

HB0782



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0782

Introduced 2/10/2021, by Rep. Patrick Windhorst and Thomas M. Bennett

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.

LRB102 04201 RLC 14218 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
5 changing 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
4 primarily for the care or treatment of persons with
5 mental 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, incidental to a sale,
15 without withholding delivery of the firearm for at least
16 72 hours after application for its purchase has been made,
17 or delivers a stun gun or taser, incidental to a sale,
18 without withholding delivery of the stun gun or taser for
19 at least 24 hours after application for its purchase has
20 been made. However, this paragraph (g) does not apply to:

21 (1) the sale of a firearm to a law enforcement officer if
22 the seller of the firearm knows that the person to whom he
23 or she is selling the firearm is a law enforcement officer
24 or the sale of a firearm to a person who desires to
25 purchase a firearm for use in promoting the public
26 interest incident to his or her employment as a bank

1 guard, armed truck guard, or other similar employment; (2)
2 a mail order sale of a firearm from a federally licensed
3 firearms dealer to a nonresident of Illinois under which
4 the firearm is mailed to a federally licensed firearms
5 dealer outside the boundaries of Illinois; (3) (blank);
6 (4) the sale of a firearm to a dealer licensed as a federal
7 firearms dealer under Section 923 of the federal Gun
8 Control Act of 1968 (18 U.S.C. 923); (4.1) the sale of a
9 firearm to a person who has been issued a valid license to
10 carry a concealed handgun under the Firearm Concealed
11 Carry Act; or (5) the transfer or sale of any rifle,
12 shotgun, or other long gun to a resident registered
13 competitor or attendee or non-resident registered
14 competitor or attendee by any dealer licensed as a federal
15 firearms dealer under Section 923 of the federal Gun
16 Control Act of 1968 at competitive shooting events held at
17 the World Shooting Complex sanctioned by a national
18 governing body. For purposes of transfers or sales under
19 subparagraph (5) of this paragraph (g), the Department of
20 Natural Resources shall give notice to the Department of
21 State Police at least 30 calendar days prior to any
22 competitive shooting events at the World Shooting Complex
23 sanctioned by a national governing body. The notification
24 shall be made on a form prescribed by the Department of
25 State Police. The sanctioning body shall provide a list of
26 all registered competitors and attendees at least 24 hours

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

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

1 fired by the use of a single hand, and includes a
2 combination of parts from which such a firearm can be
3 assembled.

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

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

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

19 "With the principal objective of livelihood and
20 profit" means that the intent underlying the sale or
21 disposition of firearms is predominantly one of obtaining
22 livelihood and pecuniary gain, as opposed to other
23 intents, such as improving or liquidating a personal
24 firearms collection; however, proof of profit shall not be
25 required as to a person who engages in the regular and
26 repetitive purchase and disposition of firearms for

1 criminal purposes or terrorism.

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

23 (1) In addition to the other requirements of this
24 paragraph (k), all persons who are not federally
25 licensed firearms dealers must also have complied with
26 subsection (a-10) of Section 3 of the Firearm Owners

1 Identification Card Act by determining the validity of
2 a purchaser's Firearm Owner's Identification Card.

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

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

16 (B) Paragraph (h) of subsection (A) does not include
17 firearms sold within 6 months after enactment of Public Act
18 78-355 (approved August 21, 1973, effective October 1, 1973),
19 nor is any firearm legally owned or possessed by any citizen or
20 purchased by any citizen within 6 months after the enactment
21 of Public Act 78-355 subject to confiscation or seizure under
22 the provisions of that Public Act. Nothing in Public Act
23 78-355 shall be construed to prohibit the gift or trade of any
24 firearm if that firearm was legally held or acquired within 6
25 months after the enactment of that Public Act.

26 (C) Sentence.

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

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

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

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

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

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

24 (6) Any person convicted of unlawful sale or delivery
25 of firearms in violation of paragraph (j) of subsection
26 (A) commits a Class A misdemeanor. A second or subsequent

1 violation is a Class 4 felony.

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

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

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

21 (10) Any person convicted of unlawful sale or delivery
22 of firearms in violation of paragraph (l) of subsection
23 (A) commits a Class 2 felony if the delivery is of one
24 firearm. Any person convicted of unlawful sale or delivery
25 of firearms in violation of paragraph (l) of subsection
26 (A) commits a Class 1 felony if the delivery is of not less

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

1 time or within a 5 year period.

2 (D) For purposes of this Section:

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

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

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

16 (Source: P.A. 99-29, eff. 7-10-15; 99-143, eff. 7-27-15;
17 99-642, eff. 7-28-16; 100-606, eff. 1-1-19.)

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