



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2646

Introduced 1/21/2014, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

430 ILCS 65/4
430 ILCS 65/8

from Ch. 38, par. 83-4
from Ch. 38, par. 83-8

Amends the Firearm Owners Identification Card Act. Provides that the Department of State Police has authority to deny an application for or to revoke and seize a Firearm Owner's Identification Card previously issued under the Act if the Department finds that the applicant or the person to whom the card was issued is or was at the time of issuance not covered by a policy of liability insurance in the amount of at least \$100,000 specifically covering any damages resulting from negligent or willful acts involving the use of a firearm while owned or carried by the person. Provides that a person shall be deemed the owner of a firearm after the firearm is lost or stolen until the loss or theft is reported to the police department or sheriff of the jurisdiction in which the owner resides.

LRB098 15964 RLC 51014 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Sections 4 and 8 as follows:

6 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

7 Sec. 4. (a) Each applicant for a Firearm Owner's
8 Identification Card must:

9 (1) Make application on blank forms prepared and
10 furnished at convenient locations throughout the State by
11 the Department of State Police, or by electronic means, if
12 and when made available by the Department of State Police;
13 and

14 (2) Submit evidence to the Department of State Police
15 that:

16 (i) He or she is 21 years of age or over, or if he
17 or she is under 21 years of age that he or she has the
18 written consent of his or her parent or legal guardian
19 to possess and acquire firearms and firearm ammunition
20 and that he or she has never been convicted of a
21 misdemeanor other than a traffic offense or adjudged
22 delinquent, provided, however, that such parent or
23 legal guardian is not an individual prohibited from

1 having a Firearm Owner's Identification Card and files
2 an affidavit with the Department as prescribed by the
3 Department stating that he or she is not an individual
4 prohibited from having a Card;

5 (ii) He or she has not been convicted of a felony
6 under the laws of this or any other jurisdiction;

7 (iii) He or she is not addicted to narcotics;

8 (iv) He or she has not been a patient in a mental
9 health facility within the past 5 years or, if he or
10 she has been a patient in a mental health facility more
11 than 5 years ago submit the certification required
12 under subsection (u) of Section 8 of this Act;

13 (v) He or she is not intellectually disabled;

14 (vi) He or she is not an alien who is unlawfully
15 present in the United States under the laws of the
16 United States;

17 (vii) He or she is not subject to an existing order
18 of protection prohibiting him or her from possessing a
19 firearm;

20 (viii) He or she has not been convicted within the
21 past 5 years of battery, assault, aggravated assault,
22 violation of an order of protection, or a substantially
23 similar offense in another jurisdiction, in which a
24 firearm was used or possessed;

25 (ix) He or she has not been convicted of domestic
26 battery, aggravated domestic battery, or a

1 substantially similar offense in another jurisdiction
2 committed before, on or after January 1, 2012 (the
3 effective date of Public Act 97-158). If the applicant
4 knowingly and intelligently waives the right to have an
5 offense described in this clause (ix) tried by a jury,
6 and by guilty plea or otherwise, results in a
7 conviction for an offense in which a domestic
8 relationship is not a required element of the offense
9 but in which a determination of the applicability of 18
10 U.S.C. 922(g)(9) is made under Section 112A-11.1 of the
11 Code of Criminal Procedure of 1963, an entry by the
12 court of a judgment of conviction for that offense
13 shall be grounds for denying the issuance of a Firearm
14 Owner's Identification Card under this Section;

15 (x) (Blank);

16 (xi) He or she is not an alien who has been
17 admitted to the United States under a non-immigrant
18 visa (as that term is defined in Section 101(a)(26) of
19 the Immigration and Nationality Act (8 U.S.C.
20 1101(a)(26))), or that he or she is an alien who has
21 been lawfully admitted to the United States under a
22 non-immigrant visa if that alien is:

23 (1) admitted to the United States for lawful
24 hunting or sporting purposes;

25 (2) an official representative of a foreign
26 government who is:

1 (A) accredited to the United States
2 Government or the Government's mission to an
3 international organization having its
4 headquarters in the United States; or

5 (B) en route to or from another country to
6 which that alien is accredited;

7 (3) an official of a foreign government or
8 distinguished foreign visitor who has been so
9 designated by the Department of State;

10 (4) a foreign law enforcement officer of a
11 friendly foreign government entering the United
12 States on official business; or

13 (5) one who has received a waiver from the
14 Attorney General of the United States pursuant to
15 18 U.S.C. 922(y)(3);

16 (xii) He or she is not a minor subject to a
17 petition filed under Section 5-520 of the Juvenile
18 Court Act of 1987 alleging that the minor is a
19 delinquent minor for the commission of an offense that
20 if committed by an adult would be a felony;

21 (xiii) He or she is not an adult who had been
22 adjudicated a delinquent minor under the Juvenile
23 Court Act of 1987 for the commission of an offense that
24 if committed by an adult would be a felony;

25 (xiv) He or she is a resident of the State of
26 Illinois;

1 (xv) He or she has not been adjudicated as a
2 mentally disabled person;

3 (xvi) He or she has not been involuntarily admitted
4 into a mental health facility; ~~and~~

5 (xvii) He or she is not developmentally disabled;
6 and

7 (xviii) He or she has been issued a policy of
8 liability insurance in the amount of at least \$100,000
9 specifically covering any damages resulting from
10 negligent or willful acts involving the use of a
11 firearm while owned or carried by the person. For the
12 purposes of this clause (xviii), a person shall be
13 deemed the owner of a firearm after the firearm is lost
14 or stolen until the loss or theft is reported to the
15 police department or sheriff of the jurisdiction in
16 which the owner resides; and

17 (3) Upon request by the Department of State Police,
18 sign a release on a form prescribed by the Department of
19 State Police waiving any right to confidentiality and
20 requesting the disclosure to the Department of State Police
21 of limited mental health institution admission information
22 from another state, the District of Columbia, any other
23 territory of the United States, or a foreign nation
24 concerning the applicant for the sole purpose of
25 determining whether the applicant is or was a patient in a
26 mental health institution and disqualified because of that

1 status from receiving a Firearm Owner's Identification
2 Card. No mental health care or treatment records may be
3 requested. The information received shall be destroyed
4 within one year of receipt.

5 (a-5) Each applicant for a Firearm Owner's Identification
6 Card who is over the age of 18 shall furnish to the Department
7 of State Police either his or her Illinois driver's license
8 number or Illinois Identification Card number, except as
9 provided in subsection (a-10).

10 (a-10) Each applicant for a Firearm Owner's Identification
11 Card, who is employed as a law enforcement officer, an armed
12 security officer in Illinois, or by the United States Military
13 permanently assigned in Illinois and who is not an Illinois
14 resident, shall furnish to the Department of State Police his
15 or her driver's license number or state identification card
16 number from his or her state of residence. The Department of
17 State Police may adopt rules to enforce the provisions of this
18 subsection (a-10).

19 (a-15) If an applicant applying for a Firearm Owner's
20 Identification Card moves from the residence address named in
21 the application, he or she shall immediately notify in a form
22 and manner prescribed by the Department of State Police of that
23 change of address.

24 (a-20) Each applicant for a Firearm Owner's Identification
25 Card shall furnish to the Department of State Police his or her
26 photograph. An applicant who is 21 years of age or older

1 seeking a religious exemption to the photograph requirement
2 must furnish with the application an approved copy of United
3 States Department of the Treasury Internal Revenue Service Form
4 4029. In lieu of a photograph, an applicant regardless of age
5 seeking a religious exemption to the photograph requirement
6 shall submit fingerprints on a form and manner prescribed by
7 the Department with his or her application.

8 (b) Each application form shall include the following
9 statement printed in bold type: "Warning: Entering false
10 information on an application for a Firearm Owner's
11 Identification Card is punishable as a Class 2 felony in
12 accordance with subsection (d-5) of Section 14 of the Firearm
13 Owners Identification Card Act."

14 (c) Upon such written consent, pursuant to Section 4,
15 paragraph (a)(2)(i), the parent or legal guardian giving the
16 consent shall be liable for any damages resulting from the
17 applicant's use of firearms or firearm ammunition.

18 (Source: P.A. 97-158, eff. 1-1-12; 97-227, eff. 1-1-12; 97-813,
19 eff. 7-13-12; 97-1131, eff. 1-1-13; 97-1167, eff. 6-1-13;
20 98-63, eff. 7-9-13.)

21 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

22 Sec. 8. Grounds for denial and revocation. The Department
23 of State Police has authority to deny an application for or to
24 revoke and seize a Firearm Owner's Identification Card
25 previously issued under this Act only if the Department finds

1 that the applicant or the person to whom such card was issued
2 is or was at the time of issuance:

3 (a) A person under 21 years of age who has been
4 convicted of a misdemeanor other than a traffic offense or
5 adjudged delinquent;

6 (b) A person under 21 years of age who does not have
7 the written consent of his parent or guardian to acquire
8 and possess firearms and firearm ammunition, or whose
9 parent or guardian has revoked such written consent, or
10 where such parent or guardian does not qualify to have a
11 Firearm Owner's Identification Card;

12 (c) A person convicted of a felony under the laws of
13 this or any other jurisdiction;

14 (d) A person addicted to narcotics;

15 (e) A person who has been a patient of a mental health
16 facility within the past 5 years or a person who has been a
17 patient in a mental health facility more than 5 years ago
18 who has not received the certification required under
19 subsection (u) of this Section. An active law enforcement
20 officer employed by a unit of government who is denied,
21 revoked, or has his or her Firearm Owner's Identification
22 Card seized under this subsection (e) may obtain relief as
23 described in subsection (c-5) of Section 10 of this Act if
24 the officer did not act in a manner threatening to the
25 officer, another person, or the public as determined by the
26 treating clinical psychologist or physician, and the

1 officer seeks mental health treatment;

2 (f) A person whose mental condition is of such a nature
3 that it poses a clear and present danger to the applicant,
4 any other person or persons or the community;

5 (g) A person who is intellectually disabled;

6 (h) A person who intentionally makes a false statement
7 in the Firearm Owner's Identification Card application;

8 (i) An alien who is unlawfully present in the United
9 States under the laws of the United States;

10 (i-5) An alien who has been admitted to the United
11 States under a non-immigrant visa (as that term is defined
12 in Section 101(a)(26) of the Immigration and Nationality
13 Act (8 U.S.C. 1101(a)(26))), except that this subsection
14 (i-5) does not apply to any alien who has been lawfully
15 admitted to the United States under a non-immigrant visa if
16 that alien is:

17 (1) admitted to the United States for lawful
18 hunting or sporting purposes;

19 (2) an official representative of a foreign
20 government who is:

21 (A) accredited to the United States Government
22 or the Government's mission to an international
23 organization having its headquarters in the United
24 States; or

25 (B) en route to or from another country to
26 which that alien is accredited;

1 (3) an official of a foreign government or
2 distinguished foreign visitor who has been so
3 designated by the Department of State;

4 (4) a foreign law enforcement officer of a friendly
5 foreign government entering the United States on
6 official business; or

7 (5) one who has received a waiver from the Attorney
8 General of the United States pursuant to 18 U.S.C.
9 922(y) (3);

10 (j) (Blank);

11 (k) A person who has been convicted within the past 5
12 years of battery, assault, aggravated assault, violation
13 of an order of protection, or a substantially similar
14 offense in another jurisdiction, in which a firearm was
15 used or possessed;

16 (l) A person who has been convicted of domestic
17 battery, aggravated domestic battery, or a substantially
18 similar offense in another jurisdiction committed before,
19 on or after January 1, 2012 (the effective date of Public
20 Act 97-158). If the applicant or person who has been
21 previously issued a Firearm Owner's Identification Card
22 under this Act knowingly and intelligently waives the right
23 to have an offense described in this paragraph (l) tried by
24 a jury, and by guilty plea or otherwise, results in a
25 conviction for an offense in which a domestic relationship
26 is not a required element of the offense but in which a

1 determination of the applicability of 18 U.S.C. 922(g) (9)
2 is made under Section 112A-11.1 of the Code of Criminal
3 Procedure of 1963, an entry by the court of a judgment of
4 conviction for that offense shall be grounds for denying an
5 application for and for revoking and seizing a Firearm
6 Owner's Identification Card previously issued to the
7 person under this Act;

8 (m) (Blank);

9 (n) A person who is prohibited from acquiring or
10 possessing firearms or firearm ammunition by any Illinois
11 State statute or by federal law;

12 (o) A minor subject to a petition filed under Section
13 5-520 of the Juvenile Court Act of 1987 alleging that the
14 minor is a delinquent minor for the commission of an
15 offense that if committed by an adult would be a felony;

16 (p) An adult who had been adjudicated a delinquent
17 minor under the Juvenile Court Act of 1987 for the
18 commission of an offense that if committed by an adult
19 would be a felony;

20 (q) A person who is not a resident of the State of
21 Illinois, except as provided in subsection (a-10) of
22 Section 4;

23 (r) A person who has been adjudicated as a mentally
24 disabled person;

25 (s) A person who has been found to be developmentally
26 disabled;

1 (t) A person involuntarily admitted into a mental
2 health facility;

3 (u) A person who has had his or her Firearm Owner's
4 Identification Card revoked or denied under subsection (e)
5 of this Section or item (iv) of paragraph (2) of subsection
6 (a) of Section 4 of this Act because he or she was a
7 patient in a mental health facility as provided in ~~item (2)~~
8 ~~of~~ subsection (e) of this Section, shall not be permitted
9 to obtain a Firearm Owner's Identification Card, after the
10 5-year ~~5-year~~ period has lapsed, unless he or she has
11 received a mental health evaluation by a physician,
12 clinical psychologist, or qualified examiner as those
13 terms are defined in the Mental Health and Developmental
14 Disabilities Code, and has received a certification that he
15 or she is not a clear and present danger to himself,
16 herself, or others. The physician, clinical psychologist,
17 or qualified examiner making the certification and his or
18 her employer shall not be held criminally, civilly, or
19 professionally liable for making or not making the
20 certification required under this subsection, except for
21 willful or wanton misconduct. This subsection does not
22 apply to a person whose firearm possession rights have been
23 restored through administrative or judicial action under
24 Section 10 or 11 of this Act; or

25 (v) A person who has not been issued a policy of
26 liability insurance in the amount of at least \$100,000

1 specifically covering any damages resulting from negligent
2 or willful acts involving the use of a firearm while owned
3 or carried by the person or whose liability insurance has
4 been cancelled, not renewed, or revoked. For the purposes
5 of this subsection (v), a person shall be deemed the owner
6 of a firearm after the firearm is lost or stolen until the
7 loss or theft is reported to the police department or
8 sheriff of the jurisdiction in which the owner resides.

9 ~~(v)~~ Upon revocation of a person's Firearm Owner's
10 Identification Card, the Department of State Police shall
11 provide notice to the person and the person shall comply with
12 Section 9.5 of this Act.

13 (Source: P.A. 97-158, eff. 1-1-12; 97-227, eff. 1-1-12; 97-813,
14 eff. 7-13-12; 97-1131, eff. 1-1-13; 97-1167, eff. 6-1-13;
15 98-63, eff. 7-9-13; 98-508, eff. 8-19-13; revised 9-24-13.)