



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5798

Introduced 07/19/06, by Rep. Ruth Munson

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1.6

Amends the Criminal Code of 1961 relating to the offense of aggravated unlawful use of a weapon. Provides that aggravated unlawful use of a weapon by a person who has not been previously convicted of a felony in this State or another jurisdiction and who at the time of the commission of the offense is a member of a street gang or is engaged in street gang related activity is a Class 2 felony. Provides that aggravated unlawful use of a weapon by a person who has been previously convicted of a felony in this State or another jurisdiction and who at the time of the commission of the offense is a member of a street gang or is engaged in street gang related activity is a Class 1 felony.

LRB094 21048 RLC 59375 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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 1961 is amended by changing
5 Section 24-1.6 as follows:

6 (720 ILCS 5/24-1.6)

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

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

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

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

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

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

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

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

32 (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, in
6 a misdemeanor violation of the Illinois Controlled
7 Substances Act, or in a misdemeanor violation of the
8 Methamphetamine Control and Community Protection Act;
9 or

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

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

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

21 (I) the person possessing the weapon was under 21
22 years of age and in possession of a handgun as defined
23 in Section 24-3, unless the person under 21 is engaged
24 in lawful activities under the Wildlife Code or
25 described in subsection 24-2(b)(1), (b)(3), or
26 24-2(f).

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

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

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

32 (ii) are not immediately accessible; or

33 (iii) are unloaded and enclosed in a case, firearm
34 carrying box, shipping box, or other container by a
35 person who has been issued a currently valid Firearm
36 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 for which the person shall be sentenced to a term of
4 imprisonment of not less than 3 years and not more than 7
5 years. Aggravated unlawful use of a weapon by a person who has
6 been previously convicted of a felony in this State or another
7 jurisdiction is a Class 2 felony for which the person shall be
8 sentenced to a term of imprisonment of not less than 3 years
9 and not more than 7 years. Aggravated unlawful use of a weapon
10 by a person who has not been previously convicted of a felony
11 in this State or another jurisdiction and who at the time of
12 the commission of the offense is a member of a street gang or
13 is engaged in street gang related activity, as defined in
14 Section 10 of the Illinois Streetgang Terrorism Omnibus
15 Prevention Act, is a Class 2 felony. Aggravated unlawful use of
16 a weapon by a person who has been previously convicted of a
17 felony in this State or another jurisdiction and who at the
18 time of the commission of the offense is a member of a street
19 gang or is engaged in street gang related activity, as defined
20 in Section 10 of the Illinois Streetgang Terrorism Omnibus
21 Prevention Act, is a Class 1 felony. Aggravated unlawful use of
22 a weapon while wearing or in possession of body armor as
23 defined in Section 33F-1 by a person who has not been issued a
24 valid Firearms Owner's Identification Card in accordance with
25 Section 5 of the Firearm Owners Identification Card Act is a
26 Class X felony. The possession of each firearm in violation of
27 this Section constitutes a single and separate violation.

28 (Source: P.A. 93-906, eff. 8-11-04; 94-72, eff. 1-1-06; 94-284,
29 eff. 7-21-05; 94-556, eff. 9-11-05; revised 8-19-05.)