



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3094

Introduced 1/11/2022, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3.10 new

Amends the Criminal Code of 2012. Creates the offense of unlawful sale or use of an imitation firearm. Provides that a person commits the offense when he or she knowingly sells or offers for sale, possesses, or uses or attempts to use or give away, any imitation firearm that substantially duplicates or can reasonably be perceived to be an actual firearm unless certain circumstances are present. Creates the offense of unlawful advertisement for sale of an imitation firearm. Provides that a person commits the offense when he or she knowingly disseminates marketing materials for a non-compliant imitation firearm, makes available for sale a non-compliant imitation firearm, or is directly involved with the marketing or sale of an imitation firearm. Establish criminal penalties for violation. Provides that a person who violates these provisions is civilly liable to a person injured as a result of the possession or use of an imitation firearm. Defines "imitation firearm".

LRB102 23247 RLC 32412 b

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 adding
5 Section 24-3.10 as follows:

6 (720 ILCS 5/24-3.10 new)

7 Sec. 24-3.10. Unlawful sale or use of an imitation
8 firearm; unlawful advertisement for sale of an imitation
9 firearm.

10 (a) Definition. In this Section, "imitation firearm" means
11 a toy that is identical in appearance to an original firearm
12 that was manufactured, designed, and produced after 1898,
13 including:

14 (1) an airsoft, BB, or pellet gun firing metallic,
15 plastic, or rubber projectiles;

16 (2) a paintball gun;

17 (3) a replica nongun or toy gun; or

18 (4) a water gun.

19 (b) Unlawful sale or use of an imitation firearm. A person
20 commits unlawful sale or use of an imitation firearm when he or
21 she knowingly sells or offers for sale, possesses, or uses or
22 attempts to use or give away, any imitation firearm that
23 substantially duplicates or can reasonably be perceived to be

1 an actual firearm unless:

2 (1)(i) the entire exterior surface of the toy or
3 imitation firearm is colored white, bright red, bright
4 orange, bright yellow, bright green, bright blue, bright
5 pink, or bright purple, either singly or as the
6 predominant color in combination with other colors in any
7 pattern; or (ii) the toy or imitation firearm is
8 constructed entirely of transparent or translucent
9 materials that permits unmistakable observation of the
10 imitation or toy firearm's complete contents; and

11 (2) the barrel of the toy or imitation firearm, other
12 than the barrel of any such toy or imitation firearm that
13 is a water gun, is closed with the same material of which
14 the toy or imitation firearm is made for a distance of not
15 less than one-half inch from the front end of the barrel;
16 and

17 (3) the toy or imitation firearm has legibly stamped
18 on the toy or imitation firearm, the name of the
19 manufacturer or some trade name, mark or brand by which
20 the manufacturer can be readily identified; and

21 (4) the toy or imitation firearm does not have
22 attached to the toy or imitation firearm a laser pointer
23 or any device that emits light amplified by the stimulated
24 emission of radiation that is visible to the human eye.

25 (c) Unlawful advertisement for sale of an imitation
26 firearm. A person commits unlawful advertisement for sale of

1 an imitation firearm when he or she knowingly disseminates
2 marketing materials for a non-compliant imitation firearm,
3 makes available for sale a non-compliant imitation firearm, or
4 is directly involved with the marketing or sale of an
5 imitation firearm.

6 (d) Civil liability. A person who violates this Section is
7 civilly liable to a person injured as a result of the
8 possession or use of an imitation firearm in the following
9 circumstances:

10 (1) If the advertisement or sale of an imitation
11 firearm fails to comply with the provisions of subsection
12 (b) or (c), the manufacturer, advertiser, and seller of
13 the non-compliant imitation firearm shall be held strictly
14 liable for minimum damages of \$500 for each advertisement
15 or each sale of the non-compliant imitation firearm. The
16 cause of action established under this paragraph (1) may
17 be brought by the Attorney General or a designee of the
18 Attorney General, a State's Attorney or a designee of a
19 State's Attorney or on behalf of the subject of an
20 advertisement or the purchaser of the non-compliant
21 imitation firearm.

22 (2) If a person is injured or otherwise harmed as a
23 result of the person's possession or use of a
24 non-compliant imitation firearm, the manufacturer and
25 seller of the imitation firearm shall be held strictly
26 liable for minimum damages of:

1 (A) \$50,000 for each injury to a person at least 18
2 years of age resulting from that person's possession
3 or use of a non-compliant imitation firearm, or

4 (B) \$100,000 for each injury to a person under 18
5 years of age resulting from that person's possession
6 or use of a non-compliant imitation firearm.

7 (3) The damages established in paragraph (2) shall
8 double if the possessor or user of the non-compliant
9 imitation firearm dies as a result of that use. The cause
10 of action established under paragraph (2) or this
11 paragraph (3) may be brought by the Attorney General or a
12 designee of the Attorney General or by the State's
13 Attorney of the county of residence of the harmed,
14 injured, or deceased victim or a designee of the State's
15 Attorney, on behalf of the victim of such injury, harm, or
16 death, or on behalf of the parents of the victim of the
17 injury, harm, or death.

18 (4) If a school is disrupted or closed due to the
19 presence of a non-compliant imitation firearm, the
20 manufacturer and seller of the non-compliant imitation
21 firearm shall be strictly liable for minimum damages of
22 \$50,000. The cause of action established under this
23 paragraph (4) may be brought by the Attorney General or a
24 designee of the Attorney General or by the State's
25 Attorney of the county where the school is located or a
26 designee of the State's Attorney, on behalf of the school

1 where the disruption or closure occurred, or on behalf of
2 the school district where the school is located and where
3 the offense occurred.

4 (e) Sentence. A person who violates subsection (b) or (c)
5 is guilty of a Class B misdemeanor. A second violation of
6 subsection (b) or (c) is a Class A misdemeanor. A third or
7 subsequent violation of subsection (b) or (c) is a Class 4
8 felony.