

HB3795



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3795

Introduced 2/17/2023, by Rep. Frances Ann Hurley

SYNOPSIS AS INTRODUCED:

430 ILCS 65/3
430 ILCS 65/3.1

from Ch. 38, par. 83-3
from Ch. 38, par. 83-3.1

Amends the Firearm Owners Identification Card Act. Provides that the sale or transfer of firearm ammunition is subject to the Firearm Transfer Inquiry Program requiring a criminal background check by the Illinois State Police of the person before the person may acquire firearm ammunition.

LRB103 27351 RLC 53723 b

A BILL FOR

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 3 and 3.1 as follows:

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

7 (Text of Section before amendment by P.A. 102-237)

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

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

1 conduct a background check on the prospective recipient of the
2 firearm in accordance with Section 3.1.

3 (a-10) Notwithstanding item (2) of subsection (a) of this
4 Section, any person who is not a federally licensed firearm
5 dealer and who desires to transfer or sell a firearm or
6 firearms to any person who is not a federally licensed firearm
7 dealer shall, before selling or transferring the firearms,
8 contact a federal firearm license dealer under paragraph (1)
9 of subsection (a-15) of this Section to conduct the transfer
10 or the Illinois State Police with the transferee's or
11 purchaser's Firearm Owner's Identification Card number to
12 determine the validity of the transferee's or purchaser's
13 Firearm Owner's Identification Card under State and federal
14 law including the National Instant Criminal Background Check
15 System. This subsection shall not be effective until July 1,
16 2023. Until that date the transferor shall contact the
17 Illinois State Police with the transferee's or purchaser's
18 Firearm Owner's Identification Card number to determine the
19 validity of the card. The Illinois State Police may adopt
20 rules concerning the implementation of this subsection. The
21 Illinois State Police shall provide the seller or transferor
22 an approval number if the purchaser's Firearm Owner's
23 Identification Card is valid. Approvals issued by the Illinois
24 State Police for the purchase of a firearm pursuant to this
25 subsection are valid for 30 days from the date of issue.

26 (a-15) The provisions of subsection (a-10) of this Section

1 do not apply to:

2 (1) transfers that occur at the place of business of a
3 federally licensed firearm dealer, if the federally
4 licensed firearm dealer conducts a background check on the
5 prospective recipient of the firearm in accordance with
6 Section 3.1 of this Act and follows all other applicable
7 federal, State, and local laws as if he or she were the
8 seller or transferor of the firearm, although the dealer
9 is not required to accept the firearm into his or her
10 inventory. The purchaser or transferee may be required by
11 the federally licensed firearm dealer to pay a fee not to
12 exceed \$25 per firearm, which the dealer may retain as
13 compensation for performing the functions required under
14 this paragraph, plus the applicable fees authorized by
15 Section 3.1;

16 (2) transfers as a bona fide gift to the transferor's
17 husband, wife, son, daughter, stepson, stepdaughter,
18 father, mother, stepfather, stepmother, brother, sister,
19 nephew, niece, uncle, aunt, grandfather, grandmother,
20 grandson, granddaughter, father-in-law, mother-in-law,
21 son-in-law, or daughter-in-law;

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

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

26 (5) the delivery of a firearm by its owner to a

1 gunsmith for service or repair, the return of the firearm
2 to its owner by the gunsmith, or the delivery of a firearm
3 by a gunsmith to a federally licensed firearms dealer for
4 service or repair and the return of the firearm to the
5 gunsmith;

6 (6) temporary transfers that occur while in the home
7 of the unlicensed transferee, if the unlicensed transferee
8 is not otherwise prohibited from possessing firearms and
9 the unlicensed transferee reasonably believes that
10 possession of the firearm is necessary to prevent imminent
11 death or great bodily harm to the unlicensed transferee;

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

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

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

21 (a-20) The Illinois State Police shall develop an
22 Internet-based system for individuals to determine the
23 validity of a Firearm Owner's Identification Card prior to the
24 sale or transfer of a firearm. The Illinois State Police shall
25 have the Internet-based system updated and available for use
26 by January 1, 2024. The Illinois State Police shall adopt

1 rules not inconsistent with this Section to implement this
2 system, but no rule shall allow the Illinois State Police to
3 retain records in contravention of State and federal law.

4 (a-25) On or before January 1, 2022, the Illinois State
5 Police shall develop an Internet-based system upon which the
6 serial numbers of firearms that have been reported stolen are
7 available for public access for individuals to ensure any
8 firearms are not reported stolen prior to the sale or transfer
9 of a firearm under this Section. The Illinois State Police
10 shall have the Internet-based system completed and available
11 for use by July 1, 2022. The Illinois State Police shall adopt
12 rules not inconsistent with this Section to implement this
13 system.

14 (b) Any person within this State who transfers or causes
15 to be transferred any firearm, stun gun, or taser shall keep a
16 record of such transfer for a period of 10 years from the date
17 of transfer. Any person within this State who receives any
18 firearm, stun gun, or taser pursuant to subsection (a-10)
19 shall provide a record of the transfer within 10 days of the
20 transfer to a federally licensed firearm dealer and shall not
21 be required to maintain a transfer record. The federally
22 licensed firearm dealer shall maintain the transfer record for
23 20 years from the date of receipt. A federally licensed
24 firearm dealer may charge a fee not to exceed \$25 to retain the
25 record. The record shall be provided and maintained in either
26 an electronic or paper format. The federally licensed firearm

1 dealer shall not be liable for the accuracy of any information
2 in the transfer record submitted pursuant to this Section.
3 Such records shall contain the date of the transfer; the
4 description, serial number or other information identifying
5 the firearm, stun gun, or taser if no serial number is
6 available; and, if the transfer was completed within this
7 State, the transferee's Firearm Owner's Identification Card
8 number and any approval number or documentation provided by
9 the Illinois State Police pursuant to subsection (a-10) of
10 this Section; if the transfer was not completed within this
11 State, the record shall contain the name and address of the
12 transferee. On or after January 1, 2006, the record shall
13 contain the date of application for transfer of the firearm.
14 On demand of a peace officer such transferor shall produce for
15 inspection such record of transfer. For any transfer pursuant
16 to subsection (a-10) of this Section, on the demand of a peace
17 officer, such transferee shall identify the federally licensed
18 firearm dealer maintaining the transfer record. If the
19 transfer or sale took place at a gun show, the record shall
20 include the unique identification number. Failure to record
21 the unique identification number or approval number is a petty
22 offense. For transfers of a firearm, stun gun, or taser made on
23 or after January 18, 2019 (the effective date of Public Act
24 100-1178), failure by the private seller to maintain the
25 transfer records in accordance with this Section, or failure
26 by a transferee pursuant to subsection a-10 of this Section to

1 identify the federally licensed firearm dealer maintaining the
2 transfer record, is a Class A misdemeanor for the first
3 offense and a Class 4 felony for a second or subsequent offense
4 occurring within 10 years of the first offense and the second
5 offense was committed after conviction of the first offense.
6 Whenever any person who has not previously been convicted of
7 any violation of subsection (a-5), the court may grant
8 supervision pursuant to and consistent with the limitations of
9 Section 5-6-1 of the Unified Code of Corrections. A transferee
10 or transferor shall not be criminally liable under this
11 Section provided that he or she provides the Illinois State
12 Police with the transfer records in accordance with procedures
13 established by the Illinois State Police. The Illinois State
14 Police shall establish, by rule, a standard form on its
15 website.

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

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

4 (Source: P.A. 102-538, eff. 8-20-21; 102-813, eff. 5-13-22;
5 102-1116, eff. 1-10-23.)

6 (Text of Section after amendment by P.A. 102-237)

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 Illinois State Police under the provisions of this Act; or (2)
14 a currently valid license to carry a concealed firearm which
15 has previously been issued in his or her name by the Illinois
16 State Police under the Firearm Concealed Carry Act. In
17 addition, all firearm, firearm ammunition, stun gun, and taser
18 transfers by federally licensed firearm dealers are subject to
19 Section 3.1.

20 (a-5) Any person who is not a federally licensed firearm
21 dealer and who desires to transfer or sell a firearm while that
22 person is on the grounds of a gun show must, before selling or
23 transferring the firearm, request the Illinois State Police to
24 conduct a background check on the prospective recipient of the
25 firearm in accordance with Section 3.1.

1 (a-10) Notwithstanding item (2) of subsection (a) of this
2 Section, any person who is not a federally licensed firearm
3 dealer and who desires to transfer or sell any ~~a~~ firearm or
4 sell firearm ammunition ~~firearms~~ to any person who is not a
5 federally licensed firearm dealer shall, before selling or
6 transferring the firearms or selling firearm ammunition,
7 contact a federal firearm license dealer under paragraph (1)
8 of subsection (a-15) of this Section to conduct the transfer
9 or the Illinois State Police with the transferee's or
10 purchaser's Firearm Owner's Identification Card number to
11 determine the validity of the transferee's or purchaser's
12 Firearm Owner's Identification Card under State and federal
13 law, including the National Instant Criminal Background Check
14 System. This subsection shall not be effective until July 1,
15 2023. Until that date the transferor shall contact the
16 Illinois State Police with the transferee's or purchaser's
17 Firearm Owner's Identification Card number to determine the
18 validity of the card. The Illinois State Police may adopt
19 rules concerning the implementation of this subsection. The
20 Illinois State Police shall provide the seller or transferor
21 an approval number if the purchaser's Firearm Owner's
22 Identification Card is valid. Approvals issued by the Illinois
23 State Police for the purchase of a firearm or firearm
24 ammunition pursuant to this subsection are valid for 30 days
25 from the date of issue.

26 (a-15) The provisions of subsection (a-10) of this Section

1 do not apply to:

2 (1) transfers that occur at the place of business of a
3 federally licensed firearm dealer, if the federally
4 licensed firearm dealer conducts a background check on the
5 prospective recipient of the firearm or firearm ammunition
6 in accordance with Section 3.1 of this Act and follows all
7 other applicable federal, State, and local laws as if he
8 or she were the seller or transferor of the firearm or
9 firearm ammunition, although the dealer is not required to
10 accept the firearm or firearm ammunition into his or her
11 inventory. The purchaser or transferee may be required by
12 the federally licensed firearm dealer to pay a fee not to
13 exceed \$25 per firearm or \$25 per firearm ammunition sales
14 transaction, which the dealer may retain as compensation
15 for performing the functions required under this
16 paragraph, plus the applicable fees authorized by Section
17 3.1;

18 (2) transfers as a bona fide gift to the transferor's
19 husband, wife, son, daughter, stepson, stepdaughter,
20 father, mother, stepfather, stepmother, brother, sister,
21 nephew, niece, uncle, aunt, grandfather, grandmother,
22 grandson, granddaughter, father-in-law, mother-in-law,
23 son-in-law, or daughter-in-law;

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

26 (4) transfers on the grounds of a gun show under

1 subsection (a-5) of this Section;

2 (5) the delivery of a firearm by its owner to a
3 gunsmith for service or repair, the return of the firearm
4 to its owner by the gunsmith, or the delivery of a firearm
5 by a gunsmith to a federally licensed firearms dealer for
6 service or repair and the return of the firearm to the
7 gunsmith;

8 (6) temporary transfers that occur while in the home
9 of the unlicensed transferee, if the unlicensed transferee
10 is not otherwise prohibited from possessing firearms and
11 the unlicensed transferee reasonably believes that
12 possession of the firearm is necessary to prevent imminent
13 death or great bodily harm to the unlicensed transferee;

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

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

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

23 (a-20) The Illinois State Police shall develop an
24 Internet-based system for individuals to determine the
25 validity of a Firearm Owner's Identification Card prior to the
26 sale or transfer of a firearm or firearm ammunition. The

1 Illinois State Police shall have the Internet-based system
2 updated and available for use by January 1, 2024. The Illinois
3 State Police shall adopt rules not inconsistent with this
4 Section to implement this system; but no rule shall allow the
5 Illinois State Police to retain records in contravention of
6 State and federal law.

7 (a-25) On or before January 1, 2022, the Illinois State
8 Police shall develop an Internet-based system upon which the
9 serial numbers of firearms that have been reported stolen are
10 available for public access for individuals to ensure any
11 firearms are not reported stolen prior to the sale or transfer
12 of a firearm under this Section. The Illinois State Police
13 shall have the Internet-based system completed and available
14 for use by July 1, 2022. The Illinois State Police shall adopt
15 rules not inconsistent with this Section to implement this
16 system.

17 (b) Any person within this State who transfers or causes
18 to be transferred any firearm, firearm ammunition, stun gun,
19 or taser shall keep a record of such transfer for a period of
20 10 years from the date of transfer. Any person within this
21 State who receives any firearm, firearm ammunition, stun gun,
22 or taser pursuant to subsection (a-10) shall provide a record
23 of the transfer within 10 days of the transfer to a federally
24 licensed firearm dealer and shall not be required to maintain
25 a transfer record. The federally licensed firearm dealer shall
26 maintain the transfer record for 20 years from the date of

1 receipt. A federally licensed firearm dealer may charge a fee
2 not to exceed \$25 to retain the record. The record shall be
3 provided and maintained in either an electronic or paper
4 format. The federally licensed firearm dealer shall not be
5 liable for the accuracy of any information in the transfer
6 record submitted pursuant to this Section. Such records shall
7 contain the date of the transfer; the description, serial
8 number or other information identifying the firearm, stun gun,
9 or taser if no serial number is available; quantity and type of
10 firearm ammunition transferred; and, if the transfer was
11 completed within this State, the transferee's Firearm Owner's
12 Identification Card number and any approval number or
13 documentation provided by the Illinois State Police pursuant
14 to subsection (a-10) of this Section; if the transfer was not
15 completed within this State, the record shall contain the name
16 and address of the transferee. On or after January 1, 2006, the
17 record shall contain the date of application for transfer of
18 the firearm or firearm ammunition. On demand of a peace
19 officer such transferor shall produce for inspection such
20 record of transfer. For any transfer pursuant to subsection
21 (a-10) of this Section, on the demand of a peace officer, such
22 transferee shall identify the federally licensed firearm
23 dealer maintaining the transfer record. If the transfer or
24 sale took place at a gun show, the record shall include the
25 unique identification number. Failure to record the unique
26 identification number or approval number is a petty offense.

1 For transfers of a firearm, stun gun, or taser made on or after
2 January 18, 2019 (the effective date of Public Act 100-1178),
3 failure by the private seller to maintain the transfer records
4 in accordance with this Section, or failure by a transferee
5 pursuant to subsection a-10 of this Section to identify the
6 federally licensed firearm dealer maintaining the transfer
7 record, is a Class A misdemeanor for the first offense and a
8 Class 4 felony for a second or subsequent offense occurring
9 within 10 years of the first offense and the second offense was
10 committed after conviction of the first offense. For transfers
11 of firearm ammunition made on or after the effective date of
12 this amendatory Act of the 103rd General Assembly, failure by
13 the private seller to maintain the transfer records in
14 accordance with this Section is a Class A misdemeanor for the
15 first offense and a Class 4 felony for a second or subsequent
16 offense occurring within 10 years of the first offense and the
17 second offense was committed after conviction of the first
18 offense. Whenever any person who has not previously been
19 convicted of any violation of subsection (a-5), the court may
20 grant supervision pursuant to and consistent with the
21 limitations of Section 5-6-1 of the Unified Code of
22 Corrections. A transferee or transferor shall not be
23 criminally liable under this Section provided that he or she
24 provides the Illinois State Police with the transfer records
25 in accordance with procedures established by the Illinois
26 State Police. The Illinois State Police shall establish, by

1 rule, a standard form on its website.

2 (b-5) Any resident may purchase ammunition from a person
3 within or outside of Illinois if shipment is by United States
4 mail or by a private express carrier authorized by federal law
5 to ship ammunition. Any resident purchasing ammunition within
6 or outside the State of Illinois must provide the seller with a
7 copy of his or her valid Firearm Owner's Identification Card
8 or valid concealed carry license and either his or her
9 Illinois driver's license or Illinois State Identification
10 Card prior to the shipment of the ammunition. Prior to the
11 shipment of the ammunition, Illinois sellers shall contact the
12 Illinois State Police consistent with the requirements set
13 forth in this Section. The ammunition may be shipped only to an
14 address on either of those 2 documents.

15 (c) The provisions of this Section regarding the transfer
16 of firearm ammunition shall not apply to those persons
17 specified in paragraph (b) of Section 2 of this Act while
18 engaging in activities listed in that subsection.

19 (Source: P.A. 102-237, eff. 1-1-24; 102-538, eff. 8-20-21;
20 102-813, eff. 5-13-22; 102-1116, eff. 1-10-23.)

21 (430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

22 Sec. 3.1. Firearm Transfer Inquiry Program.

23 (a) The Illinois State Police shall provide a dial up
24 telephone system or utilize other existing technology which
25 shall be used by any federally licensed firearm dealer, gun

1 show promoter, or gun show vendor who is to transfer a firearm,
2 firearm ammunition, stun gun, or taser under the provisions of
3 this Act. The Illinois State Police may utilize existing
4 technology which allows the caller to be charged a fee not to
5 exceed \$2. Fees collected by the Illinois State Police shall
6 be deposited in the State Police Firearm Services Fund and
7 used to provide the service.

8 (b) Upon receiving a request from a federally licensed
9 firearm dealer, gun show promoter, or gun show vendor, the
10 Illinois State Police shall immediately approve or, within the
11 time period established by Section 24-3 of the Criminal Code
12 of 2012 regarding the delivery of firearms, firearm
13 ammunition, stun guns, and tasers, notify the inquiring
14 dealer, gun show promoter, or gun show vendor of any objection
15 that would disqualify the transferee from acquiring or
16 possessing a firearm, firearm ammunition, stun gun, or taser.
17 In conducting the inquiry, the Illinois State Police shall
18 initiate and complete an automated search of its criminal
19 history record information files and those of the Federal
20 Bureau of Investigation, including the National Instant
21 Criminal Background Check System, and of the files of the
22 Department of Human Services relating to mental health and
23 developmental disabilities to obtain any felony conviction or
24 patient hospitalization information which would disqualify a
25 person from obtaining or require revocation of a currently
26 valid Firearm Owner's Identification Card.

1 (b-5) By January 1, 2023, the Illinois State Police shall
2 by rule provide a process for the automatic renewal of the
3 Firearm Owner's Identification Card of a person at the time of
4 an inquiry in subsection (b). Persons eligible for this
5 process must have a set of fingerprints on file with their
6 applications under either subsection (a-25) of Section 4 or
7 the Firearm Concealed Carry Act.

8 (c) If receipt of a firearm would not violate Section 24-3
9 of the Criminal Code of 2012, federal law, or this Act, the
10 Illinois State Police shall:

11 (1) assign a unique identification number to the
12 transfer; and

13 (2) provide the licensee, gun show promoter, or gun
14 show vendor with the number.

15 (d) Approvals issued by the Illinois State Police for the
16 purchase of a firearm or firearm ammunition are valid for 30
17 days from the date of issue.

18 (e) (1) The Illinois State Police must act as the Illinois
19 Point of Contact for the National Instant Criminal Background
20 Check System.

21 (2) The Illinois State Police and the Department of Human
22 Services shall, in accordance with State and federal law
23 regarding confidentiality, enter into a memorandum of
24 understanding with the Federal Bureau of Investigation for the
25 purpose of implementing the National Instant Criminal
26 Background Check System in the State. The Illinois State

1 Police shall report the name, date of birth, and physical
2 description of any person prohibited from possessing a firearm
3 pursuant to the Firearm Owners Identification Card Act or 18
4 U.S.C. 922(g) and (n) to the National Instant Criminal
5 Background Check System Index, Denied Persons Files.

6 (3) The Illinois State Police shall provide notice of the
7 disqualification of a person under subsection (b) of this
8 Section or the revocation of a person's Firearm Owner's
9 Identification Card under Section 8 or Section 8.2 of this
10 Act, and the reason for the disqualification or revocation, to
11 all law enforcement agencies with jurisdiction to assist with
12 the seizure of the person's Firearm Owner's Identification
13 Card.

14 (f) The Illinois State Police shall adopt rules not
15 inconsistent with this Section to implement this system.

16 (Source: P.A. 102-237, eff. 1-1-22; 102-538, eff. 8-20-21;
17 102-813, eff. 5-13-22.)

18 Section 95. No acceleration or delay. Where this Act makes
19 changes in a statute that is represented in this Act by text
20 that is not yet or no longer in effect (for example, a Section
21 represented by multiple versions), the use of that text does
22 not accelerate or delay the taking effect of (i) the changes
23 made by this Act or (ii) provisions derived from any other
24 Public Act.