



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0173

Introduced 1/14/2009, by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-2

from Ch. 38, par. 24-2

Amends the Criminal Code of 1961. Provides that a unit of local government, including a home rule unit, may not regulate the transportation of firearms and may not regulate the transportation of ammunition, components, accessories, or accoutrements for firearms. Provides that the provisions of any ordinance or resolution adopted before, on, or after the effective date of the amendatory Act by any unit of local government that imposes restrictions or limitations on the transportation of firearms and ammunition, components, accessories, and accoutrements of firearms in a manner other than the requirements that are imposed by the Deadly Weapons Article of the Code are invalid and all those existing ordinances and resolutions are void. Provides that this provision is a limitation of home rule powers under subsection (h) of Section 6 of Article VII of the Illinois Constitution. Effective immediately.

LRB096 04399 RLC 14449 b

HOME RULE 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 24-2 as follows:

6 (720 ILCS 5/24-2) (from Ch. 38, par. 24-2)

7 Sec. 24-2. Exemptions.

8 (a) Subsections 24-1(a)(3), 24-1(a)(4), 24-1(a)(10), and
9 24-1(a)(13) and Section 24-1.6 do not apply to or affect any of
10 the following:

11 (1) Peace officers, and any person summoned by a peace
12 officer to assist in making arrests or preserving the
13 peace, while actually engaged in assisting such officer.

14 (2) Wardens, superintendents and keepers of prisons,
15 penitentiaries, jails and other institutions for the
16 detention of persons accused or convicted of an offense,
17 while in the performance of their official duty, or while
18 commuting between their homes and places of employment.

19 (3) Members of the Armed Services or Reserve Forces of
20 the United States or the Illinois National Guard or the
21 Reserve Officers Training Corps, while in the performance
22 of their official duty.

23 (4) Special agents employed by a railroad or a public

1 utility to perform police functions, and guards of armored
2 car companies, while actually engaged in the performance of
3 the duties of their employment or commuting between their
4 homes and places of employment; and watchmen while actually
5 engaged in the performance of the duties of their
6 employment.

7 (5) Persons licensed as private security contractors,
8 private detectives, or private alarm contractors, or
9 employed by an agency certified by the Department of
10 Professional Regulation, if their duties include the
11 carrying of a weapon under the provisions of the Private
12 Detective, Private Alarm, Private Security, Fingerprint
13 Vendor, and Locksmith Act of 2004, while actually engaged
14 in the performance of the duties of their employment or
15 commuting between their homes and places of employment,
16 provided that such commuting is accomplished within one
17 hour from departure from home or place of employment, as
18 the case may be. Persons exempted under this subdivision
19 (a)(5) shall be required to have completed a course of
20 study in firearms handling and training approved and
21 supervised by the Department of Professional Regulation as
22 prescribed by Section 28 of the Private Detective, Private
23 Alarm, Private Security, Fingerprint Vendor, and Locksmith
24 Act of 2004, prior to becoming eligible for this exemption.
25 The Department of Professional Regulation shall provide
26 suitable documentation demonstrating the successful

1 completion of the prescribed firearms training. Such
2 documentation shall be carried at all times when such
3 persons are in possession of a concealable weapon.

4 (6) Any person regularly employed in a commercial or
5 industrial operation as a security guard for the protection
6 of persons employed and private property related to such
7 commercial or industrial operation, while actually engaged
8 in the performance of his or her duty or traveling between
9 sites or properties belonging to the employer, and who, as
10 a security guard, is a member of a security force of at
11 least 5 persons registered with the Department of
12 Professional Regulation; provided that such security guard
13 has successfully completed a course of study, approved by
14 and supervised by the Department of Professional
15 Regulation, consisting of not less than 40 hours of
16 training that includes the theory of law enforcement,
17 liability for acts, and the handling of weapons. A person
18 shall be considered eligible for this exemption if he or
19 she has completed the required 20 hours of training for a
20 security officer and 20 hours of required firearm training,
21 and has been issued a firearm control card by the
22 Department of Professional Regulation. Conditions for the
23 renewal of firearm control cards issued under the
24 provisions of this Section shall be the same as for those
25 cards issued under the provisions of the Private Detective,
26 Private Alarm, Private Security, Fingerprint Vendor, and

1 Locksmith Act of 2004. Such firearm control card shall be
2 carried by the security guard at all times when he or she
3 is in possession of a concealable weapon.

4 (7) Agents and investigators of the Illinois
5 Legislative Investigating Commission authorized by the
6 Commission to carry the weapons specified in subsections
7 24-1(a)(3) and 24-1(a)(4), while on duty in the course of
8 any investigation for the Commission.

9 (8) Persons employed by a financial institution for the
10 protection of other employees and property related to such
11 financial institution, while actually engaged in the
12 performance of their duties, commuting between their homes
13 and places of employment, or traveling between sites or
14 properties owned or operated by such financial
15 institution, provided that any person so employed has
16 successfully completed a course of study, approved by and
17 supervised by the Department of Professional Regulation,
18 consisting of not less than 40 hours of training which
19 includes theory of law enforcement, liability for acts, and
20 the handling of weapons. A person shall be considered to be
21 eligible for this exemption if he or she has completed the
22 required 20 hours of training for a security officer and 20
23 hours of required firearm training, and has been issued a
24 firearm control card by the Department of Professional
25 Regulation. Conditions for renewal of firearm control
26 cards issued under the provisions of this Section shall be

1 the same as for those issued under the provisions of the
2 Private Detective, Private Alarm, Private Security,
3 Fingerprint Vendor, and Locksmith Act of 2004. Such firearm
4 control card shall be carried by the person so trained at
5 all times when such person is in possession of a
6 concealable weapon. For purposes of this subsection,
7 "financial institution" means a bank, savings and loan
8 association, credit union or company providing armored car
9 services.

10 (9) Any person employed by an armored car company to
11 drive an armored car, while actually engaged in the
12 performance of his duties.

13 (10) Persons who have been classified as peace officers
14 pursuant to the Peace Officer Fire Investigation Act.

15 (11) Investigators of the Office of the State's
16 Attorneys Appellate Prosecutor authorized by the board of
17 governors of the Office of the State's Attorneys Appellate
18 Prosecutor to carry weapons pursuant to Section 7.06 of the
19 State's Attorneys Appellate Prosecutor's Act.

20 (12) Special investigators appointed by a State's
21 Attorney under Section 3-9005 of the Counties Code.

22 (12.5) Probation officers while in the performance of
23 their duties, or while commuting between their homes,
24 places of employment or specific locations that are part of
25 their assigned duties, with the consent of the chief judge
26 of the circuit for which they are employed.

1 (13) Court Security Officers while in the performance
2 of their official duties, or while commuting between their
3 homes and places of employment, with the consent of the
4 Sheriff.

5 (13.5) A person employed as an armed security guard at
6 a nuclear energy, storage, weapons or development site or
7 facility regulated by the Nuclear Regulatory Commission
8 who has completed the background screening and training
9 mandated by the rules and regulations of the Nuclear
10 Regulatory Commission.

11 (14) Manufacture, transportation, or sale of weapons
12 to persons authorized under subdivisions (1) through
13 (13.5) of this subsection to possess those weapons.

14 (b) Subsections 24-1(a)(4) and 24-1(a)(10) and Section
15 24-1.6 do not apply to or affect any of the following:

16 (1) Members of any club or organization organized for
17 the purpose of practicing shooting at targets upon
18 established target ranges, whether public or private, and
19 patrons of such ranges, while such members or patrons are
20 using their firearms on those target ranges.

21 (2) Duly authorized military or civil organizations
22 while parading, with the special permission of the
23 Governor.

24 (3) Hunters, trappers or fishermen with a license or
25 permit while engaged in hunting, trapping or fishing.

26 (4) Transportation of weapons that are broken down in a

1 non-functioning state or are not immediately accessible.

2 (c) Subsection 24-1(a)(7) does not apply to or affect any
3 of the following:

4 (1) Peace officers while in performance of their
5 official duties.

6 (2) Wardens, superintendents and keepers of prisons,
7 penitentiaries, jails and other institutions for the
8 detention of persons accused or convicted of an offense.

9 (3) Members of the Armed Services or Reserve Forces of
10 the United States or the Illinois National Guard, while in
11 the performance of their official duty.

12 (4) Manufacture, transportation, or sale of machine
13 guns to persons authorized under subdivisions (1) through
14 (3) of this subsection to possess machine guns, if the
15 machine guns are broken down in a non-functioning state or
16 are not immediately accessible.

17 (5) Persons licensed under federal law to manufacture
18 any weapon from which 8 or more shots or bullets can be
19 discharged by a single function of the firing device, or
20 ammunition for such weapons, and actually engaged in the
21 business of manufacturing such weapons or ammunition, but
22 only with respect to activities which are within the lawful
23 scope of such business, such as the manufacture,
24 transportation, or testing of such weapons or ammunition.
25 This exemption does not authorize the general private
26 possession of any weapon from which 8 or more shots or

1 bullets can be discharged by a single function of the
2 firing device, but only such possession and activities as
3 are within the lawful scope of a licensed manufacturing
4 business described in this paragraph.

5 During transportation, such weapons shall be broken
6 down in a non-functioning state or not immediately
7 accessible.

8 (6) The manufacture, transport, testing, delivery,
9 transfer or sale, and all lawful commercial or experimental
10 activities necessary thereto, of rifles, shotguns, and
11 weapons made from rifles or shotguns, or ammunition for
12 such rifles, shotguns or weapons, where engaged in by a
13 person operating as a contractor or subcontractor pursuant
14 to a contract or subcontract for the development and supply
15 of such rifles, shotguns, weapons or ammunition to the
16 United States government or any branch of the Armed Forces
17 of the United States, when such activities are necessary
18 and incident to fulfilling the terms of such contract.

19 The exemption granted under this subdivision (c)(6)
20 shall also apply to any authorized agent of any such
21 contractor or subcontractor who is operating within the
22 scope of his employment, where such activities involving
23 such weapon, weapons or ammunition are necessary and
24 incident to fulfilling the terms of such contract.

25 During transportation, any such weapon shall be broken
26 down in a non-functioning state, or not immediately

1 accessible.

2 (d) Subsection 24-1(a)(1) does not apply to the purchase,
3 possession or carrying of a black-jack or slung-shot by a peace
4 officer.

5 (e) Subsection 24-1(a)(8) does not apply to any owner,
6 manager or authorized employee of any place specified in that
7 subsection nor to any law enforcement officer.

8 (f) Subsection 24-1(a)(4) and subsection 24-1(a)(10) and
9 Section 24-1.6 do not apply to members of any club or
10 organization organized for the purpose of practicing shooting
11 at targets upon established target ranges, whether public or
12 private, while using their firearms on those target ranges.

13 (g) Subsections 24-1(a)(11) and 24-3.1(a)(6) do not apply
14 to:

15 (1) Members of the Armed Services or Reserve Forces of
16 the United States or the Illinois National Guard, while in
17 the performance of their official duty.

18 (2) Bonafide collectors of antique or surplus military
19 ordinance.

20 (3) Laboratories having a department of forensic
21 ballistics, or specializing in the development of
22 ammunition or explosive ordinance.

23 (4) Commerce, preparation, assembly or possession of
24 explosive bullets by manufacturers of ammunition licensed
25 by the federal government, in connection with the supply of
26 those organizations and persons exempted by subdivision

1 (g) (1) of this Section, or like organizations and persons
2 outside this State, or the transportation of explosive
3 bullets to any organization or person exempted in this
4 Section by a common carrier or by a vehicle owned or leased
5 by an exempted manufacturer.

6 (g-5) Subsection 24-1(a)(6) does not apply to or affect
7 persons licensed under federal law to manufacture any device or
8 attachment of any kind designed, used, or intended for use in
9 silencing the report of any firearm, firearms, or ammunition
10 for those firearms equipped with those devices, and actually
11 engaged in the business of manufacturing those devices,
12 firearms, or ammunition, but only with respect to activities
13 that are within the lawful scope of that business, such as the
14 manufacture, transportation, or testing of those devices,
15 firearms, or ammunition. This exemption does not authorize the
16 general private possession of any device or attachment of any
17 kind designed, used, or intended for use in silencing the
18 report of any firearm, but only such possession and activities
19 as are within the lawful scope of a licensed manufacturing
20 business described in this subsection (g-5). During
21 transportation, those devices shall be detached from any weapon
22 or not immediately accessible.

23 (h) An information or indictment based upon a violation of
24 any subsection of this Article need not negative any exemptions
25 contained in this Article. The defendant shall have the burden
26 of proving such an exemption.

1 (i) (1) Nothing in this Article shall prohibit, apply to,
2 or affect the transportation, carrying, or possession, of any
3 pistol or revolver, stun gun, taser, or other firearm consigned
4 to a common carrier operating under license of the State of
5 Illinois or the federal government, where such transportation,
6 carrying, or possession is incident to the lawful
7 transportation in which such common carrier is engaged; and
8 nothing in this Article shall prohibit, apply to, or affect the
9 transportation, carrying, or possession of any pistol,
10 revolver, stun gun, taser, or other firearm, not the subject of
11 and regulated by subsection 24-1(a) (7) or subsection 24-2(c) of
12 this Article, which is unloaded and enclosed in a case, firearm
13 carrying box, shipping box, or other container, by the
14 possessor of a valid Firearm Owners Identification Card.

15 (2) The regulation of the transportation of firearms and
16 the transportation of ammunition, components, accessories, or
17 accoutrements for firearms are exclusive powers and functions
18 of the State. A unit of local government, including a home rule
19 unit, may not regulate the transportation of firearms and may
20 not regulate the transportation of ammunition, components,
21 accessories, or accoutrements for firearms.

22 (3) The provisions of any ordinance or resolution adopted
23 before, on, or after the effective date of this amendatory Act
24 of the 96th General Assembly by any unit of local government
25 that imposes restrictions or limitations on the transportation
26 of firearms and ammunition, components, accessories, and

1 accoutrements of firearms in a manner other than the
2 requirements that are imposed by this Article are invalid and
3 all those existing ordinances and resolutions are void.

4 (4) This subsection (i) is a limitation of home rule powers
5 under subsection (h) of Section 6 of Article VII of the
6 Illinois Constitution.

7 (Source: P.A. 95-331, eff. 8-21-07; 95-613, eff. 9-11-07;
8 95-885, eff. 1-1-09.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.