



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0482

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

430 ILCS 65/3
720 ILCS 5/24-3

from Ch. 38, par. 83-3
from Ch. 38, par. 24-3

Amends the Firearm Owners Identification Card Act and the Criminal Code of 2012. Provides that a person may purchase a firearm or ammunition for a firearm by displaying to the transferor a currently valid license to carry a concealed firearm which has previously been issued in his or her name by the Department of State Police under the Firearm Concealed Carry Act.

LRB099 03735 RLC 23747 b

1 AN ACT concerning firearms.

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 Section 3 as follows:

6 (430 ILCS 65/3) (from Ch. 38, par. 83-3)

7 Sec. 3. (a) Except as provided in Section 3a, no person may
8 knowingly transfer, or cause to be transferred, any firearm,
9 firearm ammunition, stun gun, or taser to any person within
10 this State unless the transferee with whom he deals displays
11 either: (1) a currently valid Firearm Owner's Identification
12 Card which has previously been issued in his or her name by the
13 Department of State Police under the provisions of this Act; or
14 (2) a currently valid license to carry a concealed firearm
15 which has previously been issued in his or her name by the
16 Department of State Police under the Firearm Concealed Carry
17 Act. In addition, all firearm, stun gun, and taser transfers by
18 federally licensed firearm dealers are subject to Section 3.1.

19 (a-5) Any person who is not a federally licensed firearm
20 dealer and who desires to transfer or sell a firearm while that
21 person is on the grounds of a gun show must, before selling or
22 transferring the firearm, request the Department of State
23 Police to conduct a background check on the prospective

1 recipient of the firearm in accordance with Section 3.1.

2 (a-10) Any person who is not a federally licensed firearm
3 dealer and who desires to transfer or sell a firearm or
4 firearms to any person who is not a federally licensed firearm
5 dealer shall, before selling or transferring the firearms,
6 contact the Department of State Police with the transferee's or
7 purchaser's Firearm Owner's Identification Card number to
8 determine the validity of the transferee's or purchaser's
9 Firearm Owner's Identification Card. This subsection shall not
10 be effective until January 1, 2014. The Department of State
11 Police may adopt rules concerning the implementation of this
12 subsection. The Department of State Police shall provide the
13 seller or transferor an approval number if the purchaser's
14 Firearm Owner's Identification Card is valid. Approvals issued
15 by the Department for the purchase of a firearm pursuant to
16 this subsection are valid for 30 days from the date of issue.

17 (a-15) The provisions of subsection (a-10) of this Section
18 do not apply to:

19 (1) transfers that occur at the place of business of a
20 federally licensed firearm dealer, if the federally
21 licensed firearm dealer conducts a background check on the
22 prospective recipient of the firearm in accordance with
23 Section 3.1 of this Act and follows all other applicable
24 federal, State, and local laws as if he or she were the
25 seller or transferor of the firearm, although the dealer is
26 not required to accept the firearm into his or her

1 inventory. The purchaser or transferee may be required by
2 the federally licensed firearm dealer to pay a fee not to
3 exceed \$10 per firearm, which the dealer may retain as
4 compensation for performing the functions required under
5 this paragraph, plus the applicable fees authorized by
6 Section 3.1;

7 (2) transfers as a bona fide gift to the transferor's
8 husband, wife, son, daughter, stepson, stepdaughter,
9 father, mother, stepfather, stepmother, brother, sister,
10 nephew, niece, uncle, aunt, grandfather, grandmother,
11 grandson, granddaughter, father-in-law, mother-in-law,
12 son-in-law, or daughter-in-law;

13 (3) transfers by persons acting pursuant to operation
14 of law or a court order;

15 (4) transfers on the grounds of a gun show under
16 subsection (a-5) of this Section;

17 (5) the delivery of a firearm by its owner to a
18 gunsmith for service or repair, the return of the firearm
19 to its owner by the gunsmith, or the delivery of a firearm
20 by a gunsmith to a federally licensed firearms dealer for
21 service or repair and the return of the firearm to the
22 gunsmith;

23 (6) temporary transfers that occur while in the home of
24 the unlicensed transferee, if the unlicensed transferee is
25 not otherwise prohibited from possessing firearms and the
26 unlicensed transferee reasonably believes that possession

1 of the firearm is necessary to prevent imminent death or
2 great bodily harm to the unlicensed transferee;

3 (7) transfers to a law enforcement or corrections
4 agency or a law enforcement or corrections officer acting
5 within the course and scope of his or her official duties;

6 (8) transfers of firearms that have been rendered
7 permanently inoperable to a nonprofit historical society,
8 museum, or institutional collection; and

9 (9) transfers to a person who is exempt from the
10 requirement of possessing a Firearm Owner's Identification
11 Card under Section 2 of this Act.

12 (a-20) The Department of State Police shall develop an
13 Internet-based system for individuals to determine the
14 validity of a Firearm Owner's Identification Card prior to the
15 sale or transfer of a firearm. The Department shall have the
16 Internet-based system completed and available for use by July
17 1, 2015. The Department shall adopt rules not inconsistent with
18 this Section to implement this system.

19 (b) Any person within this State who transfers or causes to
20 be transferred any firearm, stun gun, or taser shall keep a
21 record of such transfer for a period of 10 years from the date
22 of transfer. Such record shall contain the date of the
23 transfer; the description, serial number or other information
24 identifying the firearm, stun gun, or taser if no serial number
25 is available; and, if the transfer was completed within this
26 State, the transferee's Firearm Owner's Identification Card

1 number and any approval number or documentation provided by the
2 Department of State Police pursuant to subsection (a-10) of
3 this Section. On or after January 1, 2006, the record shall
4 contain the date of application for transfer of the firearm. On
5 demand of a peace officer such transferor shall produce for
6 inspection such record of transfer. If the transfer or sale
7 took place at a gun show, the record shall include the unique
8 identification number. Failure to record the unique
9 identification number or approval number is a petty offense.

10 (b-5) Any resident may purchase ammunition from a person
11 within or outside of Illinois if shipment is by United States
12 mail or by a private express carrier authorized by federal law
13 to ship ammunition. Any resident purchasing ammunition within
14 or outside the State of Illinois must provide the seller with a
15 copy of his or her valid Firearm Owner's Identification Card or
16 valid concealed carry license and either his or her Illinois
17 driver's license or Illinois State Identification Card prior to
18 the shipment of the ammunition. The ammunition may be shipped
19 only to an address on either of those 2 documents.

20 (c) The provisions of this Section regarding the transfer
21 of firearm ammunition shall not apply to those persons
22 specified in paragraph (b) of Section 2 of this Act.

23 (Source: P.A. 97-1135, eff. 12-4-12; 98-508, eff. 8-19-13.)

24 Section 10. The Criminal Code of 2012 is amended by
25 changing Section 24-3 as follows:

1 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

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

3 (A) A person commits the offense of unlawful sale or
4 delivery of firearms when he or she knowingly does any of the
5 following:

6 (a) Sells or gives any firearm of a size which may be
7 concealed upon the person to any person under 18 years of
8 age.

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

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

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

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

19 "Mental institution" means any hospital,
20 institution, clinic, evaluation facility, mental
21 health center, or part thereof, which is used primarily
22 for the care or treatment of persons with mental
23 illness.

24 "Patient in a mental institution" means the person
25 was admitted, either voluntarily or involuntarily, to

1 a mental institution for mental health treatment,
2 unless the treatment was voluntary and solely for an
3 alcohol abuse disorder and no other secondary
4 substance abuse disorder or mental illness.

5 (f) Sells or gives any firearms to any person who is
6 intellectually disabled.

7 (g) Delivers any firearm of a size which may be
8 concealed upon the person, incidental to a sale, without
9 withholding delivery of such firearm for at least 72 hours
10 after application for its purchase has been made, or
11 delivers any rifle, shotgun or other long gun, or a stun
12 gun or taser, incidental to a sale, without withholding
13 delivery of such rifle, shotgun or other long gun, or a
14 stun gun or taser for at least 24 hours after application
15 for its purchase has been made. However, this paragraph (g)
16 does not apply to: (1) the sale of a firearm to a law
17 enforcement officer if the seller of the firearm knows that
18 the person to whom he or she is selling the firearm is a
19 law enforcement officer or the sale of a firearm to a
20 person who desires to purchase a firearm for use in
21 promoting the public interest incident to his or her
22 employment as a bank guard, armed truck guard, or other
23 similar employment; (2) a mail order sale of a firearm to a
24 nonresident of Illinois under which the firearm is mailed
25 to a point outside the boundaries of Illinois; (3) the sale
26 of a firearm to a nonresident of Illinois while at a

1 firearm showing or display recognized by the Illinois
2 Department of State Police; or (4) the sale of a firearm to
3 a dealer licensed as a federal firearms dealer under
4 Section 923 of the federal Gun Control Act of 1968 (18
5 U.S.C. 923). For purposes of this paragraph (g),
6 "application" means when the buyer and seller reach an
7 agreement to purchase a firearm.

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

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

24 (j) Sells or gives a firearm while engaged in the
25 business of selling firearms at wholesale or retail without
26 being licensed as a federal firearms dealer under Section

1 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).

2 In this paragraph (j):

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

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

19 (k) Sells or transfers ownership of a firearm to a
20 person who does not display to the seller or transferor of
21 the firearm either: (1) a currently valid Firearm Owner's
22 Identification Card that has previously been issued in the
23 transferee's name by the Department of State Police under
24 the provisions of the Firearm Owners Identification Card
25 Act; or (2) a currently valid license to carry a concealed
26 firearm that has previously been issued in the transferee's

1 name by the Department of State Police under the Firearm
2 Concealed Carry Act. This paragraph (k) does not apply to
3 the transfer of a firearm to a person who is exempt from
4 the requirement of possessing a Firearm Owner's
5 Identification Card under Section 2 of the Firearm Owners
6 Identification Card Act. For the purposes of this Section,
7 a currently valid Firearm Owner's Identification Card
8 means (i) a Firearm Owner's Identification Card that has
9 not expired or (ii) an approval number issued in accordance
10 with subsection (a-10) of subsection 3 or Section 3.1 of
11 the Firearm Owners Identification Card Act shall be proof
12 that the Firearm Owner's Identification Card was valid.

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

19 (2) All sellers or transferors who have complied
20 with the requirements of subparagraph (1) of this
21 paragraph (k) shall not be liable for damages in any
22 civil action arising from the use or misuse by the
23 transferee of the firearm transferred, except for
24 willful or wanton misconduct on the part of the seller
25 or transferor.

26 (1) Not being entitled to the possession of a firearm,

1 delivers the firearm, knowing it to have been stolen or
2 converted. It may be inferred that a person who possesses a
3 firearm with knowledge that its serial number has been
4 removed or altered has knowledge that the firearm is stolen
5 or converted.

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

16 (C) Sentence.

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

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

23 (3) Any person convicted of unlawful sale or delivery
24 of firearms in violation of paragraph (a) of subsection (A)
25 commits a Class 2 felony.

26 (4) Any person convicted of unlawful sale or delivery

1 of firearms in violation of paragraph (a), (b), or (i) of
2 subsection (A) in any school, on the real property
3 comprising a school, within 1,000 feet of the real property
4 comprising a school, at a school related activity, or on or
5 within 1,000 feet of any conveyance owned, leased, or
6 contracted by a school or school district to transport
7 students to or from school or a school related activity,
8 regardless of the time of day or time of year at which the
9 offense was committed, commits a Class 1 felony. Any person
10 convicted of a second or subsequent violation of unlawful
11 sale or delivery of firearms in violation of paragraph (a),
12 (b), or (i) of subsection (A) in any school, on the real
13 property comprising a school, within 1,000 feet of the real
14 property comprising a school, at a school related activity,
15 or on or within 1,000 feet of any conveyance owned, leased,
16 or contracted by a school or school district to transport
17 students to or from school or a school related activity,
18 regardless of the time of day or time of year at which the
19 offense was committed, commits a Class 1 felony for which
20 the sentence shall be a term of imprisonment of no less
21 than 5 years and no more than 15 years.

22 (5) Any person convicted of unlawful sale or delivery
23 of firearms in violation of paragraph (a) or (i) of
24 subsection (A) in residential property owned, operated, or
25 managed by a public housing agency or leased by a public
26 housing agency as part of a scattered site or mixed-income

1 development, in a public park, in a courthouse, on
2 residential property owned, operated, or managed by a
3 public housing agency or leased by a public housing agency
4 as part of a scattered site or mixed-income development, on
5 the real property comprising any public park, on the real
6 property comprising any courthouse, or on any public way
7 within 1,000 feet of the real property comprising any
8 public park, courthouse, or residential property owned,
9 operated, or managed by a public housing agency or leased
10 by a public housing agency as part of a scattered site or
11 mixed-income development commits a Class 2 felony.

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

16 (7) Any person convicted of unlawful sale or delivery
17 of firearms in violation of paragraph (k) of subsection (A)
18 commits a Class 4 felony, except that a violation of
19 subparagraph (1) of paragraph (k) of subsection (A) shall
20 not be punishable as a crime or petty offense. A third or
21 subsequent conviction for a violation of paragraph (k) of
22 subsection (A) is a Class 1 felony.

23 (8) A person 18 years of age or older convicted of
24 unlawful sale or delivery of firearms in violation of
25 paragraph (a) or (i) of subsection (A), when the firearm
26 that was sold or given to another person under 18 years of

1 age was used in the commission of or attempt to commit a
2 forcible felony, shall be fined or imprisoned, or both, not
3 to exceed the maximum provided for the most serious
4 forcible felony so committed or attempted by the person
5 under 18 years of age who was sold or given the firearm.

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

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

1 than 40 years if the delivery is of not less than 11 and
2 not more than 20 firearms at the same time or within a 3
3 year period. Any person convicted of unlawful sale or
4 delivery of firearms in violation of paragraph (l) of
5 subsection (A) commits a Class X felony for which he or she
6 shall be sentenced to a term of imprisonment of not less
7 than 6 years and not more than 50 years if the delivery is
8 of not less than 21 and not more than 30 firearms at the
9 same time or within a 4 year period. Any person convicted
10 of unlawful sale or delivery of firearms in violation of
11 paragraph (l) of subsection (A) commits a Class X felony
12 for which he or she shall be sentenced to a term of
13 imprisonment of not less than 6 years and not more than 60
14 years if the delivery is of 31 or more firearms at the same
15 time or within a 5 year period.

16 (D) For purposes of this Section:

17 "School" means a public or private elementary or secondary
18 school, community college, college, or university.

19 "School related activity" means any sporting, social,
20 academic, or other activity for which students' attendance or
21 participation is sponsored, organized, or funded in whole or in
22 part by a school or school district.

23 (E) A prosecution for a violation of paragraph (k) of
24 subsection (A) of this Section may be commenced within 6 years
25 after the commission of the offense. A prosecution for a
26 violation of this Section other than paragraph (g) of

1 subsection (A) of this Section may be commenced within 5 years
2 after the commission of the offense defined in the particular
3 paragraph.

4 (Source: P.A. 97-227, eff. 1-1-12; 97-347, eff. 1-1-12; 97-813,
5 eff. 7-13-12; 97-1167, eff. 6-1-13; 98-508, eff. 8-19-13.)