



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/09/04, by Harry Osterman

**SYNOPSIS AS INTRODUCED:**

430 ILCS 65/3.5 new

Amends the Firearm Owners Identification Card Act. Provides that a person, who is not a federally licensed firearm dealer, who desires to transfer or sell a firearm while that person is on the grounds of a gun show, must prior to the sale or transfer of the firearm: (1) request the Department of State Police to conduct a background check on the transferor and the prospective transferee of a firearm; (2) provide certain information to the Department; and (3) receive an approval from the Department of State Police, that after a background check was conducted, nothing in the records accessed by the Department, shall prohibit based on State or federal law, the purchaser from purchasing or possessing a firearm. Provides that failure to comply with these requirements is a Class A misdemeanor. Provides that failure to comply with these requirements is a Class 2 felony if the person has 2 or more previous convictions for these violations.

LRB093 18558 RLC 44279 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

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 5. The Firearm Owners Identification Card Act is  
5 amended by adding Section 3.5 as follows:

6 (430 ILCS 65/3.5 new)

7 Sec. 3.5. Private transfers of firearms by persons  
8 attending gun shows.

9 (a) To ensure that, prior to any sale or transfer of a  
10 firearm at a gun show in the State of Illinois, a background  
11 check is conducted on the transferor and the transferee of the  
12 firearm, the Department of State Police shall establish a  
13 system which shall be available for requests from individuals  
14 selling or transferring firearms at a gun show, other than a  
15 federally licensed firearms dealer, to conduct background  
16 checks under this system.

17 The Department of State Police shall utilize technology  
18 which allows the person to be charged a fee equivalent to the  
19 cost of providing the service. The fee may not exceed \$2,  
20 however. Fees collected by the Department of State Police shall  
21 be deposited in the State Police Services Fund and used to  
22 provide the service.

23 The Department of State Police shall establish a service of  
24 conducting background checks for individuals selling or  
25 transferring firearms at a gun show, other than a federally  
26 licensed firearm dealer. Gun show promoters and other  
27 interested parties shall access the background check system  
28 through a process established by the Department of State  
29 Police.

30 Upon receiving a request from an individual selling or  
31 transferring firearms at a gun show, other than a federally  
32 licensed firearm dealer, the Department of State Police shall

1 provide, during the initial transferor inquiry, an approval,  
2 denial, or conditional denial of the transfer. The time period  
3 for the Department to respond shall begin at the time the  
4 inquiry is received. When the Department provides a conditional  
5 denial, the transferor shall not transfer the firearm until an  
6 approval is provided by the Department. However, if any  
7 approval or denial is not provided in accordance with the Brady  
8 Handgun Violence Prevention Act (Brady Act, 1993), Title 18  
9 U.S. Code, Section 922(t) and in Section 24-3 of the Criminal  
10 Code of 1961, the transfer may proceed. Failure of the  
11 Department to provide an approval or denial within the  
12 prescribed length of times does not relieve the transferor from  
13 compliance with any other statutory restrictions on firearm  
14 transfers. Regardless of the requirements of this Section,  
15 transactions must comply with all State and federal firearm  
16 laws.

17 (b) 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, prior to the sale  
20 or transfer of the firearm:

21 (1) Request the Department of State Police to conduct a  
22 background check on the transferor and the prospective  
23 transferee of a firearm and shall provide the following  
24 information to the Department:

25 (A) A valid Firearm Owner's Identification Card  
26 number of the transferor and transferee.

27 (B) The telephone number of the transferor and  
28 transferee.

29 (C) The type of firearm (long gun or short gun).

30 (2) Receive an approval from the Department of State  
31 Police that, after a background check was conducted,  
32 nothing in the records accessed by the Department shall  
33 prohibit, based on State or federal law, the purchaser from  
34 purchasing or possessing a firearm.

35 (c) From the background check under this Section, the  
36 Department of State Police shall:

1           (1) Determine from records and other information  
2           available to it whether the recipient is disqualified under  
3           State or federal laws from completing the transfer or is  
4           otherwise prohibited by State or federal law from  
5           purchasing or possessing a firearm; and

6           (2) Notify the transferor when a recipient is  
7           disqualified from completing the transfer or provide the  
8           transferor with a unique approval number indicating that  
9           the recipient is qualified to complete the transfer. The  
10           unique approval number is a permit valid for 30 days for  
11           the requested transfer. If the firearm is not transferred  
12           from the transfer to the recipient within 30 days after  
13           receipt of the unique approval number, a new request must  
14           be made by the transferor.

15           (d) The Department of State Police shall provide, during  
16           the initial transferor inquiry, an approval, denial, or  
17           conditional denial of the transfer. The time period for the  
18           Department to respond shall begin at the time the inquiry is  
19           received. When the Department provides a conditional denial,  
20           the transferor shall not transfer the firearm until an approval  
21           is provided by the Department. However, if any approval or  
22           denial is not provided in accordance with the Brady Handgun  
23           Violence Prevention Act (Brady Act, 1993), Title 18 U.S. Code,  
24           Section 922(t) or in Section 24-3 of the Criminal Code of 1961,  
25           the transfer may proceed. Failure of the Department to provide  
26           an approval or denial within the prescribed length of times  
27           does not relieve the transferor from compliance with any other  
28           statutory restrictions on firearm transfers. Regardless of the  
29           requirements of this Section, transactions must comply with all  
30           State and federal firearm laws.

31           (e) A public employee or public agency incurs no criminal  
32           or civil liability for performing the background checks  
33           required by this Section, provided the employee or agency acts  
34           in good faith without malice.

35           (f) A transferor other than a gun dealer may not transfer a  
36           firearm at a gun show unless the transferor:

1           (1) Requests a background check under this Section  
2           prior to completing the transferor;

3           (2) Receives notification that the recipient is  
4           qualified to complete the transfer;

5           (3) Has complied with Section 24-3 of the Criminal Code  
6           of 1961; and

7           (4) Has the recipient complete the form described in  
8           this Section.

9           (g) The transferor shall retain the completed form referred  
10          to in subsection (h) of this Section for at least 10 years and  
11          shall make the completed form available to law enforcement  
12          agencies for the purpose of criminal investigations. A gun show  
13          promoter shall post in a prominent place at the gun show a  
14          notice explaining the requirements of this Section. The gun  
15          show promoter shall provide the form required by subsection (h)  
16          of this Section to any person transferring a firearm at the gun  
17          show.

18          (h) The Department of State Police shall develop a form to  
19          be completed by a person seeking to obtain a firearm at a gun  
20          show from a transferor other than a gun show dealer. The  
21          Department shall consider including in the form all of the  
22          requirements for disclosure of information that are required by  
23          federal law for over-the-counter firearms transactions.

24          (i) Failure to comply with the requirement of this Section  
25          is a Class A misdemeanor. Failure to comply with the  
26          requirements of this Section is a Class 2 felony if the person  
27          has 2 or more previous convictions under this Section.

28          (j) In this Section:

29          "Gun show" means the entire premises provided for an event  
30          or function, including but not limited to parking areas for the  
31          event or function, that is sponsored to facilitate, in whole or  
32          in part, the purchase, sale, offer for sale, or collection of  
33          firearms at which:

34                (1) 25 or more firearms are offered or exhibited for  
35                sale, transfer, or exchange; or

36                (2) not less than 3 gun show vendors exhibit, sell,

1 offer for sale, transfer, or exchange firearms.

2 "Gun show promoter" means a person who organizes or  
3 operates a gun show.

4 "Gun show vendor" means any person who exhibits, sells,  
5 offers for sale, transfers, or exchanges any firearms at a gun  
6 show, regardless of whether the person arranges with a gun show  
7 promoter for a fixed location from which to exhibit, sell,  
8 offer for sale, transfer, or exchange any firearm.

9 (k) The Department of State Police shall adopt rules to  
10 carry out the provisions of this Section.