

HB0716



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0716

Introduced 02/01/05, by Rep. Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 1961 unlawful sale of firearms provisions. Defines "application" for purposes of determining the waiting period for purchasing firearms. Effective immediately.

LRB094 06112 RLC 36175 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 1961 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 of Firearms.

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

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

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

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

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

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

23 (f) Sells or gives any firearms to any person who is
24 mentally retarded.

25 (g) Delivers any firearm of a size which may be
26 concealed upon the person, incidental to a sale, without
27 withholding delivery of such firearm for at least 72 hours
28 after application for its purchase has been made, or
29 delivers any rifle, shotgun or other long gun, incidental
30 to a sale, without withholding delivery of such rifle,
31 shotgun or other long gun for at least 24 hours after
32 application for its purchase has been made. However, this

1 paragraph (g) does not apply to: (1) the sale of a firearm
2 to a law enforcement officer or a person who desires to
3 purchase a firearm for use in promoting the public interest
4 incident to his or her employment as a bank guard, armed
5 truck guard, or other similar employment; (2) a mail order
6 sale of a firearm to a nonresident of Illinois under which
7 the firearm is mailed to a point 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; or (4) the sale
11 of a firearm to a dealer licensed as a federal firearms
12 dealer under Section 923 of the federal Gun Control Act of
13 1968 (18 U.S.C. 923). For purposes of this paragraph (g),
14 "application" means when the buyer and seller reach an
15 agreement to purchase a firearm.

16 (h) While holding any license as a dealer, importer,
17 manufacturer or pawnbroker under the federal Gun Control
18 Act of 1968, manufactures, sells or delivers to any
19 unlicensed person a handgun having a barrel, slide, frame
20 or receiver which is a die casting of zinc alloy or any
21 other nonhomogeneous metal which will melt or deform at a
22 temperature of less than 800 degrees Fahrenheit. For
23 purposes of this paragraph, (1) "firearm" is defined as in
24 the Firearm Owners Identification Card Act; and (2)
25 "handgun" is defined as a firearm designed to be held and
26 fired by the use of a single hand, and includes a
27 combination of parts from which such a firearm can be
28 assembled.

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

32 (j) Sells or gives a firearm while engaged in the
33 business of selling firearms at wholesale or retail without
34 being licensed as a federal firearms dealer under Section
35 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
36 In this paragraph (j):

1 A person "engaged in the business" means a person who
2 devotes time, attention, and labor to engaging in the
3 activity as a regular course of trade or business with the
4 principal objective of livelihood and profit, but does not
5 include a person who makes occasional repairs of firearms
6 or who occasionally fits special barrels, stocks, or
7 trigger mechanisms to firearms.

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

17 (k) Sells or transfers ownership of a firearm to a
18 person who does not display to the seller or transferor of
19 the firearm a currently valid Firearm Owner's
20 Identification Card that has previously been issued in the
21 transferee's name by the Department of State Police under
22 the provisions of the Firearm Owners Identification Card
23 Act. This paragraph (k) does not apply to the transfer of a
24 firearm to a person who is exempt from the requirement of
25 possessing a Firearm Owner's Identification Card under
26 Section 2 of the Firearm Owners Identification Card Act.
27 For the purposes of this Section, a currently valid Firearm
28 Owner's Identification Card means (i) a Firearm Owner's
29 Identification Card that has not expired or (ii) if the
30 transferor is licensed as a federal firearms dealer under
31 Section 923 of the federal Gun Control Act of 1968 (18
32 U.S.C. 923), an approval number issued in accordance with
33 Section 3.1 of the Firearm Owners Identification Card Act
34 shall be proof that the Firearm Owner's Identification Card
35 was valid.

36 (B) Paragraph (h) of subsection (A) does not include

1 firearms sold within 6 months after enactment of Public Act
2 78-355 (approved August 21, 1973, effective October 1, 1973),
3 nor is any firearm legally owned or possessed by any citizen or
4 purchased by any citizen within 6 months after the enactment of
5 Public Act 78-355 subject to confiscation or seizure under the
6 provisions of that Public Act. Nothing in Public Act 78-355
7 shall be construed to prohibit the gift or trade of any firearm
8 if that firearm was legally held or acquired within 6 months
9 after the enactment of that Public Act.

10 (C) Sentence.

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

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

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

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

1 a school related activity, regardless of the time of day or
2 time of year at which the offense was committed, commits a
3 Class 1 felony for which the sentence shall be a term of
4 imprisonment of no less than 5 years and no more than 15
5 years.

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

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

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

31 (D) For purposes of this Section:

32 "School" means a public or private elementary or secondary
33 school, community college, college, or university.

34 "School related activity" means any sporting, social,
35 academic, or other activity for which students' attendance or
36 participation is sponsored, organized, or funded in whole or in

1 part by a school or school district.

2 (E) A prosecution for a violation of paragraph (k) of
3 subsection (A) of this Section may be commenced within 6 years
4 after the commission of the offense. A prosecution for a
5 violation of this Section other than paragraph (g) of
6 subsection (A) of this Section may be commenced within 5 years
7 after the commission of the offense defined in the particular
8 paragraph.

9 (Source: P.A. 93-162, eff. 7-10-03; 93-906, eff. 8-11-04.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.