



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

SB3389

Introduced 7/24/2004, by Sen. Peter J. Roskam

SYNOPSIS AS INTRODUCED:

430 ILCS 65/1.1	from Ch. 38, par. 83-1.1
430 ILCS 65/3	from Ch. 38, par. 83-3
430 ILCS 65/3.1	from Ch. 38, par. 83-3.1
430 ILCS 65/3a	from Ch. 38, par. 83-3a
720 ILCS 5/24-3	from Ch. 38, par. 24-3

Amends the Firearm Owners Identification Card Act. Provides that a person who is not a federally licensed firearm dealer and 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, request the Department of State Police to conduct a background check on the prospective recipient of the firearm. Provides that if the receipt of a firearm does not violate federal or State law, the Department of State Police shall (1) assign a unique number to the transfer; (2) provide the licensee, gun show promoter, or gun show vendor with the number; and (3) destroy all records of the system with respect to the call, other than the identifying number and the date the number was assigned, and all records of the system relating to the person or the transfer within 24 hours. Provides that the Department of State Police may not retain, copy, or distribute any such information previously collected. Provides that if the transfer of a firearm is denied by the Department of State Police, the Department may keep the records of a denial until the denial is appealed and overturned, or as long as necessary for a criminal prosecution. Provides that approvals issued by the Department of State Police for the purchase of a firearm are valid for 30 days from the date of issue. Amends the Criminal Code of 1961. Provides that the waiting period for obtaining a firearm after its purchase does not apply to the sale of a firearm at a gun show. Effective immediately.

LRB093 22988 RLC 52913 b

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 changing Sections 1.1, 3, 3.1, and 3a as follows:

6 (430 ILCS 65/1.1) (from Ch. 38, par. 83-1.1)

7 Sec. 1.1. For purposes of this Act:

8 "Counterfeit" means to copy or imitate, without legal
9 authority, with intent to deceive.

10 "Federally licensed firearm dealer" means a person who is
11 licensed as a federal firearms dealer under Section 923 of the
12 federal Gun Control Act of 1968 (18 U.S.C. 923).

13 "Firearm" means any device, by whatever name known, which
14 is designed to expel a projectile or projectiles by the action
15 of an explosion, expansion of gas or escape of gas; excluding,
16 however:

17 (1) any pneumatic gun, spring gun, paint ball gun or
18 B-B gun which either expels a single globular projectile
19 not exceeding .18 inch in diameter and which has a maximum
20 muzzle velocity of less than 700 feet per second or
21 breakable paint balls containing washable marking colors;

22 (2) any device used exclusively for signalling or
23 safety and required or recommended by the United States
24 Coast Guard or the Interstate Commerce Commission;

25 (3) any device used exclusively for the firing of stud
26 cartridges, explosive rivets or similar industrial
27 ammunition; and

28 (4) an antique firearm (other than a machine-gun)
29 which, although designed as a weapon, the Department of
30 State Police finds by reason of the date of its
31 manufacture, value, design, and other characteristics is
32 primarily a collector's item and is not likely to be used

1 as a weapon.

2 "Firearm ammunition" means any self-contained cartridge or
3 shotgun shell, by whatever name known, which is designed to be
4 used or adaptable to use in a firearm; excluding, however:

5 (1) any ammunition exclusively designed for use with a
6 device used exclusively for signalling or safety and
7 required or recommended by the United States Coast Guard or
8 the Interstate Commerce Commission; and

9 (2) any ammunition designed exclusively for use with a
10 stud or rivet driver or other similar industrial
11 ammunition.

12 "Gun show" means an event or function:

13 (1) at which the sale and transfer of firearms is the
14 regular and normal course of business where 25 or more
15 firearms are displayed, offered, or exhibited for sale,
16 transfer, or exchange; or

17 (2) not less than 3 gun show vendors display, offer, or
18 exhibit for sale, sell, transfer, or exchange firearms.

19 "Gun show" includes the entire premises provided for an
20 event or function, including parking areas for the event or
21 function, that is sponsored to facilitate the purchase, sale,
22 transfer, or exchange of firearms as described in this Section.

23 "Gun show" does not include training or safety classes,
24 competitive shooting events, such as rifle, shotgun, or handgun
25 matches, trap, skeet, or sporting clays shoots, dinners,
26 banquets, raffles, or any other event where the sale or
27 transfer of firearms is not the primary course of business.

28 "Gun show promoter" means a person who organizes or
29 operates a gun show.

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

35 "Sanctioned competitive shooting event" means a shooting
36 contest officially recognized by a national or state shooting

1 sport association, and includes any sight-in or practice
2 conducted in conjunction with the event.

3 (Source: P.A. 91-357, eff. 7-29-99; 92-414, eff. 1-1-02.)

4 (430 ILCS 65/3) (from Ch. 38, par. 83-3)

5 Sec. 3. (a) Except as provided in Section 3a, no person may
6 knowingly transfer, or cause to be transferred, any firearm or
7 any firearm ammunition to any person within this State unless
8 the transferee with whom he deals displays a currently valid
9 Firearm Owner's Identification Card which has previously been
10 issued in his name by the Department of State Police under the
11 provisions of this Act. In addition, all firearm transfers by
12 federally licensed firearm dealers and transfers of firearms at
13 gun shows as defined by this Act are subject to Section 3.1.

14 (b) Any person within this State who transfers or causes to
15 be transferred any firearm shall keep a record of such transfer
16 for a period of 10 years from the date of transfer. Such record
17 shall contain the date of the transfer; the description, serial
18 number or other information identifying the firearm if no
19 serial number is available; and, if the transfer was completed
20 within this State, the transferee's Firearm Owner's
21 Identification Card number. On demand of a peace officer such
22 transferor shall produce for inspection such record of
23 transfer.

24 (c) The provisions of this Section regarding the transfer
25 of firearm ammunition shall not apply to those persons
26 specified in paragraph (b) of Section 2 of this Act.

27 (Source: P.A. 92-442, eff. 8-17-01.)

28 (430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

29 Sec. 3.1. Dial up system.

30 (a) The Department of State Police shall provide a dial up
31 telephone system or utilize other existing technology which
32 shall be used by any federally licensed firearm dealer, gun
33 show promoter, or gun show vendor who is to transfer a firearm
34 under the provisions of this Act. The Department of State

1 Police shall utilize existing technology which allows the
2 caller to be charged a fee ~~equivalent to the cost of providing~~
3 ~~this service but~~ not to exceed \$2. Fees collected by the
4 Department of State Police shall be deposited in the State
5 Police Services Fund and used to provide the service. Any
6 person who is not a federally licensed firearm dealer and who
7 desires to transfer or sell a firearm while that person is on
8 the grounds of a gun show must, before selling or transferring
9 the firearm, request the Department of State Police to conduct
10 a background check on the prospective recipient of the firearm
11 in accordance with this Section.

12 (b) Upon receiving a request from a federally licensed
13 firearm dealer, gun show promoter, or gun show vendor, the
14 Department of State Police shall immediately approve, or within
15 the time period established by Section 24-3 of the Criminal
16 Code of 1961 regarding the delivery of firearms, notify the
17 inquiring dealer of any objection that would disqualify the
18 transferee from acquiring or possessing a firearm. In
19 conducting the inquiry, the Department of State Police shall
20 initiate and complete an automated search of its criminal
21 history record information files and those of the Federal
22 Bureau of Investigation, including the National Instant
23 Criminal Background Check System, and of the files of the
24 Department of Human Services relating to mental health and
25 developmental disabilities to obtain any felony conviction or
26 patient hospitalization information which would disqualify a
27 person from obtaining or require revocation of a currently
28 valid Firearm Owner's Identification Card.

29 (c) If receipt of a firearm would not violate Section 24-3
30 of the Criminal Code of 1961, federal law, or this Act the
31 Department of State Police shall:

32 (1) assign a unique identification number to the
33 transfer;

34 (2) provide the licensee, gun show promoter, or gun
35 show vendor with the number; and

36 (3) destroy all records of the system with respect to

1 the call, other than the identifying number and the date
2 the number was assigned, and all records of the system
3 relating to the person or the transfer within 24 hours.

4 (d) The Department may not retain, copy, or distribute any
5 information previously collected under this Section. Any
6 records generated under this Section shall comply with
7 subsection (c).

8 (e) If the transfer of a firearm is denied by the
9 Department of State Police, the Department may keep the records
10 of a denial until the denial is appealed and overturned, or as
11 long as necessary for a criminal prosecution.

12 (f) Approvals issued by the Department of State Police for
13 the purchase of a firearm are valid for 30 days from the date
14 of issue.

15 (g) The Department of State Police must act as the Illinois
16 Point of Contact for the National Instant Criminal Background
17 Check System.

18 (h) The Department of State Police shall promulgate rules
19 not inconsistent with this Section to implement this system.

20 (Source: P.A. 91-399, eff. 7-30-99.)

21 (430 ILCS 65/3a) (from Ch. 38, par. 83-3a)

22 Sec. 3a. (a) Any resident of Illinois who has obtained a
23 firearm owner's identification card pursuant to this Act and
24 who is not otherwise prohibited from obtaining, possessing or
25 using a firearm may purchase or obtain a rifle or shotgun or
26 ammunition for a rifle or shotgun in Iowa, Missouri, Indiana,
27 Wisconsin or Kentucky.

28 (b) Any resident of Iowa, Missouri, Indiana, Wisconsin or
29 Kentucky or a non-resident with a valid non-resident hunting
30 license, who is 18 years of age or older and who is not
31 prohibited by the laws of Illinois, the state of his domicile,
32 or the United States from obtaining, possessing or using a
33 firearm, may purchase or obtain a rifle, shotgun or ammunition
34 for a rifle or shotgun in Illinois.

35 (b-5) Any non-resident who is participating in a sanctioned

1 competitive shooting event, who is 18 years of age or older and
2 who is not prohibited by the laws of Illinois, the state of his
3 or her domicile, or the United States from obtaining,
4 possessing, or using a firearm, may purchase or obtain a
5 shotgun or shotgun ammunition in Illinois for the purpose of
6 participating in that event. A person may purchase or obtain a
7 shotgun or shotgun ammunition under this subsection only at the
8 site where the sanctioned competitive shooting event is being
9 held.

10 ~~For purposes of this subsection, "sanctioned competitive~~
11 ~~shooting event" means a shooting contest officially recognized~~
12 ~~by a national or state shooting sport association, and includes~~
13 ~~any sight-in or practice conducted in conjunction with the~~
14 ~~event.~~

15 (c) Any transaction under this Section is subject to the
16 provisions of the Gun Control Act of 1968 (18 U.S.C. 922
17 (b) (3)).

18 (Source: P.A. 92-528, eff. 2-8-02.)

19 Section 10. The Criminal Code of 1961 is amended by
20 changing Section 24-3 as follows:

21 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

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

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

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

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

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

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

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

4 (f) Sells or gives any firearms to any person who is
5 mentally retarded.

6 (g) Delivers any firearm of a size which may be
7 concealed upon the person, incidental to a sale, without
8 withholding delivery of such firearm for at least 72 hours
9 after application for its purchase has been made, or
10 delivers any rifle, shotgun or other long gun, incidental
11 to a sale, without withholding delivery of such rifle,
12 shotgun or other long gun for at least 24 hours after
13 application for its purchase has been made. However, this
14 paragraph (g) does not apply to: (1) the sale of a firearm
15 to a law enforcement officer or a person who desires to
16 purchase a firearm for use in promoting the public interest
17 incident to his or her employment as a bank guard, armed
18 truck guard, or other similar employment; (2) a mail order
19 sale of a firearm to a nonresident of Illinois under which
20 the firearm is mailed to a point outside the boundaries of
21 Illinois; (3) the sale of a firearm to a nonresident of
22 Illinois while at a firearm showing or display recognized
23 by the Illinois Department of State Police; ~~or~~ (4) the sale
24 of a firearm to a dealer licensed as a federal firearms
25 dealer under Section 923 of the federal Gun Control Act of
26 1968 (18 U.S.C. 923); or (5) the sale of a firearm at a gun
27 show in accordance with Section 3.1 of the Firearm Owners
28 Identification Card Act.

29 (h) While holding any license as a dealer, importer,
30 manufacturer or pawnbroker under the federal Gun Control
31 Act of 1968, manufactures, sells or delivers to any
32 unlicensed person a handgun having a barrel, slide, frame
33 or receiver which is a die casting of zinc alloy or any
34 other nonhomogeneous metal which will melt or deform at a
35 temperature of less than 800 degrees Fahrenheit. For
36 purposes of this paragraph, (1) "firearm" is defined as in

1 the Firearm Owners Identification Card Act; and (2)
2 "handgun" is defined as a firearm designed to be held and
3 fired by the use of a single hand, and includes a
4 combination of parts from which such a firearm can be
5 assembled.

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

9 (j) Sells or gives a firearm while engaged in the
10 business of selling firearms at wholesale or retail without
11 being licensed as a federal firearms dealer under Section
12 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
13 In this paragraph (j):

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

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

30 (B) Paragraph (h) of subsection (A) does not include
31 firearms sold within 6 months after enactment of Public Act
32 78-355 (approved August 21, 1973, effective October 1, 1973),
33 nor is any firearm legally owned or possessed by any citizen or
34 purchased by any citizen within 6 months after the enactment of
35 Public Act 78-355 subject to confiscation or seizure under the
36 provisions of that Public Act. Nothing in Public Act 78-355

1 shall be construed to prohibit the gift or trade of any firearm
2 if that firearm was legally held or acquired within 6 months
3 after the enactment of that Public Act.

4 (C) Sentence.

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

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

11 (3) Any person convicted of unlawful sale of firearms
12 in violation of paragraph (a) of subsection (A) commits a
13 Class 2 felony.

14 (4) Any person convicted of unlawful sale of firearms
15 in violation of paragraph (a), (b), or (i) of subsection
16 (A) in any school, on the real property comprising a
17 school, within 1,000 feet of the real property comprising a
18 school, at a school related activity, or on or within 1,000
19 feet of any conveyance owned, leased, or contracted by a
20 school or school district to transport students to or from
21 school or a school related activity, regardless of the time
22 of day or time of year at which the offense was committed,
23 commits a Class 1 felony. Any person convicted of a second
24 or subsequent violation of unlawful sale of firearms in
25 violation of paragraph (a), (b), or (i) of subsection (A)
26 in any school, on the real property comprising a school,
27 within 1,000 feet of the real property comprising a school,
28 at a school related activity, or on or within 1,000 feet of
29 any conveyance owned, leased, or contracted by a school or
30 school district to transport students to or from school or
31 a school related activity, regardless of the time of day or
32 time of year at which the offense was committed, commits a
33 Class 1 felony for which the sentence shall be a term of
34 imprisonment of no less than 5 years and no more than 15
35 years.

36 (5) Any person convicted of unlawful sale of firearms

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

16 (6) Any person convicted of unlawful sale of firearms
17 in violation of paragraph (j) of subsection (A) commits a
18 Class A misdemeanor. A second or subsequent violation is a
19 Class 4 felony.

20 (D) For purposes of this Section:

21 "School" means a public or private elementary or secondary
22 school, community college, college, or university.

23 "School related activity" means any sporting, social,
24 academic, or other activity for which students' attendance or
25 participation is sponsored, organized, or funded in whole or in
26 part by a school or school district.

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

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.