

HB2862



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB2862

Introduced 2/26/2007, by Rep. Tom Cross

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1

from Ch. 38, par. 24-1

Amends the Criminal Code of 1961. Makes a technical change in a Section concerning the unlawful use of weapons.

LRB095 06093 RLC 26186 b

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 24-1 as follows:

6 (720 ILCS 5/24-1) (from Ch. 38, par. 24-1)

7 Sec. 24-1. Unlawful Use of Weapons.

8 (a) A person commits the offense of unlawful use of weapons
9 when he knowingly:

10 (1) Sells, manufactures, purchases, possesses or
11 carries any bludgeon, black-jack, slung-shot, sand-club,
12 sand-bag, metal knuckles, throwing star, or any knife,
13 commonly referred to as a switchblade knife, which has a
14 blade that opens automatically by hand pressure applied to
15 a button, spring or other device in the ~~the~~ handle of the
16 knife, or a ballistic knife, which is a device that propels
17 a knifelike blade as a projectile by means of a coil
18 spring, elastic material or compressed gas; or

19 (2) Carries or possesses with intent to use the same
20 unlawfully against another, a dagger, dirk, billy,
21 dangerous knife, razor, stiletto, broken bottle or other
22 piece of glass, stun gun or taser or any other dangerous or
23 deadly weapon or instrument of like character; or

1 (3) Carries on or about his person or in any vehicle, a
2 tear gas gun projector or bomb or any object containing
3 noxious liquid gas or substance, other than an object
4 containing a non-lethal noxious liquid gas or substance
5 designed solely for personal defense carried by a person 18
6 years of age or older; or

7 (4) Carries or possesses in any vehicle or concealed on
8 or about his person except when on his land or in his own
9 abode or fixed place of business any pistol, revolver, stun
10 gun or taser or other firearm, except that this subsection
11 (a) (4) does not apply to or affect transportation of
12 weapons that meet one of the following conditions:

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

14 (ii) are not immediately accessible; or

15 (iii) are unloaded and enclosed in a case, firearm
16 carrying box, shipping box, or other container by a
17 person who has been issued a currently valid Firearm
18 Owner's Identification Card; or

19 (5) Sets a spring gun; or

20 (6) Possesses any device or attachment of any kind
21 designed, used or intended for use in silencing the report
22 of any firearm; or

23 (7) Sells, manufactures, purchases, possesses or
24 carries:

25 (i) a machine gun, which shall be defined for the
26 purposes of this subsection as any weapon, which

1 shoots, is designed to shoot, or can be readily
2 restored to shoot, automatically more than one shot
3 without manually reloading by a single function of the
4 trigger, including the frame or receiver of any such
5 weapon, or sells, manufactures, purchases, possesses,
6 or carries any combination of parts designed or
7 intended for use in converting any weapon into a
8 machine gun, or any combination or parts from which a
9 machine gun can be assembled if such parts are in the
10 possession or under the control of a person;

11 (ii) any rifle having one or more barrels less than
12 16 inches in length or a shotgun having one or more
13 barrels less than 18 inches in length or any weapon
14 made from a rifle or shotgun, whether by alteration,
15 modification, or otherwise, if such a weapon as
16 modified has an overall length of less than 26 inches;
17 or

18 (iii) any bomb, bomb-shell, grenade, bottle or
19 other container containing an explosive substance of
20 over one-quarter ounce for like purposes, such as, but
21 not limited to, black powder bombs and Molotov
22 cocktails or artillery projectiles; or

23 (8) Carries or possesses any firearm, stun gun or taser
24 or other deadly weapon in any place which is licensed to
25 sell intoxicating beverages, or at any public gathering
26 held pursuant to a license issued by any governmental body

1 or any public gathering at which an admission is charged,
2 excluding a place where a showing, demonstration or lecture
3 involving the exhibition of unloaded firearms is
4 conducted.

5 This subsection (a) (8) does not apply to any auction or
6 raffle of a firearm held pursuant to a license or permit
7 issued by a governmental body, nor does it apply to persons
8 engaged in firearm safety training courses; or

9 (9) Carries or possesses in a vehicle or on or about
10 his person any pistol, revolver, stun gun or taser or
11 firearm or ballistic knife, when he is hooded, robed or
12 masked in such manner as to conceal his identity; or

13 (10) Carries or possesses on or about his person, upon
14 any public street, alley, or other public lands within the
15 corporate limits of a city, village or incorporated town,
16 except when an invitee thereon or therein, for the purpose
17 of the display of such weapon or the lawful commerce in
18 weapons, or except when on his land or in his own abode or
19 fixed place of business, any pistol, revolver, stun gun or
20 taser or other firearm, except that this subsection (a)
21 (10) does not apply to or affect transportation of weapons
22 that meet one of the following conditions:

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

24 (ii) are not immediately accessible; or

25 (iii) are unloaded and enclosed in a case, firearm
26 carrying box, shipping box, or other container by a

1 person who has been issued a currently valid Firearm
2 Owner's Identification Card.

3 A "stun gun or taser", as used in this paragraph (a)
4 means (i) any device which is powered by electrical
5 charging units, such as, batteries, and which fires one or
6 several barbs attached to a length of wire and which, upon
7 hitting a human, can send out a current capable of
8 disrupting the person's nervous system in such a manner as
9 to render him incapable of normal functioning or (ii) any
10 device which is powered by electrical charging units, such
11 as batteries, and which, upon contact with a human or
12 clothing worn by a human, can send out current capable of
13 disrupting the person's nervous system in such a manner as
14 to render him incapable of normal functioning; or

15 (11) Sells, manufactures or purchases any explosive
16 bullet. For purposes of this paragraph (a) "explosive
17 bullet" means the projectile portion of an ammunition
18 cartridge which contains or carries an explosive charge
19 which will explode upon contact with the flesh of a human
20 or an animal. "Cartridge" means a tubular metal case having
21 a projectile affixed at the front thereof and a cap or
22 primer at the rear end thereof, with the propellant
23 contained in such tube between the projectile and the cap;
24 or

25 (12) (Blank).

26 (b) Sentence. A person convicted of a violation of

1 subsection 24-1(a) (1) through (5), subsection 24-1(a) (10), or
2 subsection 24-1(a) (11) commits a Class A misdemeanor. A person
3 convicted of a violation of subsection 24-1(a) (8) or 24-1(a) (9)
4 commits a Class 4 felony; a person convicted of a violation of
5 subsection 24-1(a) (6) or 24-1(a) (7) (ii) or (iii) commits a
6 Class 3 felony. A person convicted of a violation of subsection
7 24-1(a) (7) (i) commits a Class 2 felony and shall be sentenced
8 to a term of imprisonment of not less than 3 years and not more
9 than 7 years, unless the weapon is possessed in the passenger
10 compartment of a motor vehicle as defined in Section 1-146 of
11 the Illinois Vehicle Code, or on the person, while the weapon
12 is loaded, in which case it shall be a Class X felony. A person
13 convicted of a second or subsequent violation of subsection
14 24-1(a) (4), 24-1(a) (8), 24-1(a) (9), or 24-1(a) (10) commits a
15 Class 3 felony. The possession of each weapon in violation of
16 this Section constitutes a single and separate violation.

17 (c) Violations in specific places.

18 (1) A person who violates subsection 24-1(a) (6) or
19 24-1(a) (7) in any school, regardless of the time of day or
20 the time of year, in residential property owned, operated
21 or managed by a public housing agency or leased by a public
22 housing agency as part of a scattered site or mixed-income
23 development, in a public park, in a courthouse, on the real
24 property comprising any school, regardless of the time of
25 day or the time of year, on residential property owned,
26 operated or managed by a public housing agency or leased by

1 a public housing agency as part of a scattered site or
2 mixed-income development, on the real property comprising
3 any public park, on the real property comprising any
4 courthouse, in any conveyance owned, leased or contracted
5 by a school to transport students to or from school or a
6 school related activity, or on any public way within 1,000
7 feet of the real property comprising any school, public
8 park, courthouse, or residential property owned, operated,
9 or managed by a public housing agency or leased by a public
10 housing agency as part of a scattered site or mixed-income
11 development commits a Class 2 felony and shall be sentenced
12 to a term of imprisonment of not less than 3 years and not
13 more than 7 years.

14 (1.5) A person who violates subsection 24-1(a)(4),
15 24-1(a)(9), or 24-1(a)(10) in any school, regardless of the
16 time of day or the time of year, in residential property
17 owned, operated, or managed by a public housing agency or
18 leased by a public housing agency as part of a scattered
19 site or mixed-income development, in a public park, in a
20 courthouse, on the real property comprising any school,
21 regardless of the time of day or the time of year, on
22 residential property owned, operated, or managed by a
23 public housing agency or leased by a public housing agency
24 as part of a scattered site or mixed-income development, on
25 the real property comprising any public park, on the real
26 property comprising any courthouse, in any conveyance

1 owned, leased, or contracted by a school to transport
2 students to or from school or a school related activity, or
3 on any public way within 1,000 feet of the real property
4 comprising any school, public park, courthouse, or
5 residential property owned, operated, or managed by a
6 public housing agency or leased by a public housing agency
7 as part of a scattered site or mixed-income development
8 commits a Class 3 felony.

9 (2) A person who violates subsection 24-1(a)(1),
10 24-1(a)(2), or 24-1(a)(3) in any school, regardless of the
11 time of day or the time of year, in residential property
12 owned, operated or managed by a public housing agency or
13 leased by a public housing agency as part of a scattered
14 site or mixed-income development, in a public park, in a
15 courthouse, on the real property comprising any school,
16 regardless of the time of day or the time of year, on
17 residential property owned, operated or managed by a public
18 housing agency or leased by a public housing agency as part
19 of a scattered site or mixed-income development, on the
20 real property comprising any public park, on the real
21 property comprising any courthouse, in any conveyance
22 owned, leased or contracted by a school to transport
23 students to or from school or a school related activity, or
24 on any public way within 1,000 feet of the real property
25 comprising any school, public park, courthouse, or
26 residential property owned, operated, or managed by a

1 public housing agency or leased by a public housing agency
2 as part of a scattered site or mixed-income development
3 commits a Class 4 felony. "Courthouse" means any building
4 that is used by the Circuit, Appellate, or Supreme Court of
5 this State for the conduct of official business.

6 (3) Paragraphs (1), (1.5), and (2) of this subsection
7 (c) shall not apply to law enforcement officers or security
8 officers of such school, college, or university or to
9 students carrying or possessing firearms for use in
10 training courses, parades, hunting, target shooting on
11 school ranges, or otherwise with the consent of school
12 authorities and which firearms are transported unloaded
13 enclosed in a suitable case, box, or transportation
14 package.

15 (4) For the purposes of this subsection (c), "school"
16 means any public or private elementary or secondary school,
17 community college, college, or university.

18 (d) The presence in an automobile other than a public
19 omnibus of any weapon, instrument or substance referred to in
20 subsection (a)(7) is prima facie evidence that it is in the
21 possession of, and is being carried by, all persons occupying
22 such automobile at the time such weapon, instrument or
23 substance is found, except under the following circumstances:
24 (i) if such weapon, instrument or instrumentality is found upon
25 the person of one of the occupants therein; or (ii) if such
26 weapon, instrument or substance is found in an automobile

1 operated for hire by a duly licensed driver in the due, lawful
2 and proper pursuit of his trade, then such presumption shall
3 not apply to the driver.

4 (e) Exemptions. Crossbows, Common or Compound bows and
5 Underwater Spearguns are exempted from the definition of
6 ballistic knife as defined in paragraph (1) of subsection (a)
7 of this Section.

8 (Source: P.A. 94-72, eff. 1-1-06; 94-284, eff. 7-21-05; revised
9 8-19-05.)