



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3632

Introduced 2/11/2010, by Sen. Dan Kotowski

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. Requires a person who is not a federally licensed importer, manufacturer, or dealer and who desires to sell or transfer a firearm of a size that may be concealed upon the person to another person, who is not a federally licensed importer, manufacturer, or dealer, to do so only at the place of business of a federally licensed firearm dealer. Provides that the federally licensed firearm dealer shall conduct a background check on the prospective recipient of the firearm and follow all other applicable federal, State, and local laws as if he were the seller of the firearm. Provides that the purchaser or transferee may be required by the federally licensed firearm dealer to pay a fee not to exceed \$10 per firearm, plus any applicable fees. Makes exceptions for (i) the transfer of a firearm between spouses, a parent and child, or a grandparent and grandchild, (ii) transfers by persons acting pursuant to operation of law or a court order, or (iii) transfers on the grounds of a gun show. Amends the Criminal Code of 1961. Provides that a person who knowingly sells or gives any firearm to any person who is a street gang member is guilty of a Class 1 felony. Effective immediately.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 a
11 currently valid Firearm Owner's Identification Card which has
12 previously been issued in his name by the Department of State
13 Police under the provisions of this Act. In addition, all
14 firearm, stun gun, and taser transfers by federally licensed
15 firearm dealers are subject to Section 3.1.

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

22 (a-10) Any person who is not a federally licensed importer,
23 manufacturer, or dealer and who desires to sell or transfer a

1 firearm of a size that may be concealed upon the person to
2 another person, who is not a federally licensed importer,
3 manufacturer, or dealer, shall do so only at the place of
4 business of a federally licensed firearm dealer. The federally
5 licensed firearm dealer shall conduct a background check on the
6 prospective recipient of the firearm in accordance with Section
7 3.1 of this Act and follow all other applicable federal, State,
8 and local laws as if he were the seller of the firearm. The
9 purchaser or transferee may be required by the federally
10 licensed firearm dealer to pay a fee not to exceed \$10 per
11 firearm, plus the applicable fees authorized by Section 3.1.

12 The provisions of this subsection (a-10) do not apply to:

13 (1) transfers to the transferor's husband, wife, son,
14 daughter, stepson, stepdaughter, father, mother,
15 stepfather, stepmother, brother, sister, nephew, niece,
16 uncle, aunt, grandfather, grandmother, grandson,
17 granddaughter, father-in-law, mother-in-law, son-in-law,
18 or daughter-in-law;

19 (2) transfers by persons acting pursuant to operation
20 of law or a court order; or

21 (3) transfers on the grounds of a gun show.

22 (b) Any person within this State who transfers or causes to
23 be transferred any firearm, stun gun, or taser shall keep a
24 record of such transfer for a period of 10 years from the date
25 of transfer. Such record shall contain the date of the
26 transfer; the description, serial number or other information

1 identifying the firearm, stun gun, or taser if no serial number
2 is available; and, if the transfer was completed within this
3 State, the transferee's Firearm Owner's Identification Card
4 number. On or after January 1, 2006, the record shall contain
5 the date of application for transfer of the firearm. On demand
6 of a peace officer such transferor shall produce for inspection
7 such record of transfer. If the transfer or sale took place at
8 a gun show, the record shall include the unique identification
9 number. Failure to record the unique identification number is a
10 petty offense.

11 (b-5) Any resident may purchase ammunition from a person
12 outside of Illinois. Any resident purchasing ammunition
13 outside the State of Illinois must provide the seller with a
14 copy of his or her valid Firearm Owner's Identification Card
15 and either his or her Illinois driver's license or Illinois
16 State Identification Card prior to the shipment of the
17 ammunition. The ammunition may be shipped only to an address on
18 either of those 2 documents.

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

22 (Source: P.A. 94-6, eff. 1-1-06; 94-284, eff. 7-21-05; 94-353,
23 eff. 7-29-05; 94-571, eff. 8-12-05; 95-331, eff. 8-21-07.)

24 Section 10. The Criminal Code of 1961 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 of Firearms.

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

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

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

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

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

15 (e) Sells or gives any firearm to any person who has
16 been a patient in a mental hospital within the past 5
17 years.

18 (f) Sells or gives any firearms to any person who is
19 mentally retarded.

20 (g) Delivers any firearm of a size which may be
21 concealed upon the person, incidental to a sale, without
22 withholding delivery of such firearm for at least 72 hours
23 after application for its purchase has been made, or
24 delivers any rifle, shotgun or other long gun, or a stun
25 gun or taser, incidental to a sale, without withholding

1 delivery of such rifle, shotgun or other long gun, or a
2 stun gun or taser for at least 24 hours after application
3 for its purchase has been made. However, this paragraph (g)
4 does not apply to: (1) the sale of a firearm to a law
5 enforcement officer if the seller of the firearm knows that
6 the person to whom he or she is selling the firearm is a
7 law enforcement officer or the sale of a firearm to a
8 person who desires to purchase a firearm for use in
9 promoting the public interest incident to his or her
10 employment as a bank guard, armed truck guard, or other
11 similar employment; (2) a mail order sale of a firearm to a
12 nonresident of Illinois under which the firearm is mailed
13 to a point outside the boundaries of Illinois; (3) the sale
14 of a firearm to a nonresident of Illinois while at a
15 firearm showing or display recognized by the Illinois
16 Department of State Police; or (4) the sale of a firearm to
17 a dealer licensed as a federal firearms dealer under
18 Section 923 of the federal Gun Control Act of 1968 (18
19 U.S.C. 923). For purposes of this paragraph (g),
20 "application" means when the buyer and seller reach an
21 agreement to purchase a firearm.

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

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

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

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

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

24 "With the principal objective of livelihood and
25 profit" means that the intent underlying the sale or
26 disposition of firearms is predominantly one of obtaining

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

7 (k) Sells or transfers ownership of a firearm to a
8 person who does not display to the seller or transferor of
9 the firearm a currently valid Firearm Owner's
10 Identification Card that has previously been issued in the
11 transferee's name by the Department of State Police under
12 the provisions of the Firearm Owners Identification Card
13 Act. This paragraph (k) does not apply to the transfer of a
14 firearm to a person who is exempt from the requirement of
15 possessing a Firearm Owner's Identification Card under
16 Section 2 of the Firearm Owners Identification Card Act.
17 For the purposes of this Section, a currently valid Firearm
18 Owner's Identification Card means (i) a Firearm Owner's
19 Identification Card that has not expired or (ii) if the
20 transferor is licensed as a federal firearms dealer under
21 Section 923 of the federal Gun Control Act of 1968 (18
22 U.S.C. 923), an approval number issued in accordance with
23 Section 3.1 of the Firearm Owners Identification Card Act
24 shall be proof that the Firearm Owner's Identification Card
25 was valid.

26 (1) Knowingly sells or gives any firearm to any person

1 who is a street gang member. For purposes of this paragraph
2 (1): "street gang member" has the meaning ascribed to the
3 term "street gang member" in Section 10 of the Illinois
4 Streetgang Terrorism Omnibus Prevention Act.

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

15 (C) Sentence.

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

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

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

25 (4) Any person convicted of unlawful sale of firearms
26 in violation of paragraph (a), (b), or (i) of subsection

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

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

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

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

15 (7) Any person convicted of unlawful sale of firearms
16 in violation of paragraph (k) of subsection (A) commits a
17 Class 4 felony. A third or subsequent conviction for a
18 violation of paragraph (k) of subsection (A) is a Class 1
19 felony.

20 (8) A person 18 years of age or older convicted of
21 unlawful sale of firearms in violation of paragraph (a) or
22 (i) of subsection (A), when the firearm that was sold or
23 given to another person under 18 years of age was used in
24 the commission of or attempt to commit a forcible felony,
25 shall be fined or imprisoned, or both, not to exceed the
26 maximum provided for the most serious forcible felony so

1 committed or attempted by the person under 18 years of age
2 who was sold or given the firearm.

3 (9) Any person convicted of unlawful sale of firearms
4 in violation of paragraph (d) of subsection (A) commits a
5 Class 3 felony.

6 (10) Any person convicted of unlawful sale of firearms
7 in violation of paragraph (l) of subsection (A) commits a
8 Class 1 felony.

9 (D) For purposes of this Section:

10 "School" means a public or private elementary or secondary
11 school, community college, college, or university.

12 "School related activity" means any sporting, social,
13 academic, or other activity for which students' attendance or
14 participation is sponsored, organized, or funded in whole or in
15 part by a school or school district.

16 (E) A prosecution for a violation of paragraph (k) of
17 subsection (A) of this Section may be commenced within 6 years
18 after the commission of the offense. A prosecution for a
19 violation of this Section other than paragraph (g) of
20 subsection (A) of this Section may be commenced within 5 years
21 after the commission of the offense defined in the particular
22 paragraph.

23 (Source: P.A. 95-331, eff. 8-21-07; 95-735, eff. 7-16-08;
24 96-190, eff. 1-1-10.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.