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LRB093 20898 RLC 49313 a

1 AMENDMENT TO HOUSE BILL 4949

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4949 by replacing  
3 everything after the enacting clause with the following:

4

5 "Section 5. The Criminal Code of 1961 is amended by  
6 changing Sections 24-1.1, 24-1.6, 24-3, 24-3.1, 24-3.5, 24-3A,  
7 24-5, and 33F-2 as follows:

8 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

9 Sec. 24-1.1. Unlawful Use or Possession of Weapons by  
10 Felons or Persons in the Custody of the Department of  
11 Corrections Facilities.

12 (a) It is unlawful for a person to knowingly possess on or  
13 about his person or on his land or in his own abode or fixed  
14 place of business any weapon prohibited under Section 24-1 of  
15 this Act or any firearm or any firearm ammunition if the person  
16 has been convicted of a felony under the laws of this State or  
17 any other jurisdiction. This Section shall not apply if the  
18 person has been granted relief by the Director of the  
19 Department of State Police under Section 10 of the Firearm  
20 Owners Identification Card Act.

21 (b) It is unlawful for any person confined in a penal  
22 institution, which is a facility of the Illinois Department of  
23 Corrections, to possess any weapon prohibited under Section  
24 24-1 of this Code or any firearm or firearm ammunition,

1 regardless of the intent with which he possesses it.

2 (c) It shall be an affirmative defense to a violation of  
3 subsection (b), that such possession was specifically  
4 authorized by rule, regulation, or directive of the Illinois  
5 Department of Corrections or order issued pursuant thereto.

6 (d) The defense of necessity is not available to a person  
7 who is charged with a violation of subsection (b) of this  
8 Section.

9 (e) Sentence. Violation of this Section by a person not  
10 confined in a penal institution shall be a Class 3 felony for  
11 which the person, if sentenced to a term of imprisonment, shall  
12 be sentenced to no less than 2 years and no more than 10 years.  
13 Violation of this Section by a person not confined in a penal  
14 institution who has been convicted of a forcible felony, a  
15 felony violation of Article 24 of this Code or of the Firearm  
16 Owners Identification Card Act, stalking or aggravated  
17 stalking, or a Class 2 or greater felony under the Illinois  
18 Controlled Substances Act or the Cannabis Control Act is a  
19 Class 2 felony for which the person, if sentenced to a term of  
20 imprisonment, shall be sentenced to not less than 3 years and  
21 not more than 14 years. Violation of this Section by a person  
22 who is on parole or mandatory supervised release is a Class 2  
23 felony for which the person, if sentenced to a term of  
24 imprisonment, shall be sentenced to not less than 3 years and  
25 not more than 14 years. Violation of this Section by a person  
26 not confined in a penal institution is a Class X felony when  
27 the firearm possessed is a machine gun. Any person who violates  
28 this Section while confined in a penal institution, which is a  
29 facility of the Illinois Department of Corrections, is guilty  
30 of a Class 1 felony, if he possesses any weapon prohibited  
31 under Section 24-1 of this Code regardless of the intent with  
32 which he possesses it, a Class X felony if he possesses any  
33 firearm, firearm ammunition or explosive, and a Class X felony  
34 for which the offender shall be sentenced to not less than 12

1 years and not more than 50 years when the firearm possessed is  
2 a machine gun. A violation of this Section while wearing or in  
3 possession of body armor as defined in Section 33F-1 is a Class  
4 X felony punishable by a term of imprisonment of not less than  
5 10 years and not more than 40 years.

6 (Source: P.A. 91-544, eff. 1-1-00.)

7 (720 ILCS 5/24-1.6)

8 Sec. 24-1.6. Aggravated unlawful use of a weapon.

9 (a) A person commits the offense of aggravated unlawful use  
10 of a weapon when he or she knowingly:

11 (1) Carries on or about his or her person or in any  
12 vehicle or concealed on or about his or her person except  
13 when on his or her land or in his or her abode or fixed  
14 place of business any pistol, revolver, stun gun or taser  
15 or other firearm; or

16 (2) Carries or possesses on or about his or her person,  
17 upon any public street, alley, or other public lands within  
18 the corporate limits of a city, village or incorporated  
19 town, except when an invitee thereon or therein, for the  
20 purpose of the display of such weapon or the lawful  
21 commerce in weapons, or except when on his or her own land  
22 or in his or her own abode or fixed place of business, any  
23 pistol, revolver, stun gun or taser or other firearm; and

24 (3) One of the following factors is present:

25 (A) the firearm possessed was uncased, loaded and  
26 immediately accessible at the time of the offense; or

27 (B) the firearm possessed was uncased, unloaded  
28 and the ammunition for the weapon was immediately  
29 accessible at the time of the offense; or

30 (C) the person possessing the firearm has not been  
31 issued a currently valid Firearm Owner's  
32 Identification Card; or

33 (D) the person possessing the weapon was

1           previously adjudicated a delinquent minor under the  
2           Juvenile Court Act of 1987 for an act that if committed  
3           by an adult would be a felony; or

4           (E) the person possessing the weapon was engaged in  
5           a misdemeanor violation of the Cannabis Control Act or  
6           in a misdemeanor violation of the Illinois Controlled  
7           Substances Act; or

8           (F) the person possessing the weapon is a member of  
9           a street gang or is engaged in street gang related  
10          activity, as defined in Section 10 of the Illinois  
11          Streetgang Terrorism Omnibus Prevention Act; or

12          (G) the person possessing the weapon had a order of  
13          protection issued against him or her within the  
14          previous 2 years; or

15          (H) the person possessing the weapon was engaged in  
16          the commission or attempted commission of a  
17          misdemeanor involving the use or threat of violence  
18          against the person or property of another; or

19          (I) the person possessing the weapon was under 21  
20          years of age and in possession of a handgun as defined  
21          in Section 24-3, unless the person under 21 is engaged  
22          in lawful activities under the Wildlife Code or  
23          described in subsection 24-2(b)(1), (b)(3), or  
24          24-2(f).

25          (b) "Stun gun or taser" as used in this Section has the  
26          same definition given to it in Section 24-1 of this Code.

27          (c) This Section does not apply to or affect the  
28          transportation or possession of weapons that:

29                  (i) are broken down in a non-functioning state; or

30                  (ii) are not immediately accessible; or

31                  (iii) are unloaded and enclosed in a case, firearm  
32                  carrying box, shipping box, or other container by a  
33                  person who has been issued a currently valid Firearm  
34                  Owner's Identification Card.

1 (d) Sentence. Aggravated unlawful use of a weapon is a  
2 Class 4 felony; a second or subsequent offense is a Class 2  
3 felony. Aggravated unlawful use of a weapon by a person who has  
4 been previously convicted of a felony in this State or another  
5 jurisdiction is a Class 2 felony. Aggravated unlawful use of a  
6 weapon while wearing or in possession of body armor as defined  
7 in Section 33F-1 by a person who has not been issued a valid  
8 Firearms Owner's Identification Card in accordance with  
9 Section 5 of the Firearm Owners Identification Act is a Class X  
10 felony.

11 (Source: P.A. 91-690, eff. 4-13-00.)

12 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

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

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

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

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

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

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

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

29 (f) Sells or gives any firearms to any person who is  
30 mentally retarded.

31 (g) Delivers any firearm of a size which may be  
32 concealed upon the person, incidental to a sale, without  
33 withholding delivery of such firearm for at least 72 hours

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

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

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

1           (j) Sells or gives a firearm while engaged in the  
2 business of selling firearms at wholesale or retail without  
3 being licensed as a federal firearms dealer under Section  
4 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
5 In this paragraph (j):

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

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

22           (k) Sells or transfers ownership of a firearm to a  
23 person who does not display to the seller or transferor of  
24 the firearm a currently valid Firearm Owner's  
25 Identification Card that has previously been issued in the  
26 transferee's name by the Department of State Police under  
27 the provisions of the Firearm Owners Identification Card  
28 Act. This paragraph (k) does not apply to the transfer of a  
29 firearm to a person who is exempt from the requirement of  
30 possessing a Firearm Owner's Identification Card under  
31 Section 2 of the Firearm Owners Identification Card Act.  
32 For the purposes of this Section, a currently valid Firearm  
33 Owner's Identification Card means (i) a Firearm Owners  
34 Identification Card that has not expired or (ii) if the

1       transferor is licensed as a federal firearms dealer under  
2       Section 923 of the federal Gun Control Act of 1968 (18  
3       U.S.C. 923), an approval number issued in accordance with  
4       Section 3.1 of the Firearm Owners Identification Card Act  
5       shall be proof that the Firearm Owner's Identification Card  
6       was valid.

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

17      (C) Sentence.

18           (1) Any person convicted of unlawful sale of firearms  
19           in violation of any of paragraphs (c) through (h) of  
20           subsection (A) commits a Class 4 felony.

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

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

27           (4) Any person convicted of unlawful sale of firearms  
28           in violation of paragraph (a), (b), or (i) of subsection  
29           (A) in any school, on the real property comprising a  
30           school, within 1,000 feet of the real property comprising a  
31           school, at a school related activity, or on or within 1,000  
32           feet of any conveyance owned, leased, or contracted by a  
33           school or school district to transport students to or from  
34           school or a school related activity, regardless of the time



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

15 (5) Any person convicted of unlawful sale of firearms  
16 in violation of paragraph (a) or (i) of subsection (A) in  
17 residential property owned, operated, or managed by a  
18 public housing agency or leased by a public housing agency  
19 as part of a scattered site or mixed-income development, in  
20 a public park, in a courthouse, on residential property  
21 owned, operated, or managed by a public housing agency or  
22 leased by a public housing agency as part of a scattered  
23 site or mixed-income development, on the real property  
24 comprising any public park, on the real property comprising  
25 any courthouse, or on any public way within 1,000 feet of  
26 the real property comprising any public park, courthouse,  
27 or residential property owned, operated, or managed by a  
28 public housing agency or leased by a public housing agency  
29 as part of a scattered site or mixed-income development  
30 commits a Class 2 felony.

31 (6) Any person convicted of unlawful sale of firearms  
32 in violation of paragraph (j) of subsection (A) commits a  
33 Class A misdemeanor. A second or subsequent violation is a  
34 Class 4 felony.

1           (7) Any person convicted of unlawful sale of firearms  
2           in violation of paragraph (k) of subsection (A) commits a  
3           Class 4 felony. A third or subsequent conviction for a  
4           violation of paragraph (k) of subsection (A) is a Class 1  
5           felony.

6           (D) For purposes of this Section:

7           "School" means a public or private elementary or secondary  
8 school, community college, college, or university.

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

13           (E) A prosecution for a violation of paragraph (k) of  
14 subsection (A) of this Section may be commenced within 10 years  
15 after the commission of the offense. A prosecution for a  
16 violation of this Section other than paragraph (g) of  
17 subsection (A) of this Section may be commenced within 5 years  
18 after the commission of the offense defined in the particular  
19 paragraph.

20           (Source: P.A. 93-162, eff. 7-10-03.)

21           (720 ILCS 5/24-3.5)

22           Sec. 24-3.5. Unlawful purchase of a firearm.

23           (a) For purposes of this Section, "firearms transaction  
24 record form" means a form:

25           (1) executed by a transferee of a firearm stating: (i)  
26 the transferee's name and address (including county or  
27 similar political subdivision); (ii) whether the  
28 transferee is a citizen of the United States; (iii) the  
29 transferee's State of residence; and (iv) the date and  
30 place of birth, height, weight, and race of the transferee;  
31 and

32           (2) on which the transferee certifies that he or she is  
33 not prohibited by federal law from transporting or shipping

1 a firearm in interstate or foreign commerce or receiving a  
2 firearm that has been shipped or transported in interstate  
3 or foreign commerce or possessing a firearm in or affecting  
4 commerce.

5 (b) A person commits the offense of unlawful purchase of a  
6 firearm who knowingly purchases or attempts to purchase a  
7 firearm with the intent to deliver that firearm to another  
8 person who is prohibited by federal or State law from  
9 possessing a firearm.

10 (c) A person commits the offense of unlawful purchase of a  
11 firearm when he or she, in purchasing or attempting to purchase  
12 a firearm, intentionally provides false or misleading  
13 information on a United States Department of the Treasury,  
14 Bureau of Alcohol, Tobacco and Firearms firearms transaction  
15 record form.

16 (d) Exemption. It is not a violation of subsection (b) of  
17 this Section for a person to make a gift or loan of a firearm to  
18 a person who is not prohibited by federal or State law from  
19 possessing a firearm if the transfer of the firearm is made in  
20 accordance with Section 3 of the Firearm Owners Identification  
21 Card Act.

22 (e) Sentence.

23 (1) A person who commits the offense of unlawful  
24 purchase of a firearm:

25 (A) is guilty of a Class 4 felony for purchasing or  
26 attempting to purchase one firearm;

27 (B) is guilty of a Class 3 felony for purchasing or  
28 attempting to purchase not less than 2 firearms and not  
29 more than 5 firearms at the same time or within a one  
30 year period;

31 (C) is guilty of a Class 2 felony for purchasing or  
32 attempting to purchase not less than 6 firearms and not  
33 more than 10 firearms at the same time or within a 2  
34 year period;

1 (D) is guilty of a Class 1 felony for purchasing or  
2 attempting to purchase not less than 11 firearms and  
3 not more than 20 firearms at the same time or within a  
4 3 year period;

5 (E) is guilty of a Class X felony for which the  
6 person shall be sentenced to a term of imprisonment of  
7 not less than 6 years and not more than 30 years for  
8 purchasing or attempting to purchase not less than 21  
9 firearms and not more than 30 firearms at the same time  
10 or within a 4 year period;

11 (F) is guilty of a Class X felony for which the  
12 person shall be sentenced to a term of imprisonment of  
13 not less than 6 years and not more than 40 years for  
14 purchasing or attempting to purchase not less than 31  
15 firearms and not more than 40 firearms at the same time  
16 or within a 5 year period;

17 (G) is guilty of a Class X felony for which the  
18 person shall be sentenced to a term of imprisonment of  
19 not less than 6 years and not more than 50 years for  
20 purchasing or attempting to purchase more than 40  
21 firearms at the same time or within a 6 year period.

22  
23 (2) In addition to any other penalty that may be  
24 imposed for a violation of this Section, the court may  
25 sentence a person convicted of a violation of subsection  
26 (c) of this Section to a fine not to exceed \$250,000 for  
27 each violation.

28 (f) A prosecution for unlawful purchase of a firearm may be  
29 commenced within 10 years after the commission of the offense.

30 (Source: P.A. 93-451, eff. 8-7-03.)

31 (720 ILCS 5/24-3A)

32 Sec. 24-3A. Gunrunning.

33 (a) A person commits gunrunning when he or she transfers 3

1 or more firearms in violation of any of the paragraphs of  
2 Section 24-3 of this Code.

3 (b) Sentence. A person who commits gunrunning:

4 (1) is guilty of a Class 1 felony;

5 (2) is guilty of a Class X felony for which the  
6 sentence shall be a term of imprisonment of not less 8  
7 years and not more than 40 years if the transfer is of not  
8 less than 11 firearms and not more than 20 firearms;

9 (3) is guilty of a Class X felony for which the  
10 sentence shall be a term of imprisonment of not less than  
11 10 years and not more than 50 years if the transfer is of  
12 more than 20 firearms.

13 A person who commits gunrunning by transferring firearms to a  
14 person who, at the time of the commission of the offense, is  
15 under 18 years of age is guilty of a Class X felony.

16 (Source: P.A. 91-13, eff. 1-1-00; 91-696, eff. 4-13-00.)

17 (720 ILCS 5/24-5) (from Ch. 38, par. 24-5)

18 Sec. 24-5. Defacing identification marks of firearms.

19 (a) Any person who shall knowingly or intentionally change,  
20 alter, remove or obliterate the name of the importer's or  
21 manufacturer's serial number ~~maker, model, manufacturer's~~  
22 ~~number or other mark of identification~~ of any firearm commits a  
23 Class 2 felony.

24 (b) A person who possesses ~~Possession of~~ any firearm upon  
25 which any such importer's or manufacturer's serial number has  
26 ~~mark shall have~~ been changed, altered, removed or obliterated  
27 commits a Class 3 felony ~~shall be prima facie evidence that the~~  
28 ~~possessor has changed, altered, removed or obliterated the~~  
29 ~~same.~~

30 (c) Nothing in this Section shall prevent a person from  
31 making repairs, replacement of parts, or other changes to a  
32 firearm if those repairs, replacement of parts, or changes  
33 cause the removal of the name of the maker, model, or other

1 marks of identification other than the serial number on the  
2 firearm's frame or receiver.

3 (d) A prosecution for a violation of this Section may be  
4 commenced within 10 years after the commission of the offense.

5 (Source: P.A. 91-696, eff. 4-13-00.)

6 (720 ILCS 5/33F-2) (from Ch. 38, par. 33F-2)

7 Sec. 33F-2. Unlawful use of body armor. A person commits  
8 the offense of unlawful use of body armor when he knowingly  
9 wears body armor and is in possession of a dangerous weapon,  
10 other than a firearm, in the commission or attempted commission  
11 of any offense.

12 (Source: P.A. 87-521.)

13 Section 10. The Marks and Serial Numbers Act is amended by  
14 changing Section 1 as follows:

15 (720 ILCS 335/1) (from Ch. 121 1/2, par. 157.13)

16 Sec. 1. Any person who removes, alters, defaces, covers or  
17 destroys the manufacturers' serial number or any other  
18 manufacturers' number or distinguishing identification mark  
19 upon any machine or other article of merchandise, other than a  
20 motor vehicle as defined in Section 1-146 of the Illinois  
21 Vehicle Code or a firearm as defined in the Firearm Owners  
22 Identification Card Act, for the purpose of concealing or  
23 destroying the identity of such machine or other article of  
24 merchandise shall be guilty of a Class B misdemeanor.

25 (Source: P.A. 78-255.)

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