

HB4392



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4392

Introduced 1/29/2020, by Rep. Patrick Windhorst

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.

LRB101 15688 RLC 65043 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 changing
5 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 primarily
4 for the care or treatment of persons with mental
5 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, without
15 withholding delivery of the firearm for at least 72 hours
16 after application for its purchase has been made, or
17 delivers a stun gun or taser, incidental to a sale, without
18 withholding delivery of the stun gun or taser for at least
19 24 hours after application for its purchase has been made.
20 However, this paragraph (g) does not apply to: (1) the sale
21 of a firearm to a law enforcement officer if the seller of
22 the firearm knows that the person to whom he or she is
23 selling the firearm is a law enforcement officer or the
24 sale of a firearm to a person who desires to purchase a
25 firearm for use in promoting the public interest incident
26 to his or her employment as a bank guard, armed truck

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

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

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

1 combination of parts from which such a firearm can be
2 assembled.

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

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

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

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

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

21 (1) In addition to the other requirements of this
22 paragraph (k), all persons who are not federally
23 licensed firearms dealers must also have complied with
24 subsection (a-10) of Section 3 of the Firearm Owners
25 Identification Card Act by determining the validity of
26 a purchaser's Firearm Owner's Identification Card.

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

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

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

24 (C) Sentence.

25 (1) Any person convicted of unlawful sale or delivery
26 of firearms in violation of paragraph (c), (e), (f), (g),

1 or (h) of subsection (A) commits a Class 4 felony.

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

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

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

1 offense was committed, commits a Class 1 felony for which
2 the sentence shall be a term of imprisonment of no less
3 than 5 years and no more than 15 years.

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

20 (6) Any person convicted of unlawful sale or delivery
21 of firearms in violation of paragraph (j) of subsection (A)
22 commits a Class A misdemeanor. A second or subsequent
23 violation is a Class 4 felony.

24 (7) Any person convicted of unlawful sale or delivery
25 of firearms in violation of paragraph (k) of subsection (A)
26 commits a Class 4 felony, except that a violation of

1 subparagraph (1) of paragraph (k) of subsection (A) shall
2 not be punishable as a crime or petty offense. A third or
3 subsequent conviction for a violation of paragraph (k) of
4 subsection (A) is a Class 1 felony.

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

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

17 (10) Any person convicted of unlawful sale or delivery
18 of firearms in violation of paragraph (l) of subsection (A)
19 commits a Class 2 felony if the delivery is of one firearm.
20 Any person convicted of unlawful sale or delivery of
21 firearms in violation of paragraph (l) of subsection (A)
22 commits a Class 1 felony if the delivery is of not less
23 than 2 and not more than 5 firearms at the same time or
24 within a one year period. Any person convicted of unlawful
25 sale or delivery of firearms in violation of paragraph (l)
26 of subsection (A) commits a Class X felony for which he or

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

24 (D) For purposes of this Section:

25 "School" means a public or private elementary or secondary
26 school, community college, college, or university.

1 "School related activity" means any sporting, social,
2 academic, or other activity for which students' attendance or
3 participation is sponsored, organized, or funded in whole or in
4 part by a school or school district.

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

12 (Source: P.A. 99-29, eff. 7-10-15; 99-143, eff. 7-27-15;
13 99-642, eff. 7-28-16; 100-606, eff. 1-1-19.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.