

SB0332



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0332

Introduced 2/15/2005, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

New Act

Creates the Firearms Dealer Licensing Act. Requires a person who engages in the business of selling or transferring firearms to be licensed by the Department of State Police. Establishes qualifications for licenses. Provides that it is a Class 4 felony to engage in the business of selling or transferring firearms without a license. Requires a licensed firearms dealer who sells or transfers a firearm to a person who is not a licensed dealer to report that sale or transfer to the Department of State Police.

LRB094 03395 RLC 33397 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to firearms.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Firearms Dealer Licensing Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Department of State Police.

8 "Firearms dealer" means any person who is: (i) engaged in
9 the business of selling firearms at wholesale or retail, (ii)
10 engaged in the business of repairing firearms or of making or
11 fitting special barrels, stocks, or trigger mechanisms to
12 firearms, or (iii) a pawnbroker whose business or occupation
13 includes the taking or receiving, by way of pledge or pawn, of
14 any firearm as security for the payment or repayment of money.

15 "Licensed dealer" means any firearms dealer who is licensed
16 under both this Act and Section 923 of the federal Gun Control
17 Act of 1968 (18 U.S.C. 923).

18 "Person" means an individual, firm, association, society,
19 partnership, limited liability company, corporation, or other
20 entity.

21 "Crime punishable by imprisonment for a term exceeding one
22 year" does not include:

23 (i) any federal or state offenses pertaining to
24 antitrust violations, unfair trade practices, restraints
25 of trade, or other similar offenses relating to the
26 regulation of business practices, or

27 (ii) any state offense classified by the laws of the
28 state as a misdemeanor and punishable by a term of
29 imprisonment of 2 years or less.

30 What constitutes a conviction of a crime punishable by
31 imprisonment for a term exceeding one year is determined in
32 accordance with the law of the jurisdiction in which the

1 proceedings were held. Any conviction that has been expunged,
2 set aside, or for which a person has been pardoned or has had
3 civil rights restored may not be considered a conviction for
4 purposes of this Act unless the pardon, expungement, or
5 restoration of civil rights expressly provides that the person
6 may not possess or receive firearms.

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

13 "Transfer" means the actual or attempted transfer of a
14 firearm or firearm ammunition, with or without consideration,
15 but does not include the lease of a firearm, or the provision
16 of ammunition specifically for that firearm, if the firearm and
17 the ammunition are to be used on the lessor's premises, and
18 does not include any transfer of possession when the transferor
19 maintains supervision and control over the firearm or
20 ammunition.

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

29 "Terrorism" means activity directed against United States
30 residents that:

31 (i) is committed by an individual who is not a national
32 or permanent resident alien of the United States;

33 (ii) involves violent acts or acts dangerous to human
34 life that would be a criminal violation if committed within
35 the jurisdiction of the United States; and

36 (iii) is intended:

- 1 (A) to intimidate or coerce a civilian population;
2 (B) to influence the policy of a government by
3 intimidation or coercion; or
4 (C) to affect the conduct of a government by
5 assassination or kidnapping.

6 "Indictment" includes an indictment or information in any
7 court under which a crime punishable by imprisonment for a term
8 exceeding one year may be prosecuted.

9 "Fugitive from justice" means a person who has fled from
10 any state to avoid prosecution for a crime or to avoid giving
11 testimony in any criminal proceeding.

12 "Firearm" has the meaning ascribed to it in Section 1.1 of
13 the Firearm Owners Identification Card Act.

14 "Adjudicated as a disabled person" means adjudicated as a
15 disabled person under the Probate Act of 1975 or the laws of
16 another state.

17 "Cannabis" has the meaning ascribed to it in the Cannabis
18 Control Act.

19 "Controlled substance" has the meaning ascribed to it in
20 the Illinois Controlled Substances Act.

21 Section 10. Unlicensed firearms dealer; prohibition. No
22 person may sell or otherwise transfer, or expose for sale or
23 transfer, or have in his or her possession with intent to sell
24 or transfer any firearm without being licensed under this Act.
25 This prohibition does not apply to a person who makes
26 occasional sales, exchanges, or purchases of firearms for the
27 enhancement of a personal collection or as a hobby or who sells
28 all or part of his or her personal collection of firearms.

29 Section 15. License application; requirements; penalty.

30 (a) The Department may grant a firearms dealer license to
31 an applicant who submits evidence that:

- 32 (1) he or she is at least 21 years of age;
33 (2) he or she, including in the case of a corporation,
34 partnership, or association, an individual possessing,

1 directly or indirectly, the power to direct or cause the
2 direction of the management and policies of the
3 corporation, partnership, or association:

4 (i) has not been convicted of and is not under
5 indictment for a crime punishable by imprisonment for a
6 term exceeding one year;

7 (ii) is not a fugitive from justice;

8 (iii) is not and has not been an unlawful user of
9 or addicted to a controlled substance or cannabis;

10 (iv) has not been adjudicated as a disabled person
11 or committed to a mental institution;

12 (v) is not an alien, illegally or unlawfully, in
13 the United States;

14 (vi) has not been discharged from the Armed Forces
15 under dishonorable conditions; or

16 (vii) is not a former citizen of the United States
17 who has renounced his or her citizenship; and

18 (3) he or she does not have a mental condition that
19 poses a clear and present danger to the applicant, another
20 person, or to the community. For purposes of this
21 subdivision (3), "mental condition" means a state of mind
22 manifested by violent, suicidal, threatening, or
23 assaultive behavior.

24 (b) An application for a firearms dealer license must be
25 made on forms furnished by the Department. The application must
26 be verified by the applicant under oath and must be accompanied
27 by the required fee.

28 (c) The applicant must submit to the Department a license
29 fee of \$300, payable at the time of application, and an
30 additional \$300 payable every 3 years thereafter for so long as
31 the license is in effect.

32 (d) The applicant must submit to fingerprinting in
33 accordance with rules adopted by the Department and must pay a
34 fingerprint processing fee in the amount set by the Department
35 by rule.

36 (e) A person who knowingly makes a false statement or

1 knowingly conceals a material fact or uses false information or
2 identification in any application for a license under this Act
3 commits a Class A misdemeanor.

4 (f) A license granted under this Act remains in effect
5 until it is revoked, suspended, or otherwise withdrawn by the
6 Department or until it is surrendered by the licensee.

7 (g) The provisions of subdivision (a) (2) (ii) do not apply
8 to a person who has been granted relief from disabilities under
9 subsection (c) of Section 925 of Title 18 of the United States
10 Code or to a licensed dealer who is indicted for a crime who is
11 operating under an existing license if, before the expiration
12 of the term of the existing license, timely application is made
13 for a new license during the term of the indictment and until
14 any conviction under the indictment becomes final.

15 Section 20. License retention; requirements. A license
16 granted under this Act is subject to all of the following
17 requirements:

18 (1) A licensed dealer may only transact business under this
19 Act at an address that has a zoning classification that permits
20 the operation of a retail establishment.

21 (2) A licensed dealer may not transact business in any
22 place other than the premises specified in his or her license,
23 except that a licensed dealer may display, sell, or transfer
24 firearms at a gun show open to the general public or at any
25 regular meeting of an incorporated collectors club in
26 accordance with this Act and federal law.

27 (3) A licensed dealer may not violate any provision of any
28 federal or state law pertaining to the possession, use, sale,
29 or delivery of firearms.

30 (4) The licensed dealer must strictly adhere to the
31 provisions of all applicable federal and state laws and local
32 ordinances and local business license requirements.

33 (5) A separate license must be obtained for each separate
34 place of business. Before a licensed dealer moves his or her
35 place of business, he or she must promptly apply to the

1 Department for an amended license.

2 (6) The license, or a copy of the license certified by the
3 Department, must be displayed on the premises at a location
4 where it can easily be read.

5 (7) No firearm may be displayed in any outer window of the
6 premises or in any other place where it can readily be seen
7 from the outside.

8 (8) Every firearm must be unloaded when delivered.

9 (9) The licensee must obtain a certificate of registration
10 issued under the Retailers' Occupation Tax Act.

11 (10) The licensee must take reasonable precautions to
12 ensure that the firearms the licensee sells will not be used
13 illegally. These precautions include, but are not limited to:

14 (i) the refusal to sell a firearm to a person the licensee
15 knows or has reason to know is purchasing the firearm on behalf
16 of another person who could not legally purchase the firearm;

17 (ii) the refusal to sell a firearm to a person who has provided
18 a home address in a municipality or county in which possession
19 of that type of firearm is illegal unless the transferee

20 presents reasonably satisfactory evidence that the firearm
21 will not be used or possessed unlawfully in that municipality
22 or county; and (iii) the refusal to sell a firearm to a person

23 who has provided a home address in a municipality or county
24 that requires registration of the firearm, unless the purchaser
25 presents satisfactory evidence of compliance with the
26 registration requirement.

27 (11) The licensee must make available the licensee's
28 records to any officer or employee of the Department or of any
29 unit of local government in this State whenever the officer or
30 employee is authorized to enforce laws or ordinances pertaining
31 to firearms.

32 Section 25. Enforcement; revocation; notice. This Act must
33 be enforced by the Department, and may be enforced, for the
34 purpose of determining compliance with this Act, by any
35 municipality in which the licensee is located or, if the

1 licensee is not located in a municipality, by the county in
2 which the licensee is located. The Department, after due notice
3 to the licensee and reasonable opportunity for the licensee to
4 be heard, may revoke a license or may suspend a license for a
5 period of time that the Department may deem proper upon
6 satisfactory proof that the licensee has violated or permitted
7 a violation of any requirement of this Act or is no longer
8 eligible to obtain a license under Section 15. A person whose
9 license has been revoked by the Department is disqualified to
10 receive a license for 10 years after the revocation. Any person
11 who has substantially participated in the operation or
12 management of a licensee that has had its license revoked may
13 not be employed by or participate in the business of any other
14 licensee for 10 years after the revocation. Proceedings for
15 revocation or suspension under this Section may be initiated by
16 the Department or by a municipality or county.

17 Section 30. Submission to Department. A licensed dealer
18 must, within 24 hours after making a sale or transfer of a
19 firearm to a person who is not licensed as a dealer, report
20 that sale to the Department of State Police. The report must
21 contain the following information: the date of the sale or
22 transfer; the identity and address of the dealer; the name,
23 address, age, and occupation of the transferee; the price of
24 the firearm; and the kind, description and number of the
25 firearm. All records of the reports must be maintained by the
26 Department on a computer database capable of allowing the
27 retrieval of information for each dealer and each transferee.
28 The computer database must also contain a listing of each
29 county or municipality that prohibits one or more types of
30 firearm, and the type or types of firearms that are prohibited
31 in that county or municipality. Information in the database
32 must be made available to any law enforcement agency
33 responsible for the enforcement of any federal, State or local
34 law or ordinance relating to firearms, and to any licensed
35 dealer who requests information relating to a person who is

1 seeking to purchase one or more firearms from that dealer.
2 Except as specifically provided in this Section, information in
3 the database are confidential records of the Department and are
4 not subject to disclosure under any other law.

5 In addition to any other requirements of this Section, any
6 licensee who was required by Section 3 of the Firearm Owners
7 Identification Card Act to keep a record of a transfer of a
8 firearm occurring within the 24 month period immediately
9 preceding the effective date of this Act must, no later than 30
10 days after that effective date, report those transfers to the
11 Department of State Police. The report must contain the
12 information required to be maintained as records under
13 subsection (b) of Section 3 of the Firearm Owners
14 Identification Card Act. The Department must include the
15 records of those reports in the computer database required to
16 be maintained under this Section.

17 Section 35. Penalty. Any firearms dealer who sells, or who
18 possesses with intent to sell, trade, or transfer, any firearm
19 without being licensed under this Act is guilty of a Class 4
20 felony.