E) the person possessing the weapon was engaged in
20 a misdemeanor violation of the Cannabis Control Act or
21 in a misdemeanor violation of the Illinois Controlled
22 Substances Act; or

23 (F) the person possessing the weapon is a member of
24 a street gang or is engaged in street gang related
25 activity, as defined in Section 10 of the Illinois
26 Streetgang Terrorism Omnibus Prevention Act; or

27 (G) the person possessing the weapon had a order of
28 protection issued against him or her within the
29 previous 2 years; or

30 (H) the person possessing the weapon was engaged in
31 the commission or attempted commission of a
32 misdemeanor involving the use or threat of violence
33 against the person or property of another; or

34 (I) the person possessing the weapon was under 21
35 years of age and in possession of a handgun as defined
36 in Section 24-3, unless the person under 21 is engaged

1 in lawful activities under the Wildlife Code or
2 described in subsection 24-2(b)(1), (b)(3), or
3 24-2(f).

4 (b) "Stun gun or taser" as used in this Section has the
5 same definition given to it in Section 24-1 of this Code.

6 (c) This Section does not apply to or affect the
7 transportation or possession of weapons that:

8 (i) are broken down in a non-functioning state; or

9 (ii) are not immediately accessible; or

10 (iii) are unloaded and enclosed in a case, firearm
11 carrying box, shipping box, or other container by a
12 person who has been issued a currently valid Firearm
13 Owner's Identification Card.

14 (d) Sentence. Aggravated unlawful use of a weapon is a
15 Class 4 felony; a second or subsequent offense is a Class 2
16 felony. Aggravated unlawful use of a weapon by a person who has
17 been previously convicted of a felony in this State or another
18 jurisdiction is a Class 2 felony. Aggravated unlawful use of a
19 weapon while wearing or in possession of body armor as defined
20 in Section 33F-1 is a Class X felony.

21 (Source: P.A. 91-690, eff. 4-13-00.)

22 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

23 Sec. 24-3. Unlawful Sale of Firearms.

24 (A) A person commits the offense of unlawful sale of
25 firearms when he or she knowingly does any of the following:

26 (a) Sells or gives any firearm of a size which may be
27 concealed upon the person to any person under 18 years of
28 age.

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

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

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

1 (e) Sells or gives any firearm to any person who has
2 been a patient in a mental hospital within the past 5
3 years.

4 (f) Sells or gives any firearms to any person who is
5 mentally retarded.

6 (g) Delivers any firearm of a size which may be
7 concealed upon the person, incidental to a sale, without
8 withholding delivery of such firearm for at least 72 hours
9 after application for its purchase has been made, or
10 delivers any rifle, shotgun or other long gun, incidental
11 to a sale, without withholding delivery of such rifle,
12 shotgun or other long gun for at least 24 hours after
13 application for its purchase has been made. However, this
14 paragraph (g) does not apply to: (1) the sale of a firearm
15 to a law enforcement officer or a person who desires to
16 purchase a firearm for use in promoting the public interest
17 incident to his or her employment as a bank guard, armed
18 truck guard, or other similar employment; (2) a mail order
19 sale of a firearm to a nonresident of Illinois under which
20 the firearm is mailed to a point outside the boundaries of
21 Illinois; (3) the sale of a firearm to a nonresident of
22 Illinois while at a firearm showing or display recognized
23 by the Illinois Department of State Police; or (4) the sale
24 of a firearm to a dealer licensed as a federal firearms
25 dealer under Section 923 of the federal Gun Control Act of
26 1968 (18 U.S.C. 923).

27 (h) While holding any license as a dealer, importer,
28 manufacturer or pawnbroker under the federal Gun Control
29 Act of 1968, manufactures, sells or delivers to any
30 unlicensed person a handgun having a barrel, slide, frame
31 or receiver which is a die casting of zinc alloy or any
32 other nonhomogeneous metal which will melt or deform at a
33 temperature of less than 800 degrees Fahrenheit. For
34 purposes of this paragraph, (1) "firearm" is defined as in
35 the Firearm Owners Identification Card Act; and (2)
36 "handgun" is defined as a firearm designed to be held and

1 fired by the use of a single hand, and includes a
2 combination of parts from which such a firearm can be
3 assembled.

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

7 (j) Sells or gives a firearm while engaged in the
8 business of selling firearms at wholesale or retail without
9 being licensed as a federal firearms dealer under Section
10 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
11 In this paragraph (j):

12 A person "engaged in the business" means a person who
13 devotes time, attention, and labor to engaging in the
14 activity as a regular course of trade or business with the
15 principal objective of livelihood and profit, but does not
16 include a person who makes occasional repairs of firearms
17 or who occasionally fits special barrels, stocks, or
18 trigger mechanisms to firearms.

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

28 (k) Sells or gives a firearm to a person who does not
29 display to the seller or transferor of the firearm a
30 currently valid Firearm Owner's Identification Card that
31 has previously been issued in the transferee's name by the
32 Department of State Police under the provisions of the
33 Firearm Owners Identification Card Act. This paragraph (k)
34 does not apply to the transfer of a firearm to a person who
35 is exempt from the requirement of possessing a Firearm
36 Owner's Identification Card under Section 2 of the Firearm

1 Owners Identification Card Act.

2 (B) Paragraph (h) of subsection (A) does not include
3 firearms sold within 6 months after enactment of Public Act
4 78-355 (approved August 21, 1973, effective October 1, 1973),
5 nor is any firearm legally owned or possessed by any citizen or
6 purchased by any citizen within 6 months after the enactment of
7 Public Act 78-355 subject to confiscation or seizure under the
8 provisions of that Public Act. Nothing in Public Act 78-355
9 shall be construed to prohibit the gift or trade of any firearm
10 if that firearm was legally held or acquired within 6 months
11 after the enactment of that Public Act.

12 (C) Sentence.

13 (1) Any person convicted of unlawful sale of firearms
14 in violation of any of paragraphs (c) through (h) of
15 subsection (A) commits a Class 4 felony.

16 (2) Any person convicted of unlawful sale of firearms
17 in violation of paragraph (b) or (i) of subsection (A)
18 commits a Class 3 felony.

19 (3) Any person convicted of unlawful sale of firearms
20 in violation of paragraph (a) of subsection (A) commits a
21 Class 2 felony.

22 (4) Any person convicted of unlawful sale of firearms
23 in violation of paragraph (a), (b), or (i) of subsection
24 (A) in any school, on the real property comprising a
25 school, within 1,000 feet of the real property comprising a
26 school, at a school related activity, or on or within 1,000
27 feet of any conveyance owned, leased, or contracted by a
28 school or school district to transport students to or from
29 school or a school related activity, regardless of the time
30 of day or time of year at which the offense was committed,
31 commits a Class 1 felony. Any person convicted of a second
32 or subsequent violation of unlawful sale of firearms in
33 violation of paragraph (a), (b), or (i) of subsection (A)
34 in any school, on the real property comprising a school,
35 within 1,000 feet of the real property comprising a school,
36 at a school related activity, or on or within 1,000 feet of

1 any conveyance owned, leased, or contracted by a school or
2 school district to transport students to or from school or
3 a school related activity, regardless of the time of day or
4 time of year at which the offense was committed, commits a
5 Class 1 felony for which the sentence shall be a term of
6 imprisonment of no less than 5 years and no more than 15
7 years.

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

24 (6) Any person convicted of unlawful sale of firearms
25 in violation of paragraph (j) of subsection (A) commits a
26 Class A misdemeanor. A second or subsequent violation is a
27 Class 4 felony.

28 (7) Any person convicted of unlawful sale of firearms
29 in violation of paragraph (k) of subsection (A) commits a
30 Class 4 felony. A third or subsequent conviction for a
31 violation of paragraph (k) of subsection (A) is a Class 1
32 felony.

33 (D) For purposes of this Section:

34 "School" means a public or private elementary or secondary
35 school, community college, college, or university.

36 "School related activity" means any sporting, social,

1 academic, or other activity for which students' attendance or
2 participation is sponsored, organized, or funded in whole or in
3 part by a school or school district.

4 (Source: P.A. 93-162, eff. 7-10-03.)

5 (720 ILCS 5/24-3A)

6 Sec. 24-3A. Gunrunning.

7 (a) A person commits gunrunning when he or she transfers 3
8 or more firearms in violation of any of the paragraphs of
9 Section 24-3 of this Code.

10 (b) Sentence. A person who commits gunrunning:

11 (1) is guilty of a Class 1 felony if the transfer is of
12 not less than 3 firearms and not more than 10 firearms;

13 (2) is guilty of a Class X felony for which the
14 sentence shall be a term of imprisonment of not less 8
15 years and not more than 40 years if the transfer is of not
16 less than 11 firearms and not more than 20 firearms;

17 (3) is guilty of a Class X felony for which the
18 sentence shall be a term of imprisonment of not less than
19 10 years and not more than 50 years if the transfer is of
20 more than 20 firearms.

21 A person who commits gunrunning by transferring firearms to a
22 person who, at the time of the commission of the offense, is
23 under 18 years of age is guilty of a Class X felony.

24 (Source: P.A. 91-13, eff. 1-1-00; 91-696, eff. 4-13-00.)

25 (720 ILCS 5/Art. 24-3B heading new)

26 ARTICLE 24-3B. GUNRUNNING; FORFEITURE

27 (720 ILCS 5/24-3B.5 new)

28 Sec. 24-3B.5. Legislative declaration. The General
29 Assembly finds that the forfeiture of real property that is
30 used or intended to be used in connection with the offense of
31 gunrunning will have a significant beneficial effect in
32 detering the rising incidence of those activities within this
33 State, as well as other crimes that frequently occur in

1 partnership with gunrunning.

2 (720 ILCS 5/24-3B.10 new)

3 Sec. 24-3B.10. Applicability. A person who commits the
4 offense of gunrunning under Section 24-3A of this Code shall
5 forfeit (i) any moneys, profits, or proceeds the person
6 acquired in whole or in part, as a result of committing the
7 violation and (ii) any real property or interest in real
8 property that the sentencing court determines the person
9 acquired in whole or in part, as a result of committing the
10 violation or the person maintained or used in whole or in part,
11 to facilitate, directly or indirectly, the commission of the
12 violation. The person shall forfeit any interest in,
13 securities, or claim against, or contractual right of any kind
14 that affords the person a source of influence over, any
15 enterprise that the person has established, operated,
16 controlled, conducted, or participated in conducting if the
17 person's relations to or connection with the interest,
18 security, or claim, or contractual right, directly or
19 indirectly, in whole or in part, is traceable to any thing or
20 benefit that the person has obtained or acquired as a result of
21 a violation of Section 24-3A of this Code.

22 (720 ILCS 5/24-3B.15 new)

23 Sec. 24-3B.15. Real property forfeiture.

24 (a) Following the arrest of a person or persons for the
25 offense of gunrunning under Section 24-3A of this Code, the
26 State's Attorney of the county in which it occurred or the
27 Attorney General may seek forfeiture of the real property
28 associated with the offense, whether the real property belongs
29 to the person committing the offense of gunrunning under
30 Section 24-3A of this Code or to any other person participating
31 in gunrunning who is related to the organization and operation
32 of the activity or to any person who knowingly allowed the
33 activities to occur on his or her premises.

34 (b) Real property includes any land, home, house,

1 apartment, building, garage, site, structure, or facility,
2 whether enclosed or not, and any part or section of any land,
3 home, house, apartment, building, garage, site, structure, or
4 facility and any right title, or interest in the whole of any
5 lot or tract of land and any appurtenances or improvements on
6 the land. Real property includes, but is not limited to, any
7 leasehold or possessory interest or beneficial interest in a
8 land trust.

9 (720 ILCS 5/24-3B.20 new)

10 Sec. 24-3B.20. Procedure. Proceedings instituted under
11 this Article shall be subject to and conducted in accordance
12 with the procedures set forth in this Section.

13 (a) Notice to owner or interest holder. Whenever notice of
14 pending forfeiture or service of a lis pendens is required
15 under the provisions of this Article, the notice or service
16 shall be given as follows:

17 (1) If the owner's or interest holder's name and
18 current address are known, then by either personal service
19 or mailing a copy of the notice by certified mail, return
20 receipt requested, to that address. For purposes of notice
21 under this Section if a person has been arrested for the
22 conduct giving rise to the forfeiture, then the address
23 provided to the arresting agency at the time of arrest
24 shall be deemed to be that person's known address.
25 Provided, however, if an owner or interest holder's address
26 changes prior to the effective date of the notice of
27 pending forfeitures, the owner or interest holder shall
28 promptly notify the seizing agency of the change in address
29 or, if the owner or interest holder's address changes
30 subsequent to the effective date of the notice of pending
31 forfeitures, the owner or interest holder shall promptly
32 notify the State's Attorney or Attorney General of the
33 change in address; or

34 (2) If the owner's or interest holder's address is not
35 known, and is not on record as provided in paragraph (1),

1 then by publication for 3 successive weeks in a newspaper
2 of general circulation in the county in which the seizure
3 occurred; or

4 (3) Notice served under this Article is effective upon
5 personal service, the last date of publication, or the
6 mailing of written notice, whichever is earlier.

7 (b) Probable cause hearing. In an action brought by the
8 People of the State of Illinois under this Section, in which a
9 restraining order, injunction, prohibition, lis pendens, or
10 other action in connection with any property or interest
11 subject to forfeiture under this Article is sought, the circuit
12 court presiding over the trial of the person charged with
13 gunrunning under Section 24-3A of this Code shall first
14 determine whether there is probable cause to believe that the
15 person so charged has committed the offense of gunrunning under
16 Section 24-3A of this Code and whether the property or
17 interest, is subject to forfeiture under this Article. To make
18 that determination before entering an order in connection with
19 that property or interest, the court shall conduct a hearing
20 without a jury, at which the People must establish that there
21 is: (i) probable cause that the person charged committed the
22 offense of gunrunning under Section 24-3A of this Code and (ii)
23 probable cause that the property or interest may be subject to
24 forfeiture under this Article. The hearing may be conducted
25 simultaneously with a preliminary hearing, if the prosecution
26 is commenced by information or complaint, or by motion of the
27 People at any stage in the proceedings. The court may accept,
28 at a preliminary hearing, (i) the filing of an information
29 charging that the defendant committed the offense of gunrunning
30 under Section 24-3A of this Code or (ii) the return of an
31 indictment by a grand jury charging that the defendant
32 committed the offense of gunrunning under Section 24-3A of this
33 Code as sufficient evidence of probable cause that the person
34 committed the offense.

35 (1) Upon making a finding of probable cause, the
36 circuit court shall enter a restraining order, injunction,

1 lis pendens, or prohibition or shall take other action in
2 connection with the property or other interest subject to
3 forfeiture under this Article as is necessary to insure
4 that the property is not removed from the jurisdiction of
5 the court, concealed, destroyed, or otherwise disposed of
6 by the owner of that property or interest before a
7 forfeiture hearing under this Article. The State's
8 Attorney shall file a certified copy of the restraining
9 order, injunction, or other prohibition with the recorder
10 or registrar of title of each county in which the property
11 may be located. An injunction, restraining order, or other
12 prohibition issued under this Section does not affect the
13 rights of any bonafide purchaser, mortgagee, judgment
14 creditor, or other lien holder that arose before the date
15 the certified copy is filed.

16 (2) The court may at any time, on verified petition by
17 the defendant, conduct a hearing to determine whether all
18 or any portion of the property or interest, which the court
19 previously determined to be subject to forfeiture or
20 subject to any restraining order, injunction, lis pendens,
21 prohibition, or other action, should be released. The court
22 may in its discretion release the property to the defendant
23 for good cause shown.

24 (720 ILCS 5/24-3B.25 new)

25 Sec. 24-3B.25. Forfeiture hearing. If real property is
26 subject to seizure for violations under Section 24-3A of this
27 Code, upon conviction, the State's Attorney or Attorney General
28 may commence an action by petition in the sentencing court
29 anytime following sentencing of the defendant. The sentencing
30 court shall conduct a hearing to determine whether any property
31 or property interest of the defendant, profits, or proceeds is
32 subject to forfeiture under this Article. At the forfeiture
33 hearing the People have the burden of establishing, by a
34 preponderance of the evidence, that the property or property
35 interest is subject to forfeiture.

1 (1) All property declared forfeited under this Article
2 vests in this State on the date of the commission of the
3 conduct giving rise to forfeiture together with the
4 proceeds of the property after that time. Any such property
5 or proceeds subsequently transferred to any person remain
6 subject to forfeiture and thereafter shall be ordered
7 forfeited unless the transferee claims and establishes in a
8 hearing under the provisions of this Article that the
9 transferee's interest is exempt.

10 (2) If the State does not show by a preponderance of
11 the evidence or a claimant has established by preponderance
12 of evidence that the claimant has an interest that is
13 exempt under this Article, the court shall order the
14 interest in the property returned or conveyed to the
15 claimant and shall order all other property forfeited to
16 the State. If the State does show by a preponderance of the
17 evidence that the property interest is subject to
18 forfeiture, and the claimant does not establish by a
19 preponderance of evidence that the claimant has an interest
20 that is exempt under this Article, the court shall order
21 all real property forfeited to the State.

22 (3) A defendant convicted in any criminal proceeding is
23 precluded from later denying the essential allegations of
24 the criminal offense of which the defendant was convicted
25 in any proceeding under this Article regardless of the
26 pendency of an appeal from that conviction. However,
27 evidence of the pendency of an appeal is admissible.

28 (720 ILCS 5/24-3B.30 new)

29 Sec. 24-3B.30. Exemption from forfeiture.

30 (a) A property interest is exempt from forfeiture under
31 this Article if its owner or interest holder establishes by a
32 preponderance of evidence that the owner or interest holder:

33 (1) in the case of real property is not legally
34 accountable for the conduct giving rise to the forfeiture,
35 or did not solicit, conspire, or attempt to commit the

1 conduct giving rise to the forfeiture; and

2 (2) had not acquired and did not stand to acquire
3 proceeds from the conduct giving rise to its forfeiture
4 other than as an interest holder in an arms length
5 commercial transaction; and

6 (3) does not hold the property for the benefit of or as
7 a nominee for any person whose conduct gave rise to its
8 forfeiture, and, if the owner or interest holder acquired
9 the interest through any such person, the owner or interest
10 holder acquired it as a bona fide purchaser for value
11 without knowingly taking part in the conduct giving rise to
12 the forfeiture; and

13 (4) that the owner or interest holder acquired the
14 interest:

15 (i) before the commencement of the conduct giving
16 rise to its forfeiture and the person whose conduct
17 gave rise to its forfeiture did not have the authority
18 to convey the interest to a bona fide purchaser for
19 value at the time of the conduct; or

20 (ii) after the commencement of the conduct giving
21 rise to its forfeiture, and the owner or interest
22 holder acquired the interest as a mortgagee, secured
23 creditor, lienholder, or bona fide purchaser for value
24 without knowledge of the conduct which gave rise to the
25 forfeiture; and

26 (iii) in the case of real estate, before the filing
27 in the office of the recorder of the county in which
28 the real estate is located of a notice of a lis pendens
29 notice.

30 (5) (A) With respect to a property interest in existence
31 at the time the illegal conduct giving rise to the
32 forfeiture took place,

33 (i) did not know of the conduct giving rise to
34 forfeiture; or

35 (ii) upon learning of the conduct giving rise to
36 the forfeiture, did all that reasonably could be

1 expected under the circumstances to terminate such use
2 of the property.

3 (B) (i) For the purposes of this paragraph (5), ways in
4 which a person may show that he or she did all that
5 reasonably could be expected may include demonstrating
6 that he or she, to the extent permitted by law:

7 (I) gave timely notice to an appropriate law
8 enforcement agency of information that led the person
9 to know the conduct giving rise to a forfeiture would
10 occur or has occurred; and

11 (II) in a timely fashion revoked or made a good
12 faith attempt to revoke permission for those engaging
13 in such conduct to use the property or took reasonable
14 actions in consultation with a law enforcement agency
15 to discourage or prevent the illegal use of the
16 property.

17 (ii) A person is not required by this subparagraph to
18 take steps that the person reasonably believes would be
19 likely to subject any person (other than the person whose
20 conduct gave rise to the forfeiture) to physical danger.

21 (b) If the court determines, in accordance with this
22 Section, that an innocent owner has a partial interest in
23 property otherwise subject to forfeiture, or a joint tenancy or
24 tenancy by the entirety in that property, the court may enter
25 an appropriate order:

26 (1) severing the property;

27 (2) transferring the property to the State with a
28 provision that the State compensate the innocent owner to
29 the extent of his or her ownership interest once a final
30 order of forfeiture has been entered and the property has
31 been reduced to liquid assets; or

32 (3) permitting the innocent owner to retain the
33 property subject to a lien in favor of the State to the
34 extent of the forfeitable interest in the property.

35 (c) In this Section, the term "owner":

36 (1) means a person with an ownership interest in the

1 specific property sought to be forfeited, including a
2 leasehold, lien, mortgage, recorded security interest, or
3 valid assignment of an ownership interest; and

4 (2) does not include:

5 (i) a person with only a general unsecured
6 interest in, or claim against, the property or estate
7 of another;

8 (ii) a bailee unless the bailor is identified and
9 the bailee shows a colorable legitimate interest in the
10 property seized; or

11 (iii) a nominee who exercises no dominion or
12 control over the property.

13 (720 ILCS 5/24-3B.35 new)

14 Sec. 24-3B.35. Settlement of claims. Notwithstanding other
15 provisions of this Article, the State's Attorney and a claimant
16 of seized property may enter into an agreed upon settlement
17 concerning the property subject to forfeiture in such an amount
18 and upon such terms as are set out in writing in a settlement
19 agreement.

20 (720 ILCS 5/24-3B.40 new)

21 Sec. 24-3B.40. Judicial review. If property has been
22 declared forfeited under this Article, any person who has an
23 interest in the property declared forfeited may, within 30 days
24 of the effective date of the notice of the declaration of
25 forfeiture, file a claim and cost bond and apply to the court
26 for reconsideration based upon his or her interest in the
27 property.

28 (720 ILCS 5/24-3B.45 new)

29 Sec. 24-3B.45. Disposal of property. Real property taken or
30 detained under this Section is not subject to replevin, but is
31 deemed to be in the custody of the Director of State Police
32 subject only to the order and judgments of the circuit court
33 having jurisdiction over the forfeiture proceedings and the

1 decisions of the State's Attorney or Attorney General under
2 this Article.

3 (1) When property is forfeited under this Article, the
4 Director of State Police shall sell all such property and
5 shall distribute the proceeds of the sale, together with
6 any moneys forfeited or seized in accordance with paragraph
7 (2).

8 (2) All monies and the sale proceeds of all other
9 property forfeited and seized under this Article shall be
10 distributed as follows:

11 (A) 65% shall be distributed to the local,
12 municipal, county, or State law enforcement agency or
13 agencies that conducted or participated in the
14 investigation resulting in the forfeiture. The
15 distributions shall bear a reasonable relationship to
16 the degree of direct participation of the law
17 enforcement agency in the effort resulting in the
18 forfeiture, taking into account the total value of the
19 property forfeited and the total law enforcement
20 effort with respect to the violation of the law upon
21 which the forfeiture is based.

22 (B) 12.5% shall be distributed to the Office of the
23 State's Attorney of the county in which the prosecution
24 resulting in the forfeiture was instituted for use in
25 the enforcement of laws, including gunrunning.

26 (C) 12.5% shall be distributed to the Illinois
27 Department of State Police for use of expenses incurred
28 in the investigation, prosecution, and appeal of cases
29 arising under laws governing gunrunning.

30 (D) 10% shall be retained by the Department of
31 State Police for expenses related to the
32 administration and sale of seized and forfeited
33 property.

34 Section 99. Effective date. This Act takes effect upon
35 becoming law.