

HB4143



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4143

by Rep. Natalie Phelps Finnie

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 2012. Provides that the 72 hour waiting period before delivery of a concealable firearm after application for its purchase has been made does not apply to a person who has been issued a valid license to carry a concealed handgun under the Firearm Concealed Carry Act. Effective immediately.

LRB100 15159 SLF 30018 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 2012 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 or delivery of firearms.

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

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

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

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

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

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

1 "Mental institution" means any hospital,
2 institution, clinic, evaluation facility, mental
3 health center, or part thereof, which is used primarily
4 for the care or treatment of persons with mental
5 illness.

6 "Patient in a mental institution" means the person
7 was admitted, either voluntarily or involuntarily, to
8 a mental institution for mental health treatment,
9 unless the treatment was voluntary and solely for an
10 alcohol abuse disorder and no other secondary
11 substance abuse disorder or mental illness.

12 (f) Sells or gives any firearms to any person who is a
13 person with an intellectual disability.

14 (g) Delivers any firearm of a size which may be
15 concealed upon the person, incidental to a sale, without
16 withholding delivery of such firearm for at least 72 hours
17 after application for its purchase has been made, or
18 delivers any rifle, shotgun or other long gun, or a stun
19 gun or taser, incidental to a sale, without withholding
20 delivery of such rifle, shotgun or other long gun, or a
21 stun gun or taser for at least 24 hours after application
22 for its purchase has been made. However, this paragraph (g)
23 does not apply to: (1) the sale of a firearm to a law
24 enforcement officer if the seller of the firearm knows that
25 the person to whom he or she is selling the firearm is a
26 law enforcement officer or the sale of a firearm to a

1 person who desires to purchase a firearm for use in
2 promoting the public interest incident to his or her
3 employment as a bank guard, armed truck guard, or other
4 similar employment; (2) a mail order sale of a firearm from
5 a federally licensed firearms dealer to a nonresident of
6 Illinois under which the firearm is mailed to a federally
7 licensed firearms dealer 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; (4) the sale of
11 a firearm to a dealer licensed as a federal firearms dealer
12 under Section 923 of the federal Gun Control Act of 1968
13 (18 U.S.C. 923); (4.1) the sale of a firearm to a person
14 who has been issued a valid license to carry a concealed
15 handgun under the Firearm Concealed Carry Act; or (5) the
16 transfer or sale of any rifle, shotgun, or other long gun
17 to a resident registered competitor or attendee or
18 non-resident registered competitor or attendee by any
19 dealer licensed as a federal firearms dealer under Section
20 923 of the federal Gun Control Act of 1968 at competitive
21 shooting events held at the World Shooting Complex
22 sanctioned by a national governing body. For purposes of
23 transfers or sales under subparagraph (5) of this paragraph
24 (g), the Department of Natural Resources shall give notice
25 to the Department of State Police at least 30 calendar days
26 prior to any competitive shooting events at the World

1 Shooting Complex sanctioned by a national governing body.
2 The notification shall be made on a form prescribed by the
3 Department of State Police. The sanctioning body shall
4 provide a list of all registered competitors and attendees
5 at least 24 hours before the events to the Department of
6 State Police. Any changes to the list of registered
7 competitors and attendees shall be forwarded to the
8 Department of State Police as soon as practicable. The
9 Department of State Police must destroy the list of
10 registered competitors and attendees no later than 30 days
11 after the date of the event. Nothing in this paragraph (g)
12 relieves a federally licensed firearm dealer from the
13 requirements of conducting a NICS background check through
14 the Illinois Point of Contact under 18 U.S.C. 922(t). For
15 purposes of this paragraph (g), "application" means when
16 the buyer and seller reach an agreement to purchase a
17 firearm. For purposes of this paragraph (g), "national
18 governing body" means a group of persons who adopt rules
19 and formulate policy on behalf of a national firearm
20 sporting organization.

21 (h) While holding any license as a dealer, importer,
22 manufacturer or pawnbroker under the federal Gun Control
23 Act of 1968, manufactures, sells or delivers to any
24 unlicensed person a handgun having a barrel, slide, frame
25 or receiver which is a die casting of zinc alloy or any
26 other nonhomogeneous metal which will melt or deform at a

1 temperature of less than 800 degrees Fahrenheit. For
2 purposes of this paragraph, (1) "firearm" is defined as in
3 the Firearm Owners Identification Card Act; and (2)
4 "handgun" is defined as a firearm designed to be held and
5 fired by the use of a single hand, and includes a
6 combination of parts from which such a firearm can be
7 assembled.

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

11 (j) Sells or gives a firearm while engaged in the
12 business of selling firearms at wholesale or retail without
13 being licensed as a federal firearms dealer under Section
14 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
15 In this paragraph (j):

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

23 "With the principal objective of livelihood and
24 profit" means that the intent underlying the sale or
25 disposition of firearms is predominantly one of obtaining
26 livelihood and pecuniary gain, as opposed to other intents,

1 such as improving or liquidating a personal firearms
2 collection; however, proof of profit shall not be required
3 as to a person who engages in the regular and repetitive
4 purchase and disposition of firearms for criminal purposes
5 or terrorism.

6 (k) Sells or transfers ownership of a firearm to a
7 person who does not display to the seller or transferor of
8 the firearm either: (1) a currently valid Firearm Owner's
9 Identification Card that has previously been issued in the
10 transferee's name by the Department of State Police under
11 the provisions of the Firearm Owners Identification Card
12 Act; or (2) a currently valid license to carry a concealed
13 firearm that has previously been issued in the transferee's
14 name by the Department of State Police under the Firearm
15 Concealed Carry Act. This paragraph (k) does not apply to
16 the transfer of a firearm to a person who is exempt from
17 the requirement of possessing a Firearm Owner's
18 Identification Card under Section 2 of the Firearm Owners
19 Identification Card Act. For the purposes of this Section,
20 a currently valid Firearm Owner's Identification Card
21 means (i) a Firearm Owner's Identification Card that has
22 not expired or (ii) an approval number issued in accordance
23 with subsection (a-10) of subsection 3 or Section 3.1 of
24 the Firearm Owners Identification Card Act shall be proof
25 that the Firearm Owner's Identification Card was valid.

26 (1) In addition to the other requirements of this

1 paragraph (k), all persons who are not federally
2 licensed firearms dealers must also have complied with
3 subsection (a-10) of Section 3 of the Firearm Owners
4 Identification Card Act by determining the validity of
5 a purchaser's Firearm Owner's Identification Card.

6 (2) All sellers or transferors who have complied
7 with the requirements of subparagraph (1) of this
8 paragraph (k) shall not be liable for damages in any
9 civil action arising from the use or misuse by the
10 transferee of the firearm transferred, except for
11 willful or wanton misconduct on the part of the seller
12 or transferor.

13 (1) Not being entitled to the possession of a firearm,
14 delivers the firearm, knowing it to have been stolen or
15 converted. It may be inferred that a person who possesses a
16 firearm with knowledge that its serial number has been
17 removed or altered has knowledge that the firearm is stolen
18 or converted.

19 (B) Paragraph (h) of subsection (A) does not include
20 firearms sold within 6 months after enactment of Public Act
21 78-355 (approved August 21, 1973, effective October 1, 1973),
22 nor is any firearm legally owned or possessed by any citizen or
23 purchased by any citizen within 6 months after the enactment of
24 Public Act 78-355 subject to confiscation or seizure under the
25 provisions of that Public Act. Nothing in Public Act 78-355
26 shall be construed to prohibit the gift or trade of any firearm

1 if that firearm was legally held or acquired within 6 months
2 after the enactment of that Public Act.

3 (C) Sentence.

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

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

10 (3) Any person convicted of unlawful sale or delivery
11 of firearms in violation of paragraph (a) of subsection (A)
12 commits a Class 2 felony.

13 (4) Any person convicted of unlawful sale or delivery
14 of firearms in violation of paragraph (a), (b), or (i) of
15 subsection (A) in any school, on the real property
16 comprising a school, within 1,000 feet of the real property
17 comprising a school, at a school related activity, or on or
18 within 1,000 feet of any conveyance owned, leased, or
19 contracted by a school or school district to transport
20 students to or from school or a school related activity,
21 regardless of the time of day or time of year at which the
22 offense was committed, commits a Class 1 felony. Any person
23 convicted of a second or subsequent violation of unlawful
24 sale or delivery of firearms in violation of paragraph (a),
25 (b), or (i) of subsection (A) in any school, on the real
26 property comprising a school, within 1,000 feet of the real

1 property comprising a school, at a school related activity,
2 or on or within 1,000 feet of any conveyance owned, leased,
3 or contracted by a school or school district to transport
4 students to or from school or a school related activity,
5 regardless of the time of day or time of year at which the
6 offense was committed, commits a Class 1 felony for which
7 the sentence shall be a term of imprisonment of no less
8 than 5 years and no more than 15 years.

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

25 (6) Any person convicted of unlawful sale or delivery
26 of firearms in violation of paragraph (j) of subsection (A)

1 commits a Class A misdemeanor. A second or subsequent
2 violation is a Class 4 felony.

3 (7) Any person convicted of unlawful sale or delivery
4 of firearms in violation of paragraph (k) of subsection (A)
5 commits a Class 4 felony, except that a violation of
6 subparagraph (1) of paragraph (k) of subsection (A) shall
7 not be punishable as a crime or petty offense. A third or
8 subsequent conviction for a violation of paragraph (k) of
9 subsection (A) is a Class 1 felony.

10 (8) A person 18 years of age or older convicted of
11 unlawful sale or delivery of firearms in violation of
12 paragraph (a) or (i) of subsection (A), when the firearm
13 that was sold or given to another person under 18 years of
14 age was used in the commission of or attempt to commit a
15 forcible felony, shall be fined or imprisoned, or both, not
16 to exceed the maximum provided for the most serious
17 forcible felony so committed or attempted by the person
18 under 18 years of age who was sold or given the firearm.

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

22 (10) Any person convicted of unlawful sale or delivery
23 of firearms in violation of paragraph (1) of subsection (A)
24 commits a Class 2 felony if the delivery is of one firearm.
25 Any person convicted of unlawful sale or delivery of
26 firearms in violation of paragraph (1) of subsection (A)

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

1 years if the delivery is of 31 or more firearms at the same
2 time or within a 5 year period.

3 (D) For purposes of this Section:

4 "School" means a public or private elementary or secondary
5 school, community college, college, or university.

6 "School related activity" means any sporting, social,
7 academic, or other activity for which students' attendance or
8 participation is sponsored, organized, or funded in whole or in
9 part by a school or school district.

10 (E) A prosecution for a violation of paragraph (k) of
11 subsection (A) of this Section may be commenced within 6 years
12 after the commission of the offense. A prosecution for a
13 violation of this Section other than paragraph (g) of
14 subsection (A) of this Section may be commenced within 5 years
15 after the commission of the offense defined in the particular
16 paragraph.

17 (Source: P.A. 98-508, eff. 8-19-13; 99-29, eff. 7-10-15;
18 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.