

HB0439



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0439

Introduced 1/26/2007, by Rep. Michael P. McAuliffe - Ronald A. Wait - Ruth Munson

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-2

from Ch. 38, par. 12-2

Amends the Criminal Code of 1961. Provides that aggravated assault committed by the discharge of a firearm from a motor vehicle is a Class 3 (rather than a Class 4) felony. Effective immediately.

LRB095 04098 RLC 24136 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 12-2 as follows:

6 (720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

7 Sec. 12-2. Aggravated assault.

8 (a) A person commits an aggravated assault, when, in
9 committing an assault, he:

10 (1) Uses a deadly weapon or any device manufactured and
11 designed to be substantially similar in appearance to a
12 firearm, other than by discharging a firearm in the
13 direction of another person, a peace officer, a person
14 summoned or directed by a peace officer, a correctional
15 officer or a fireman or in the direction of a vehicle
16 occupied by another person, a peace officer, a person
17 summoned or directed by a peace officer, a correctional
18 officer or a fireman while the officer or fireman is
19 engaged in the execution of any of his official duties, or
20 to prevent the officer or fireman from performing his
21 official duties, or in retaliation for the officer or
22 fireman performing his official duties;

23 (2) Is hooded, robed or masked in such manner as to

1 conceal his identity or any device manufactured and
2 designed to be substantially similar in appearance to a
3 firearm;

4 (3) Knows the individual assaulted to be a teacher or
5 other person employed in any school and such teacher or
6 other employee is upon the grounds of a school or grounds
7 adjacent thereto, or is in any part of a building used for
8 school purposes;

9 (4) Knows the individual assaulted to be a supervisor,
10 director, instructor or other person employed in any park
11 district and such supervisor, director, instructor or
12 other employee is upon the grounds of the park or grounds
13 adjacent thereto, or is in any part of a building used for
14 park purposes;

15 (5) Knows the individual assaulted to be a caseworker,
16 investigator, or other person employed by the Department of
17 Healthcare and Family Services (formerly State Department
18 of Public Aid), a County Department of Public Aid, or the
19 Department of Human Services (acting as successor to the
20 Illinois Department of Public Aid under the Department of
21 Human Services Act) and such caseworker, investigator, or
22 other person is upon the grounds of a public aid office or
23 grounds adjacent thereto, or is in any part of a building
24 used for public aid purposes, or upon the grounds of a home
25 of a public aid applicant, recipient or any other person
26 being interviewed or investigated in the employees'

1 discharge of his duties, or on grounds adjacent thereto, or
2 is in any part of a building in which the applicant,
3 recipient, or other such person resides or is located;

4 (6) Knows the individual assaulted to be a peace
5 officer, or a community policing volunteer, or a fireman
6 while the officer or fireman is engaged in the execution of
7 any of his official duties, or to prevent the officer,
8 community policing volunteer, or fireman from performing
9 his official duties, or in retaliation for the officer,
10 community policing volunteer, or fireman performing his
11 official duties, and the assault is committed other than by
12 the discharge of a firearm in the direction of the officer
13 or fireman or in the direction of a vehicle occupied by the
14 officer or fireman;

15 (7) Knows the individual assaulted to be an emergency
16 medical technician - ambulance, emergency medical
17 technician - intermediate, emergency medical technician -
18 paramedic, ambulance driver or other medical assistance or
19 first aid personnel engaged in the execution of any of his
20 official duties, or to prevent the emergency medical
21 technician - ambulance, emergency medical technician -
22 intermediate, emergency medical technician - paramedic,
23 ambulance driver, or other medical assistance or first aid
24 personnel from performing his official duties, or in
25 retaliation for the emergency medical technician -
26 ambulance, emergency medical technician - intermediate,

1 emergency medical technician - paramedic, ambulance
2 driver, or other medical assistance or first aid personnel
3 performing his official duties;

4 (8) Knows the individual assaulted to be the driver,
5 operator, employee or passenger of any transportation
6 facility or system engaged in the business of
7 transportation of the public for hire and the individual
8 assaulted is then performing in such capacity or then using
9 such public transportation as a passenger or using any area
10 of any description designated by the transportation
11 facility or system as a vehicle boarding, departure, or
12 transfer location;

13 (9) Or the individual assaulted is on or about a public
14 way, public property, or public place of accommodation or
15 amusement;

16 (9.5) Is, or the individual assaulted is, in or about a
17 publicly or privately owned sports or entertainment arena,
18 stadium, community or convention hall, special event
19 center, amusement facility, or a special event center in a
20 public park during any 24-hour period when a professional
21 sporting event, National Collegiate Athletic Association
22 (NCAA)-sanctioned sporting event, United States Olympic
23 Committee-sanctioned sporting event, or International
24 Olympic Committee-sanctioned sporting event is taking
25 place in this venue;

26 (10) Knows the individual assaulted to be an employee

1 of the State of Illinois, a municipal corporation therein
2 or a political subdivision thereof, engaged in the
3 performance of his authorized duties as such employee;

4 (11) Knowingly and without legal justification,
5 commits an assault on a physically handicapped person;

6 (12) Knowingly and without legal justification,
7 commits an assault on a person 60 years of age or older;

8 (13) Discharges a firearm, other than from a motor
9 vehicle;

10 (13.5) Discharges a firearm from a motor vehicle;

11 (14) Knows the individual assaulted to be a
12 correctional officer, while the officer is engaged in the
13 execution of any of his or her official duties, or to
14 prevent the officer from performing his or her official
15 duties, or in retaliation for the officer performing his or
16 her official duties;

17 (15) Knows the individual assaulted to be a
18 correctional employee or an employee of the Department of
19 Human Services supervising or controlling sexually
20 dangerous persons or sexually violent persons, while the
21 employee is engaged in the execution of any of his or her
22 official duties, or to prevent the employee from performing
23 his or her official duties, or in retaliation for the
24 employee performing his or her official duties, and the
25 assault is committed other than by the discharge of a
26 firearm in the direction of the employee or in the

1 direction of a vehicle occupied by the employee;

2 (16) Knows the individual assaulted to be an employee
3 of a police or sheriff's department engaged in the
4 performance of his or her official duties as such employee;
5 ~~or~~

6 (17) Knows the individual assaulted to be a sports
7 official or coach at any level of competition and the act
8 causing the assault to the sports official or coach
9 occurred within an athletic facility or an indoor or
10 outdoor playing field or within the immediate vicinity of
11 the athletic facility or an indoor or outdoor playing field
12 at which the sports official or coach was an active
13 participant in the athletic contest held at the athletic
14 facility. For the purposes of this paragraph (17), "sports
15 official" means a person at an athletic contest who
16 enforces the rules of the contest, such as an umpire or
17 referee; and "coach" means a person recognized as a coach
18 by the sanctioning authority that conducted the athletic
19 contest; or.

20 (18) Knows the individual assaulted to be an emergency
21 management worker, while the emergency management worker
22 is engaged in the execution of any of his or her official
23 duties, or to prevent the emergency management worker from
24 performing his or her official duties, or in retaliation
25 for the emergency management worker performing his or her
26 official duties, and the assault is committed other than by

1 the discharge of a firearm in the direction of the
2 emergency management worker or in the direction of a
3 vehicle occupied by the emergency management worker.

4 (a-5) A person commits an aggravated assault when he or she
5 knowingly and without lawful justification shines or flashes a
6 laser gunsight or other laser device that is attached or
7 affixed to a firearm, or used in concert with a firearm, so
8 that the laser beam strikes near or in the immediate vicinity
9 of any person.

10 (b) Sentence.

11 Aggravated assault as defined in paragraphs (1) through (5)
12 and (8) through (12) and (17) of subsection (a) of this Section
13 is a Class A misdemeanor. Aggravated assault as defined in
14 paragraphs (13), (14), and (15) of subsection (a) of this
15 Section and as defined in subsection (a-5) of this Section is a
16 Class 4 felony. Aggravated assault as defined in paragraphs
17 (6), (7), (16), and (18) of subsection (a) of this Section is a
18 Class A misdemeanor if a firearm is not used in the commission
19 of the assault. Aggravated assault as defined in paragraphs
20 (6), (7), (16), and (18) of subsection (a) of this Section is a
21 Class 4 felony if a firearm is used in the commission of the
22 assault. Aggravated assault as defined in paragraph (13.5) of
23 subsection (a) is a Class 3 felony.

24 (Source: P.A. 93-692, eff. 1-1-05; 94-243, eff. 1-1-06; 94-482,
25 eff. 1-1-06; revised 12-15-05.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.