



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3709

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.

LRB096 20870 RLC 36645 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning firearms, which may be referred to as the
2 Gun Trafficking and Gang Violence Prevention Act.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

5 Section 5. The Firearm Owners Identification Card Act is
6 amended by changing Section 3 as follows:

7 (430 ILCS 65/3) (from Ch. 38, par. 83-3)

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

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

23 (a-10) Any person who is not a federally licensed importer,

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

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

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

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

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

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

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

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

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

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

25 Section 10. The Criminal Code of 1961 is amended by

1 changing Section 24-3 as follows:

2 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

3 Sec. 24-3. Unlawful Sale of Firearms.

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

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

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

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

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

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

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

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

1 gun or taser, incidental to a sale, without withholding
2 delivery of such rifle, shotgun or other long gun, or a
3 stun gun or taser for at least 24 hours after application
4 for its purchase has been made. However, this paragraph (g)
5 does not apply to: (1) the sale of a firearm to a law
6 enforcement officer if the seller of the firearm knows that
7 the person to whom he or she is selling the firearm is a
8 law enforcement officer or the sale of a firearm to a
9 person who desires to purchase a firearm for use in
10 promoting the public interest incident to his or her
11 employment as a bank guard, armed truck guard, or other
12 similar employment; (2) a mail order sale of a firearm to a
13 nonresident of Illinois under which the firearm is mailed
14 to a point outside the boundaries of Illinois; (3) the sale
15 of a firearm to a nonresident of Illinois while at a
16 firearm showing or display recognized by the Illinois
17 Department of State Police; or (4) the sale of a firearm to
18 a dealer licensed as a federal firearms dealer under
19 Section 923 of the federal Gun Control Act of 1968 (18
20 U.S.C. 923). For purposes of this paragraph (g),
21 "application" means when the buyer and seller reach an
22 agreement to purchase a firearm.

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

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

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

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

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

25 "With the principal objective of livelihood and
26 profit" means that the intent underlying the sale or

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

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

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

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

16 (C) Sentence.

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

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

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

26 (4) Any person convicted of unlawful sale of firearms

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

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

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

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

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

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

1 maximum provided for the most serious forcible felony so
2 committed or attempted by the person under 18 years of age
3 who was sold or given the firearm.

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

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

10 (D) For purposes of this Section:

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

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

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

24 (Source: P.A. 95-331, eff. 8-21-07; 95-735, eff. 7-16-08;
25 96-190, eff. 1-1-10.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.