



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB1449

by Rep. David Harris

SYNOPSIS AS INTRODUCED:

430 ILCS 65/1.1	from Ch. 38, par. 83-1.1
430 ILCS 65/4	from Ch. 38, par. 83-4
430 ILCS 65/8	from Ch. 38, par. 83-8

Amends the Firearm Owners Identification Card Act. Lowers the age in which a person may apply for a Firearm Owner's Identification Card without parental or legal guardian consent from 21 years of age to 18 years of age if the applicant is a servicemember or veteran. Provides that an applicant who is 18 (rather than 21) years of age or older who is a servicemember or veteran seeking a religious exemption to the photograph requirement must furnish with the application an approved copy of United States Department of the Treasury Internal Revenue Service Form 4029. Effective immediately.

LRB099 05690 RLC 25733 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 1.1, 4, and 8 as follows:

6 (430 ILCS 65/1.1) (from Ch. 38, par. 83-1.1)

7 Sec. 1.1. For purposes of this Act:

8 "Addicted to narcotics" means a person who has been:

9 (1) convicted of an offense involving the use or
10 possession of cannabis, a controlled substance, or
11 methamphetamine within the past year; or

12 (2) determined by the Department of State Police to be
13 addicted to narcotics based upon federal law or federal
14 guidelines.

15 "Addicted to narcotics" does not include possession or use
16 of a prescribed controlled substance under the direction and
17 authority of a physician or other person authorized to
18 prescribe the controlled substance when the controlled
19 substance is used in the prescribed manner.

20 "Adjudicated as a mentally disabled person" means the
21 person is the subject of a determination by a court, board,
22 commission or other lawful authority that the person, as a
23 result of marked subnormal intelligence, or mental illness,

1 mental impairment, incompetency, condition, or disease:

2 (1) presents a clear and present danger to himself,
3 herself, or to others;

4 (2) lacks the mental capacity to manage his or her own
5 affairs or is adjudicated a disabled person as defined in
6 Section 11a-2 of the Probate Act of 1975;

7 (3) is not guilty in a criminal case by reason of
8 insanity, mental disease or defect;

9 (3.5) is guilty but mentally ill, as provided in
10 Section 5-2-6 of the Unified Code of Corrections;

11 (4) is incompetent to stand trial in a criminal case;

12 (5) is not guilty by reason of lack of mental
13 responsibility under Articles 50a and 72b of the Uniform
14 Code of Military Justice, 10 U.S.C. 850a, 876b;

15 (6) is a sexually violent person under subsection (f)
16 of Section 5 of the Sexually Violent Persons Commitment
17 Act;

18 (7) is a sexually dangerous person under the Sexually
19 Dangerous Persons Act;

20 (8) is unfit to stand trial under the Juvenile Court
21 Act of 1987;

22 (9) is not guilty by reason of insanity under the
23 Juvenile Court Act of 1987;

24 (10) is subject to involuntary admission as an
25 inpatient as defined in Section 1-119 of the Mental Health
26 and Developmental Disabilities Code;

1 (11) is subject to involuntary admission as an
2 outpatient as defined in Section 1-119.1 of the Mental
3 Health and Developmental Disabilities Code;

4 (12) is subject to judicial admission as set forth in
5 Section 4-500 of the Mental Health and Developmental
6 Disabilities Code; or

7 (13) is subject to the provisions of the Interstate
8 Agreements on Sexually Dangerous Persons Act.

9 "Clear and present danger" means a person who:

10 (1) communicates a serious threat of physical violence
11 against a reasonably identifiable victim or poses a clear
12 and imminent risk of serious physical injury to himself,
13 herself, or another person as determined by a physician,
14 clinical psychologist, or qualified examiner; or

15 (2) demonstrates threatening physical or verbal
16 behavior, such as violent, suicidal, or assaultive
17 threats, actions, or other behavior, as determined by a
18 physician, clinical psychologist, qualified examiner,
19 school administrator, or law enforcement official.

20 "Clinical psychologist" has the meaning provided in
21 Section 1-103 of the Mental Health and Developmental
22 Disabilities Code.

23 "Controlled substance" means a controlled substance or
24 controlled substance analog as defined in the Illinois
25 Controlled Substances Act.

26 "Counterfeit" means to copy or imitate, without legal

1 authority, with intent to deceive.

2 "Developmentally disabled" means a disability which is
3 attributable to any other condition which results in impairment
4 similar to that caused by an intellectual disability and which
5 requires services similar to those required by intellectually
6 disabled persons. The disability must originate before the age
7 of 18 years, be expected to continue indefinitely, and
8 constitute a substantial handicap.

9 "Federally licensed firearm dealer" means a person who is
10 licensed as a federal firearms dealer under Section 923 of the
11 federal Gun Control Act of 1968 (18 U.S.C. 923).

12 "Firearm" means any device, by whatever name known, which
13 is designed to expel a projectile or projectiles by the action
14 of an explosion, expansion of gas or escape of gas; excluding,
15 however:

16 (1) any pneumatic gun, spring gun, paint ball gun, or
17 B-B gun which expels a single globular projectile not
18 exceeding .18 inch in diameter or which has a maximum
19 muzzle velocity of less than 700 feet per second;

20 (1.1) any pneumatic gun, spring gun, paint ball gun, or
21 B-B gun which expels breakable paint balls containing
22 washable marking colors;

23 (2) any device used exclusively for signalling or
24 safety and required or recommended by the United States
25 Coast Guard or the Interstate Commerce Commission;

26 (3) any device used exclusively for the firing of stud

1 cartridges, explosive rivets or similar industrial
2 ammunition; and

3 (4) an antique firearm (other than a machine-gun)
4 which, although designed as a weapon, the Department of
5 State Police finds by reason of the date of its
6 manufacture, value, design, and other characteristics is
7 primarily a collector's item and is not likely to be used
8 as a weapon.

9 "Firearm ammunition" means any self-contained cartridge or
10 shotgun shell, by whatever name known, which is designed to be
11 used or adaptable to use in a firearm; excluding, however:

12 (1) any ammunition exclusively designed for use with a
13 device used exclusively for signalling or safety and
14 required or recommended by the United States Coast Guard or
15 the Interstate Commerce Commission; and

16 (2) any ammunition designed exclusively for use with a
17 stud or rivet driver or other similar industrial
18 ammunition.

19 "Gun show" means an event or function:

20 (1) at which the sale and transfer of firearms is the
21 regular and normal course of business and where 50 or more
22 firearms are displayed, offered, or exhibited for sale,
23 transfer, or exchange; or

24 (2) at which not less than 10 gun show vendors display,
25 offer, or exhibit for sale, sell, transfer, or exchange
26 firearms.

1 "Gun show" includes the entire premises provided for an
2 event or function, including parking areas for the event or
3 function, that is sponsored to facilitate the purchase, sale,
4 transfer, or exchange of firearms as described in this Section.

5 "Gun show" does not include training or safety classes,
6 competitive shooting events, such as rifle, shotgun, or handgun
7 matches, trap, skeet, or sporting clays shoots, dinners,
8 banquets, raffles, or any other event where the sale or
9 transfer of firearms is not the primary course of business.

10 "Gun show promoter" means a person who organizes or
11 operates a gun show.

12 "Gun show vendor" means a person who exhibits, sells,
13 offers for sale, transfers, or exchanges any firearms at a gun
14 show, regardless of whether the person arranges with a gun show
15 promoter for a fixed location from which to exhibit, sell,
16 offer for sale, transfer, or exchange any firearm.

17 "Intellectually disabled" means significantly subaverage
18 general intellectual functioning which exists concurrently
19 with impairment in adaptive behavior and which originates
20 before the age of 18 years.

21 "Involuntarily admitted" has the meaning as prescribed in
22 Sections 1-119 and 1-119.1 of the Mental Health and
23 Developmental Disabilities Code.

24 "Mental health facility" means any licensed private
25 hospital or hospital affiliate, institution, or facility, or
26 part thereof, and any facility, or part thereof, operated by

1 the State or a political subdivision thereof which provide
2 treatment of persons with mental illness and includes all
3 hospitals, institutions, clinics, evaluation facilities,
4 mental health centers, colleges, universities, long-term care
5 facilities, and nursing homes, or parts thereof, which provide
6 treatment of persons with mental illness whether or not the
7 primary purpose is to provide treatment of persons with mental
8 illness.

9 "Patient" means:

10 (1) a person who voluntarily receives mental health
11 treatment as an in-patient or resident of any public or
12 private mental health facility, unless the treatment was
13 solely for an alcohol abuse disorder and no other secondary
14 substance abuse disorder or mental illness; or

15 (2) a person who voluntarily receives mental health
16 treatment as an out-patient or is provided services by a
17 public or private mental health facility, and who poses a
18 clear and present danger to himself, herself, or to others.

19 "Physician" has the meaning as defined in Section 1-120 of
20 the Mental Health and Developmental Disabilities Code.

21 "Qualified examiner" has the meaning provided in Section
22 1-122 of the Mental Health and Developmental Disabilities Code.

23 "Sanctioned competitive shooting event" means a shooting
24 contest officially recognized by a national or state shooting
25 sport association, and includes any sight-in or practice
26 conducted in conjunction with the event.

1 "School administrator" means the person required to report
2 under the School Administrator Reporting of Mental Health Clear
3 and Present Danger Determinations Law.

4 "Servicemember" means a person who is currently serving in
5 the Army, Air Force, Marines, Navy, or Coast Guard on active
6 duty, reserve status, or in the National Guard.

7 "Stun gun or taser" has the meaning ascribed to it in
8 Section 24-1 of the Criminal Code of 2012.

9 "Veteran" means a person who served in the active military,
10 naval, or air service, Coast Guard, reserves, or National Guard
11 and who was discharged or released from that service, reserve,
12 or Guard under conditions other than dishonorable.

13 (Source: P.A. 97-776, eff. 7-13-12; 97-1150, eff. 1-25-13;
14 97-1167, eff. 6-1-13; 98-63, eff. 7-9-13.)

15 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

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

18 (1) Make application on blank forms prepared and
19 furnished at convenient locations throughout the State by
20 the Department of State Police, or by electronic means, if
21 and when made available by the Department of State Police;
22 and

23 (2) Submit evidence to the Department of State Police
24 that:

25 (i) He or she is 21 years of age or over, or if he

1 or she is under 21 years of age and not a servicemember
2 or veteran or is under 18 years of age and is a
3 servicemember or veteran that he or she has the written
4 consent of his or her parent or legal guardian to
5 possess and acquire firearms and firearm ammunition
6 and that, if he or she is under 21 years of age, he or
7 she has never been convicted of a misdemeanor other
8 than a traffic offense or adjudged delinquent,
9 provided, however, that, if the applicant is under 21
10 years of age and not a servicemember or veteran or
11 under 18 years of age and is a servicemember or
12 veteran, the ~~such~~ parent or legal guardian is not an
13 individual prohibited from having a Firearm Owner's
14 Identification Card and files an affidavit with the
15 Department as prescribed by the Department stating
16 that he or she is not an individual prohibited from
17 having a Card;

18 (i-5) He or she is 18 years of age or over but
19 under 21 years of age and is a servicemember or
20 veteran;

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

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

24 (iv) He or she has not been a patient in a mental
25 health facility within the past 5 years or, if he or
26 she has been a patient in a mental health facility more

1 than 5 years ago submit the certification required
2 under subsection (u) of Section 8 of this Act;

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

4 (vi) He or she is not an alien who is unlawfully
5 present in the United States under the laws of the
6 United States;

7 (vii) He or she is not subject to an existing order
8 of protection prohibiting him or her from possessing a
9 firearm;

10 (viii) He or she has not been convicted within the
11 past 5 years of battery, assault, aggravated assault,
12 violation of an order of protection, or a substantially
13 similar offense in another jurisdiction, in which a
14 firearm was used or possessed;

15 (ix) He or she has not been convicted of domestic
16 battery, aggravated domestic battery, or a
17 substantially similar offense in another jurisdiction
18 committed before, on or after January 1, 2012 (the
19 effective date of Public Act 97-158). If the applicant
20 knowingly and intelligently waives the right to have an
21 offense described in this clause (ix) tried by a jury,
22 and by guilty plea or otherwise, results in a
23 conviction for an offense in which a domestic
24 relationship is not a required element of the offense
25 but in which a determination of the applicability of 18
26 U.S.C. 922(g)(9) is made under Section 112A-11.1 of the

1 Code of Criminal Procedure of 1963, an entry by the
2 court of a judgment of conviction for that offense
3 shall be grounds for denying the issuance of a Firearm
4 Owner's Identification Card under this Section;

5 (x) (Blank);

6 (xi) He or she is not an alien who has been
7 admitted to the United States under a non-immigrant
8 visa (as that term is defined in Section 101(a)(26) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1101(a)(26))), or that he or she is an alien who has
11 been lawfully admitted to the United States under a
12 non-immigrant visa if that alien is:

13 (1) admitted to the United States for lawful
14 hunting or sporting purposes;

15 (2) an official representative of a foreign
16 government who is:

17 (A) accredited to the United States
18 Government or the Government's mission to an
19 international organization having its
20 headquarters in the United States; or

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

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

26 (4) a foreign law enforcement officer of a

1 friendly foreign government entering the United
2 States on official business; or

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

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

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

15 (xiv) He or she is a resident of the State of
16 Illinois;

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

19 (xvi) He or she has not been involuntarily admitted
20 into a mental health facility; and

21 (xvii) He or she is not developmentally disabled;

22 and

23 (3) Upon request by the Department of State Police,
24 sign a release on a form prescribed by the Department of
25 State Police waiving any right to confidentiality and
26 requesting the disclosure to the Department of State Police

1 of limited mental health institution admission information
2 from another state, the District of Columbia, any other
3 territory of the United States, or a foreign nation
4 concerning the applicant for the sole purpose of
5 determining whether the applicant is or was a patient in a
6 mental health institution and disqualified because of that
7 status from receiving a Firearm Owner's Identification
8 Card. No mental health care or treatment records may be
9 requested. The information received shall be destroyed
10 within one year of receipt.

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

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

25 (a-15) If an applicant applying for a Firearm Owner's
26 Identification Card moves from the residence address named in

1 the application, he or she shall immediately notify in a form
2 and manner prescribed by the Department of State Police of that
3 change of address.

4 (a-20) Each applicant for a Firearm Owner's Identification
5 Card shall furnish to the Department of State Police his or her
6 photograph. An applicant who is 21 years of age or older, or 18
7 years of age or over but under 21 years of age and who is a
8 servicemember or veteran, seeking a religious exemption to the
9 photograph requirement must furnish with the application an
10 approved copy of United States Department of the Treasury
11 Internal Revenue Service Form 4029. In lieu of a photograph, an
12 applicant regardless of age seeking a religious exemption to
13 the photograph requirement shall submit fingerprints on a form
14 and manner prescribed by the Department with his or her
15 application.

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

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

26 (Source: P.A. 97-158, eff. 1-1-12; 97-227, eff. 1-1-12; 97-813,

1 eff. 7-13-12; 97-1131, eff. 1-1-13; 97-1167, eff. 6-1-13;
2 98-63, eff. 7-9-13.)

3 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

4 Sec. 8. Grounds for denial and revocation. The Department
5 of State Police has authority to deny an application for or to
6 revoke and seize a Firearm Owner's Identification Card
7 previously issued under this Act only if the Department finds
8 that the applicant or the person to whom such card was issued
9 is or was at the time of issuance:

10 (a) A person under 21 years of age who has been
11 convicted of a misdemeanor other than a traffic offense or
12 adjudged delinquent;

13 (b) A person under 21 years of age who is not a
14 servicemember or veteran or under 18 who is a servicemember
15 or veteran and who does not have the written consent of his
16 parent or guardian to acquire and possess firearms and
17 firearm ammunition, or whose parent or guardian has revoked
18 such written consent, or where such parent or guardian does
19 not qualify to have a Firearm Owner's Identification Card;

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

22 (d) A person addicted to narcotics;

23 (e) A person who has been a patient of a mental health
24 facility within the past 5 years or a person who has been a
25 patient in a mental health facility more than 5 years ago

1 who has not received the certification required under
2 subsection (u) of this Section. An active law enforcement
3 officer employed by a unit of government who is denied,
4 revoked, or has his or her Firearm Owner's Identification
5 Card seized under this subsection (e) may obtain relief as
6 described in subsection (c-5) of Section 10 of this Act if
7 the officer did not act in a manner threatening to the
8 officer, another person, or the public as determined by the
9 treating clinical psychologist or physician, and the
10 officer seeks mental health treatment;

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

14 (g) A person who is intellectually disabled;

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

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

19 (i-5) An alien who has been admitted to the United
20 States under a non-immigrant visa (as that term is defined
21 in Section 101(a)(26) of the Immigration and Nationality
22 Act (8 U.S.C. 1101(a)(26))), except that this subsection
23 (i-5) does not apply to any alien who has been lawfully
24 admitted to the United States under a non-immigrant visa if
25 that alien is:

26 (1) admitted to the United States for lawful

1 hunting or sporting purposes;

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

4 (A) accredited to the United States Government
5 or the Government's mission to an international
6 organization having its headquarters in the United
7 States; or

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

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

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

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

19 (j) (Blank);

20 (k) A person who has been convicted within the past 5
21 years of battery, assault, aggravated assault, violation
22 of an order of protection, or a substantially similar
23 offense in another jurisdiction, in which a firearm was
24 used or possessed;

25 (l) A person who has been convicted of domestic
26 battery, aggravated domestic battery, or a substantially

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

17 (m) (Blank);

18 (n) A person who is prohibited from acquiring or
19 possessing firearms or firearm ammunition by any Illinois
20 State statute or by federal law;

21 (o) A minor subject to a petition filed under Section
22 5-520 of the Juvenile Court Act of 1987 alleging that the
23 minor is a delinquent minor for the commission of an
24 offense that if committed by an adult would be a felony;

25 (p) An adult who had been adjudicated a delinquent
26 minor under the Juvenile Court Act of 1987 for the

1 commission of an offense that if committed by an adult
2 would be a felony;

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

6 (r) A person who has been adjudicated as a mentally
7 disabled person;

8 (s) A person who has been found to be developmentally
9 disabled;

10 (t) A person involuntarily admitted into a mental
11 health facility; or

12 (u) A person who has had his or her Firearm Owner's
13 Identification Card revoked or denied under subsection (e)
14 of this Section or item (iv) of paragraph (2) of subsection
15 (a) of Section 4 of this Act because he or she was a
16 patient in a mental health facility as provided in
17 subsection (e) of this Section, shall not be permitted to
18 obtain a Firearm Owner's Identification Card, after the
19 5-year period has lapsed, unless he or she has received a
20 mental health evaluation by a physician, clinical
21 psychologist, or qualified examiner as those terms are
22 defined in the Mental Health and Developmental
23 Disabilities Code, and has received a certification that he
24 or she is not a clear and present danger to himself,
25 herself, or others. The physician, clinical psychologist,
26 or qualified examiner making the certification and his or

1 her employer shall not be held criminally, civilly, or
2 professionally liable for making or not making the
3 certification required under this subsection, except for
4 willful or wanton misconduct. This subsection does not
5 apply to a person whose firearm possession rights have been
6 restored through administrative or judicial action under
7 Section 10 or 11 of this Act.

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

12 (Source: P.A. 97-158, eff. 1-1-12; 97-227, eff. 1-1-12; 97-813,
13 eff. 7-13-12; 97-1131, eff. 1-1-13; 97-1167, eff. 6-1-13;
14 98-63, eff. 7-9-13; 98-508, eff. 8-19-13; 98-756, eff.
15 7-16-14.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.