



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3422

by Rep. Christian L. Mitchell

SYNOPSIS AS INTRODUCED:

See Index

Creates the Gun Dealer and Ammunition Seller Act. Provides that it is unlawful for any person to engage in the business of selling, leasing, or otherwise transferring firearms or ammunition without a dealer license issued by the Department of Financial and Professional Regulation. Provides that a dealer license expires 5 years after the date of issuance. Provides that a license may be renewed for additional 5-year periods if the licensee submits a timely application for renewal, accompanied by a nonrefundable renewal fee established by the Department. Establishes licensing requirements. Provides that the Department shall require each applicant for a dealer license or the renewal of a dealer license, as part of the application process, and each prospective employee of a licensee, as a condition of employment, to: (1) provide a copy of a currently valid Firearm Owner's Identification Card issued to that person; and (2) authorize an investigation to determine if any of the conditions for license denial exist. Establishes conditions for denial of a license. Provides that the licensee shall not allow any person to consume alcohol on the premises of the business. Provides that the Department of State Police may establish rules requiring employees and agents of licensees to undergo training regarding legal requirements and responsible business practices as applicable to the sale or transfer of firearms or ammunition. Amends the Firearm Owners Identification Card Act and the Firearm Concealed Carry Act to make conforming changes.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

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 1. Short title. This Act may be cited as the Gun
5 Dealer and Ammunition Seller Act.

6 Section 5. Legislative findings; purpose and intent. The
7 General Assembly hereby finds and declares that the business of
8 selling, leasing, or otherwise transferring firearms or
9 ammunition is hereby declared to affect the public health,
10 safety, and welfare of the people of Illinois and to be subject
11 to regulation in the public interest. The purpose of this Act
12 is to protect and benefit the public by requiring firearms
13 dealers and ammunition sellers to obtain a State license and
14 conduct business responsibly, and to protect the public from
15 the diversion of firearms or ammunition into the illegal
16 market. This Act shall be liberally construed to best carry out
17 these subjects and purposes.

18 Section 10. Definitions. As used in this Act:

19 "Ammunition" has the same meaning as "firearm ammunition"
20 in Section 1.1 of the Firearm Owners Identification Card Act.

21 "Applicant" means any person who applies for a dealer
22 license, or the renewal of the license, to sell, lease, or

1 transfer firearms or ammunition.

2 "Dealer license" means a license issued by the Department
3 to sell, lease, or transfer firearms or ammunition under this
4 Act.

5 "Department" means the Department of Financial and
6 Professional Regulation.

7 "Engage in the business of selling, leasing, or otherwise
8 transferring firearms or ammunition" means to:

9 (1) conduct a business selling, leasing, or
10 transferring firearms or ammunition;

11 (2) hold himself or herself out as engaged in the
12 business of selling, leasing or otherwise transferring
13 firearms or ammunition; or

14 (3) sell, lease, or transfer firearms or ammunition in
15 quantity, in series, or in any other manner indicative of
16 trade.

17 "Firearm" has the same meaning as "firearm" in Section 1.1
18 of the Firearm Owners Identification Card Act.

19 "Licensee" or "firearms dealer licensee" means any person
20 engaged in the business of selling, leasing, or otherwise
21 transferring firearms or ammunition who has obtained a license
22 from the Department to sell, lease, or transfer firearms or
23 ammunition under this Act.

24 Section 15. License requirement. It is unlawful for any
25 person to engage in the business of selling, leasing, or

1 otherwise transferring firearms or ammunition without a dealer
2 license, as required by this Act.

3 Section 20. Application for a dealer license.

4 (a) Any person who is required to obtain a dealer license
5 under this Act shall:

6 (1) complete and submit to the Department an
7 application, in writing, signed under penalty of perjury,
8 on a form prescribed by the Department;

9 (2) provide all relevant information that the
10 Department requests to demonstrate compliance with this
11 Act, including:

12 (A) the applicant's full name and any other name by
13 which the applicant has ever been known;

14 (B) the home address and telephone number of the
15 applicant;

16 (C) the present occupation, business address and
17 business telephone number of the applicant;

18 (D) information relating to every other license to
19 sell, lease, transfer, purchase, possess, or carry
20 firearms or ammunition which the applicant or an
21 employer of the applicant sought at any time from the
22 federal government or from any state or subdivision of
23 any state, including, but not limited to, the type of
24 license sought, the date of each application and
25 whether it resulted in the issuance of the license, and

1 the date and circumstances of any revocation or
2 suspension;

3 (E) the address of the proposed location for which
4 the license is sought, if different than applicant's
5 business address;

6 (F) the business name, and the name of any
7 corporation, partnership, or other entity that has any
8 ownership in, or control over, the business;

9 (G) the names, dates of birth, and addresses of all
10 paid or unpaid employees, agents, or volunteers who
11 will have access to or control of firearms or
12 ammunition, if any;

13 (H) proof of a possessory interest in the property
14 at which the proposed business will be conducted, as
15 owner, lessee, or other legal occupant, and, if the
16 applicant is not the owner of record of the real
17 property upon which the applicant's business is to be
18 located and conducted, the written consent of the owner
19 of record of the real property to the applicant's
20 proposed business;

21 (I) the date, location, and nature of all criminal
22 convictions of the applicant, if any, in any
23 jurisdiction in the United States;

24 (J) proof that the applicant has applied for or
25 received a certificate of registration under the
26 Retailers' Occupation Tax Act; and

1 (K) written approval from the sheriff of the county
2 or chief of police of the municipality in which the
3 business is located, together with a statement of any
4 additional requirements or conditions the business
5 must fulfill in order to comply with local law or
6 ordinance, including requirements or conditions
7 imposed by the sheriff or chief at his or her
8 discretion. A municipality or county may impose
9 additional requirements for the licensing and
10 operation of licensees beyond the requirements of this
11 Act, provided they are included within this statement.
12 This subparagraph (K) supersedes Section 13.1 of the
13 Firearm Owners Identification Card Act and Section 90
14 of the Firearm Concealed Carry Act as applied to the
15 local regulation of licensees and applications for
16 dealer licenses.

17 (b) The Department may charge a fee to cover the
18 administrative costs of the issuance of the license.

19 Section 25. Employee background checks.

20 (a) In addition to the requirements of Section 20, the
21 Department shall require each applicant for a dealer license or
22 the renewal of a dealer license, as part of the application
23 process, and each prospective employee of a licensee, as a
24 condition of employment, to:

25 (1) provide a copy of a currently valid Firearm Owner's

1 Identification Card issued to that person; and

2 (2) authorize an investigation to determine if any of
3 the of the conditions listed in Section 30 exist.

4 (b) The Department shall contact the Department of State
5 Police with the applicant or prospective employee's Firearm
6 Owner's Identification Card number to determine the validity of
7 the applicant or prospective employee's Firearm Owner's
8 Identification Card. The Department of State Police shall
9 provide the Department with an approval number if the Firearm
10 Owner's Identification Card is valid.

11 (c) Prior to renewal of a dealer license, the Department
12 shall contact the Department of State Police to confirm the
13 validity of the Firearm Owner's Identification Card issued to
14 each employee of the licensee who will have access to or
15 control over firearms or ammunition, and the Department of
16 State Police shall provide the Department with an approval
17 number if the Firearm Owner's Identification Card is currently
18 valid.

19 (d) The Department may conduct any additional
20 investigation necessary to determine whether any of the
21 conditions listed in Section 30 exist for each applicant,
22 employee, or prospective employee. The Department may require
23 each individual to provide fingerprints, a recent photograph, a
24 signed authorization for the release of pertinent records, and
25 any additional information which the Department considers
26 necessary to complete the investigation.

1 (e) A licensee shall not allow an employee or other agent
2 of the licensee to have access to or control over firearms or
3 ammunition until the Department has conducted an investigation
4 under this Section, and verified that the person is the holder
5 of a currently valid Firearm Owner's Identification Card and
6 that none of the conditions listed in Section 30 exist, as
7 applied to the person.

8 (f) This Section shall only apply to employees, or
9 prospective employees of a licensee if those individuals will
10 have access to or control over firearms or ammunition. This
11 Section shall apply to unpaid or paid volunteers or agents of
12 the licensee who will have access to or control over firearms
13 or ammunition, just as it applies to employees.

14 Section 30. Grounds for license denial. The Department
15 shall deny the issuance or renewal of a dealer license if the
16 operation of the business would not or does not comply with
17 federal, State, or local law or ordinance, including this Act,
18 or if the applicant:

19 (1) is under 21 years of age;

20 (2) is not licensed as required by all applicable
21 federal and local laws and ordinances;

22 (3) has made a false or misleading statement of a
23 material fact or omission of a material fact in an
24 application for a dealer license, or in any other documents
25 submitted to the Department under this Act. If a license is

1 denied on this ground, the applicant is prohibited from
2 reapplying for a license for a period of 5 years;

3 (4) has had a license or permit to sell, lease,
4 transfer, purchase, or possess firearms or ammunition from
5 the federal government or the government of any state or
6 subdivision of any state revoked or suspended for good
7 cause within the preceding 5 years, or been terminated from
8 employment with a licensee or former licensee for good
9 cause within the preceding 5 years; and

10 (5) is prohibited by any federal, State, or local law
11 or ordinance from purchasing or possessing firearms or
12 ammunition.

13 Section 35. Issuance of dealer license; duration.

14 (a) A dealer license expires 5 years after the date of
15 issuance. A license may be renewed for additional 5-year
16 periods if the licensee submits a timely application for
17 renewal, accompanied by a nonrefundable renewal fee
18 established by the Department. The renewal application and the
19 renewal fee must be received by the Department no later than 90
20 days before the expiration of the current license.

21 (b) A decision regarding issuance or renewal of the dealer
22 license may be appealed in the manner provided under the
23 Illinois Administrative Procedure Act.

24 Section 40. Semi-annual inventory reports. Within the

1 first 5 business days of April and October of each year, the
2 licensee shall cause a physical inventory to be taken that
3 includes a listing of each firearm held by the licensee by
4 make, model, and serial number, together with a listing of each
5 firearm the licensee has sold since the last inventory period.
6 In addition, the inventory shall include a listing of each
7 firearm lost or stolen that is required to be reported under
8 federal law. The licensee shall include with the inventory an
9 affidavit signed by an authorized agent or employee on behalf
10 of the licensee under penalty of perjury stating that within
11 that particular date in April or October, as the case may be,
12 the signer personally confirmed the presence of the firearms
13 reported on the inventory. The licensee shall maintain the
14 inventory on the premises for which the license was issued for
15 a period of not less than 5 years from the date of the
16 inventory and shall make the copy available for inspection by
17 federal, State, or local law enforcement upon request.

18 Section 45. Rules. The Department of State Police may adopt
19 rules requiring employees and agents of licensees to undergo
20 training regarding legal requirements and responsible business
21 practices as applicable to the sale or transfer of firearms or
22 ammunition. Before an employee or agent of a licensee has
23 access to or control over firearms or ammunition in the
24 licensee's inventory, the licensee shall ensure that the
25 employee or agent receives the training that the Department of

1 State Police may require.

2 Section 50. Display of dealer license. The dealer license,
3 or a certified copy of it, shall be displayed in a prominent
4 place on the business premises where it can be easily seen by
5 those entering the premises.

6 Section 55. Non-assignability. A dealer license issued
7 under this Act is not assignable. Any attempt to assign a
8 dealer license shall result in revocation of the license.

9 Section 60. Ammunition sales records.

10 (a) No licensee or other person acting under the licensee's
11 authority shall sell or otherwise transfer ammunition from the
12 licensee's inventory without recording, on a form to be
13 provided by the Department, the date of the transaction, the
14 name, address, telephone number, and date of birth of the
15 transferee, the number of the transferee's current Firearm
16 Owner's Identification Card, or, if the transferee does not
17 have a Firearm Owner's Identification Card, the driver's
18 license or other government-issued identification card
19 containing a photograph of the transferee and the name of the
20 governmental authority that issued it, the caliber or gauge,
21 brand, type, and amount of any ammunition transferred, the
22 transferee's signature, and the name of the licensee's agent or
23 employee who processed the transaction. The licensee or other

1 person acting under the licensee's authority shall also, at the
2 time of purchase or transfer, obtain the right thumbprint of
3 the transferee on this form.

4 (b) A licensee shall maintain the forms described in this
5 Section on the premises for which the licensee was issued for a
6 period of not less than 5 years from the date of the sale or
7 transfer, and shall make the copy available for inspection by
8 federal, State, or local law enforcement upon request.

9 Section 65. Law enforcement inspections.

10 (a) Before issuance or renewal of the dealer license, the
11 Department of State Police or the local sheriff or local chief
12 of police may inspect the premises of the proposed business to
13 ensure compliance with this Act.

14 (b) Licensees shall have their places of business open for
15 inspection by federal, State, and local law enforcement during
16 all hours of operation. Licensees shall make all records,
17 documents, firearms, and ammunition accessible for inspection
18 upon the request of federal, State, or local law enforcement.

19 Section 70. On-site security.

20 (a) The licensed business location shall be equipped with a
21 video surveillance system sufficient to monitor the critical
22 areas of the business premises, including, but not limited to,
23 all places where firearms are stored, handled, sold,
24 transferred, or carried. The video surveillance system shall

1 operate without interruption, whenever the licensee is open for
2 business. Whenever the licensee is not open for business, the
3 system shall be triggered by a motion detector and begin
4 recording immediately upon detection of any motion within the
5 monitored area. In addition, every sale or transfer of a
6 firearm shall be recorded by the video surveillance system in a
7 way that the facial features of the purchaser or transferee are
8 clearly visible. The stored images shall be maintained on the
9 business premises of the licensee for a period of not less than
10 one year from the date of recordation and shall be made
11 available for inspection by federal, State, or local law
12 enforcement upon request. The licensee shall post a sign in a
13 conspicuous place at each entrance to the premises that states
14 in block letters not less than one inch in height:

15 THESE PREMISES ARE UNDER VIDEO SURVEILLANCE. YOUR IMAGE MAY
16 BE RECORDED.

17 (b) In addition to the requirements of this Section, a
18 licensee shall comply with standards specifying minimum
19 security requirements for licensees to prevent thefts as
20 adopted by the Department of State Police. By January 1, 2017,
21 all licensees shall comply with the standards. The standards
22 may provide for:

23 (1) the manner of securing firearms and ammunition when
24 the location is both open and closed for business;

25 (2) alarm systems for licensees; and

26 (3) other reasonable requirements to deter illegal

1 sales and reduce the risk of burglaries and other crimes or
2 accidents at licensees' business establishments.

3 Section 75. Alcohol consumption on premises. The licensee
4 shall not allow any person to consume alcohol on the premises
5 of the business.

6 Section 80. Location of business premises.

7 (a) The business of a licensee shall be carried on only in
8 the building located at the street address shown on the
9 license, and all firearms and ammunition in the inventory of a
10 licensee must be kept at the licensed business location. This
11 subsection does not prohibit the licensee from participating in
12 a gun show or event as defined under federal law that is
13 authorized by federal, State, or local law or ordinance upon
14 compliance with those laws.

15 (b) The business premises shall not be located in any
16 district or area that is zoned for residential use, or within
17 1,000 feet of any school, pre-school, day-care facility, or in
18 any location where it violates a valid local ordinance.

19 Section 85. Warnings to consumers.

20 (a) A licensee shall post in a conspicuous position on the
21 premises where the licensee conducts business a sign that
22 contains the following warning in block letters not less than
23 one inch in height: "With few exceptions, it is unlawful for

1 you to:

2 (1) store or leave an unsecured firearm in a place
3 where a child can obtain access to it,

4 (2) sell or transfer your firearm to someone else
5 without receiving approval for the transfer from the
6 Department of State Police, or

7 (3) fail to report the loss or theft of your firearm to
8 local law enforcement within 72 hours."

9 (b) The Department of State Police may require licensees to
10 post additional warnings or otherwise provide information to
11 consumers regarding firearms laws and the safe storage of
12 firearms. A licensee shall post any warnings or provide any
13 information to consumers as required by the Department.

14 Section 90. Compliance by existing businesses. A person
15 engaged in the business of selling, leasing, or otherwise
16 transferring any firearm or ammunition on the effective date of
17 this Act shall, within 180 days of the effective date, comply
18 with this Act. However, any person whose business is located in
19 any location described in Section 80 of this Act may continue
20 to sell, lease, or transfer firearms or ammunition for up to 2
21 years after the effective date of this Act. After the 2-year
22 period has expired, that person is prohibited from selling,
23 leasing or transferring firearms or ammunition in the named
24 location.

1 Section 95. Penalty.

2 (a) Any person who engages in the business of selling,
3 leasing, or otherwise transferring firearms or ammunition
4 without a dealer license as required by this Act is guilty of a
5 Class 4 felony. The Department, the Department of State Police
6 and any law enforcement officer shall have the authority and
7 power to investigate any and all unlicensed activity.

8 (b) The Department may refuse to renew, or may revoke or
9 suspend a license, or place on probation, reprimand, or take
10 other disciplinary or non-disciplinary action against a
11 licensee as the Department may deem appropriate, including
12 imposing fines not to exceed \$10,000, for each violation of any
13 provision of this Act or any other applicable federal, State,
14 or local law by the licensee.

15 (c) In addition to any other penalty or remedy, the
16 Department shall report any person or entity whose dealer
17 license is revoked or suspended or who is subject to other
18 disciplinary action under this Act to the Bureau of Alcohol,
19 Tobacco, Firearms and Explosives within the U.S. Department of
20 Justice, the Department of State Police, and to the local
21 sheriff or chief of police.

22 Section 100. Enforcement; rulemaking.

23 (a) This Act must be enforced by the Department, and may be
24 enforced, for the purpose of determining compliance with this
25 Act, by any municipality in which the licensee is located or,

1 if the licensee is not located in a municipality, by the county
2 in which the licensee is located.

3 (b) The Department shall adopt rules necessary for the
4 implementation and administration of this Act, in consultation
5 with the Department of State Police. The provisions of the
6 Illinois Administrative Procedure Act are hereby expressly
7 adopted and shall apply to all administrative rules and
8 procedures of the Department under this Act, except that the
9 provision of paragraph (d) of Section 10-65 of the Illinois
10 Administrative Procedure Act, which provides that at hearings
11 the licensee or person holding a license has the right to show
12 compliance with all lawful requirements for retention or
13 continuation of the license, is specifically excluded. For the
14 purpose of this Act, the notice required under Section 10-25 of
15 the Illinois Administrative Procedure Act is deemed sufficient
16 when mailed to the last known address of record of a party.

17 Section 1005. The Firearm Owners Identification Card Act is
18 amended by changing Section 13.1 as follows:

19 (430 ILCS 65/13.1) (from Ch. 38, par. 83-13.1)

20 Sec. 13.1. Preemption.

21 (a) Except as otherwise provided in the Firearm Concealed
22 Carry Act and subsections (b) and (c) of this Section, the
23 provisions of any ordinance enacted by any municipality which
24 requires registration or imposes greater restrictions or

1 limitations on the acquisition, possession and transfer of
2 firearms than are imposed by this Act, are not invalidated or
3 affected by this Act.

4 (b) Notwithstanding subsection (a) of this Section, the
5 regulation, licensing, possession, and registration of
6 handguns and ammunition for a handgun, and the transportation
7 of any firearm and ammunition by a holder of a valid Firearm
8 Owner's Identification Card issued by the Department of State
9 Police under this Act are exclusive powers and functions of
10 this State. Any ordinance or regulation, or portion of that
11 ordinance or regulation, enacted on or before the effective
12 date of this amendatory Act of the 98th General Assembly that
13 purports to impose regulations or restrictions on a holder of a
14 valid Firearm Owner's Identification Card issued by the
15 Department of State Police under this Act in a manner that is
16 inconsistent with this Act, on the effective date of this
17 amendatory Act of the 98th General Assembly, shall be invalid
18 in its application to a holder of a valid Firearm Owner's
19 Identification Card issued by the Department of State Police
20 under this Act.

21 (c) Notwithstanding subsection (a) of this Section, the
22 regulation of the possession or ownership of assault weapons
23 are exclusive powers and functions of this State. Any ordinance
24 or regulation, or portion of that ordinance or regulation, that
25 purports to regulate the possession or ownership of assault
26 weapons in a manner that is inconsistent with this Act, shall

1 be invalid unless the ordinance or regulation is enacted on,
2 before, or within 10 days after the effective date of this
3 amendatory Act of the 98th General Assembly. Any ordinance or
4 regulation described in this subsection (c) enacted more than
5 10 days after the effective date of this amendatory Act of the
6 98th General Assembly is invalid. An ordinance enacted on,
7 before, or within 10 days after the effective date of this
8 amendatory Act of the 98th General Assembly may be amended. The
9 enactment or amendment of ordinances under this subsection (c)
10 are subject to the submission requirements of Section 13.3. For
11 the purposes of this subsection, "assault weapons" means
12 firearms designated by either make or model or by a test or
13 list of cosmetic features that cumulatively would place the
14 firearm into a definition of "assault weapon" under the
15 ordinance.

16 (c-5) Notwithstanding the provisions of this Section, a
17 dealer of firearms or ammunition is subject to the provisions
18 of subparagraph (K) of paragraph (2) of subsection (a) of
19 Section 20 of the Gun Dealer and Ammunition Seller Act.

20 (d) For the purposes of this Section, "handgun" has the
21 meaning ascribed to it in Section 5 of the Firearm Concealed
22 Carry Act.

23 (e) This Section is a denial and limitation of home rule
24 powers and functions under subsection (h) of Section 6 of
25 Article VII of the Illinois Constitution.

26 (Source: P.A. 98-63, eff. 7-9-13.)

1 Section 1010. The Firearm Concealed Carry Act is amended by
2 changing Section 90 as follows:

3 (430 ILCS 66/90)

4 Sec. 90. Preemption. Except as otherwise provided in
5 subparagraph (K) of paragraph (2) of subsection (a) of Section
6 20 of the Gun Dealer and Ammunition Seller Act, the ~~The~~
7 regulation, licensing, possession, registration, and
8 transportation of handguns and ammunition for handguns by
9 licensees are exclusive powers and functions of the State. Any
10 ordinance or regulation, or portion thereof, enacted on or
11 before the effective date of this Act that purports to impose
12 regulations or restrictions on licensees or handguns and
13 ammunition for handguns in a manner inconsistent with this Act
14 shall be invalid in its application to licensees under this Act
15 on the effective date of this Act. This Section is a denial and
16 limitation of home rule powers and functions under subsection
17 (h) of Section 6 of Article VII of the Illinois Constitution.
18 (Source: P.A. 98-63, eff. 7-9-13.)

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 430 ILCS 65/13.1 from Ch. 38, par. 83-13.1

5 430 ILCS 66/90