

HB4376



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4376

by Rep. Josh Harms

SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-1

from Ch. 38, par. 24-1

720 ILCS 5/24-1.6

Amends the Criminal Code of 2012. Provides that a person who has been issued a currently valid Firearm Owner's Identification Card may transport in a vehicle an accessible rifle, shotgun, or other long gun without the weapon being broken down in a non-functioning state or without the weapon being enclosed in a case, firearm carrying box, shipping box, or other container if the firearm is unloaded.

LRB098 13942 RLC 48490 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 2012 is amended by changing
5 Sections 24-1 and 24-1.6 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 or other knuckle weapon
13 regardless of its composition, throwing star, or any knife,
14 commonly referred to as a switchblade knife, which has a
15 blade that opens automatically by hand pressure applied to
16 a button, spring or other device in the handle of the
17 knife, or a ballistic knife, which is a device that propels
18 a knifelike blade as a projectile by means of a coil
19 spring, elastic material or compressed gas; or

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

1 deadly weapon or instrument of like character; or

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

8 (4) Carries or possesses in any vehicle or concealed on
9 or about his person except when on his land or in his own
10 abode, legal dwelling, or fixed place of business, or on
11 the land or in the legal dwelling of another person as an
12 invitee with that person's permission, any pistol,
13 revolver, stun gun or taser or other firearm, except that
14 this subsection (a) (4) does not apply to or affect
15 transportation of:

16 (A) weapons, other than rifles, shotguns, or other
17 long guns that are transported in a vehicle, that meet
18 one of the following conditions:

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

21 (ii) are not immediately accessible; or

22 (iii) are unloaded and enclosed in a case,
23 firearm carrying box, shipping box, or other
24 container by a person who has been issued a
25 currently valid Firearm Owner's Identification
26 Card; or

1 (B) rifles, shotguns, or other long guns in a
2 vehicle by a person who has been issued a currently
3 valid Firearm Owner's Identification Card if the
4 firearms are unloaded; or

5 (5) Sets a spring gun; or

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

9 (7) Sells, manufactures, purchases, possesses or
10 carries:

11 (i) a machine gun, which shall be defined for the
12 purposes of this subsection as any weapon, which
13 shoots, is designed to shoot, or can be readily
14 restored to shoot, automatically more than one shot
15 without manually reloading by a single function of the
16 trigger, including the frame or receiver of any such
17 weapon, or sells, manufactures, purchases, possesses,
18 or carries any combination of parts designed or
19 intended for use in converting any weapon into a
20 machine gun, or any combination or parts from which a
21 machine gun can be assembled if such parts are in the
22 possession or under the control of a person;

23 (ii) any rifle having one or more barrels less than
24 16 inches in length or a shotgun having one or more
25 barrels less than 18 inches in length or any weapon
26 made from a rifle or shotgun, whether by alteration,

1 modification, or otherwise, if such a weapon as
2 modified has an overall length of less than 26 inches;
3 or

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

9 (8) Carries or possesses any firearm, stun gun or taser
10 or other deadly weapon in any place which is licensed to
11 sell intoxicating beverages, or at any public gathering
12 held pursuant to a license issued by any governmental body
13 or any public gathering at which an admission is charged,
14 excluding a place where a showing, demonstration or lecture
15 involving the exhibition of unloaded firearms is
16 conducted.

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

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

25 (10) Carries or possesses on or about his person, upon
26 any public street, alley, or other public lands within the

1 corporate limits of a city, village or incorporated town,
2 except when an invitee thereon or therein, for the purpose
3 of the display of such weapon or the lawful commerce in
4 weapons, or except when on his land or in his own abode,
5 legal dwelling, or fixed place of business, or on the land
6 or in the legal dwelling of another person as an invitee
7 with that person's permission, any pistol, revolver, stun
8 gun or taser or other firearm, except that this subsection
9 (a) (10) does not apply to or affect transportation of
10 weapons as provided in subsection 24-1(a)(4)(B) or that
11 meet one of the following conditions:

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

13 (ii) are not immediately accessible; or

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

18 A "stun gun or taser", as used in this paragraph (a)
19 means (i) any device which is powered by electrical
20 charging units, such as, batteries, and which fires one or
21 several barbs attached to a length of wire and which, upon
22 hitting a human, can send out a current capable of
23 disrupting the person's nervous system in such a manner as
24 to render him incapable of normal functioning or (ii) any
25 device which is powered by electrical charging units, such
26 as batteries, and which, upon contact with a human or

1 clothing worn by a human, can send out current capable of
2 disrupting the person's nervous system in such a manner as
3 to render him incapable of normal functioning; or

4 (11) Sells, manufactures or purchases any explosive
5 bullet. For purposes of this paragraph (a) "explosive
6 bullet" means the projectile portion of an ammunition
7 cartridge which contains or carries an explosive charge
8 which will explode upon contact with the flesh of a human
9 or an animal. "Cartridge" means a tubular metal case having
10 a projectile affixed at the front thereof and a cap or
11 primer at the rear end thereof, with the propellant
12 contained in such tube between the projectile and the cap;
13 or

14 (12) (Blank); or

15 (13) Carries or possesses on or about his or her person
16 while in a building occupied by a unit of government, a
17 billy club, other weapon of like character, or other
18 instrument of like character intended for use as a weapon.
19 For the purposes of this Section, "billy club" means a
20 short stick or club commonly carried by police officers
21 which is either telescopic or constructed of a solid piece
22 of wood or other man-made material.

23 (b) Sentence. A person convicted of a violation of
24 subsection 24-1(a)(1) through (5), subsection 24-1(a)(10),
25 subsection 24-1(a)(11), or subsection 24-1(a)(13) commits a
26 Class A misdemeanor. A person convicted of a violation of

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

15 (c) Violations in specific places.

16 (1) A person who violates subsection 24-1(a)(6) or
17 24-1(a)(7) in any school, regardless of the time of day or
18 the time of year, in residential property owned, operated
19 or managed by a public housing agency or leased by a public
20 housing agency as part of a scattered site or mixed-income
21 development, in a public park, in a courthouse, on the real
22 property comprising any school, regardless of the time of
23 day or the time of year, on residential property owned,
24 operated or managed by a public housing agency or leased by
25 a public housing agency as part of a scattered site or
26 mixed-income development, on the real property comprising

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

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

1 transportation agency, or on any public way within 1,000
2 feet of the real property comprising any school, public
3 park, courthouse, public transportation facility, or
4 residential property owned, operated, or managed by a
5 public housing agency or leased by a public housing agency
6 as part of a scattered site or mixed-income development
7 commits a Class 4 felony. "Courthouse" means any building
8 that is used by the Circuit, Appellate, or Supreme Court of
9 this State for the conduct of official business.

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

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

22 (5) For the purposes of this subsection (c), "public
23 transportation agency" means a public or private agency
24 that provides for the transportation or conveyance of
25 persons by means available to the general public, except
26 for transportation by automobiles not used for conveyance

1 of the general public as passengers; and "public
2 transportation facility" means a terminal or other place
3 where one may obtain public transportation.

4 (d) The presence in an automobile other than a public
5 omnibus of any weapon, instrument or substance referred to in
6 subsection (a)(7) is prima facie evidence that it is in the
7 possession of, and is being carried by, all persons occupying
8 such automobile at the time such weapon, instrument or
9 substance is found, except under the following circumstances:
10 (i) if such weapon, instrument or instrumentality is found upon
11 the person of one of the occupants therein; or (ii) if such
12 weapon, instrument or substance is found in an automobile
13 operated for hire by a duly licensed driver in the due, lawful
14 and proper pursuit of his trade, then such presumption shall
15 not apply to the driver.

16 (e) Exemptions. Crossbows, Common or Compound bows and
17 Underwater Spearguns are exempted from the definition of
18 ballistic knife as defined in paragraph (1) of subsection (a)
19 of this Section.

20 (Source: P.A. 95-331, eff. 8-21-07; 95-809, eff. 1-1-09;
21 95-885, eff. 1-1-09; 96-41, eff. 1-1-10; 96-328, eff. 8-11-09;
22 96-742, eff. 8-25-09; 96-1000, eff. 7-2-10.)

23 (720 ILCS 5/24-1.6)

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

25 (a) A person commits the offense of aggravated unlawful use

1 of a weapon when he or she knowingly:

2 (1) Carries on or about his or her person or in any
3 vehicle or concealed on or about his or her person except
4 when on his or her land or in his or her abode, legal
5 dwelling, or fixed place of business, or on the land or in
6 the legal dwelling of another person as an invitee with
7 that person's permission, any pistol, revolver, stun gun or
8 taser or other firearm; or

9 (2) Carries or possesses on or about his or her person,
10 upon any public street, alley, or other public lands within
11 the corporate limits of a city, village or incorporated
12 town, except when an invitee thereon or therein, for the
13 purpose of the display of such weapon or the lawful
14 commerce in weapons, or except when on his or her own land
15 or in his or her own abode, legal dwelling, or fixed place
16 of business, or on the land or in the legal dwelling of
17 another person as an invitee with that person's permission,
18 any pistol, revolver, stun gun or taser or other firearm;
19 and

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

21 (A) the firearm, other than a pistol, revolver, or
22 handgun, possessed was uncased, loaded, and
23 immediately accessible at the time of the offense; or

24 (A-5) the pistol, revolver, or handgun possessed
25 was uncased, loaded, and immediately accessible at the
26 time of the offense and the person possessing the

1 pistol, revolver, or handgun has not been issued a
2 currently valid license under the Firearm Concealed
3 Carry Act; or

4 (B) the firearm, other than a pistol, revolver, or
5 handgun, possessed was uncased, unloaded, and the
6 ammunition for the weapon was immediately accessible
7 at the time of the offense; or

8 (B-5) the pistol, revolver, or handgun possessed
9 was uncased, unloaded, and the ammunition for the
10 weapon was immediately accessible at the time of the
11 offense and the person possessing the pistol,
12 revolver, or handgun has not been issued a currently
13 valid license under the Firearm Concealed Carry Act; or

14 (C) the person possessing the firearm has not been
15 issued a currently valid Firearm Owner's
16 Identification Card; or

17 (D) the person possessing the weapon was
18 previously adjudicated a delinquent minor under the
19 Juvenile Court Act of 1987 for an act that if committed
20 by an adult would be a felony; or

21 (E) the person possessing the weapon was engaged in
22 a misdemeanor violation of the Cannabis Control Act, in
23 a misdemeanor violation of the Illinois Controlled
24 Substances Act, or in a misdemeanor violation of the
25 Methamphetamine Control and Community Protection Act;
26 or

1 (F) (blank); or

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

5 (H) the person possessing the weapon was engaged in
6 the commission or attempted commission of a
7 misdemeanor involving the use or threat of violence
8 against the person or property of another; or

9 (I) the person possessing the weapon was under 21
10 years of age and in possession of a handgun, unless the
11 person under 21 is engaged in lawful activities under
12 the Wildlife Code or described in subsection
13 24-2 (b) (1), (b) (3), or 24-2 (f).

14 (a-5) "Handgun" as used in this Section has the meaning
15 given to it in Section 5 of the Firearm Concealed Carry Act.

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

18 (c) This Section does not apply to or affect the
19 transportation or possession of weapons as provided in
20 subsection 24-1(a)(4)(B) or that:

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

22 (ii) are not immediately accessible; or

23 (iii) are unloaded and enclosed in a case, firearm
24 carrying box, shipping box, or other container by a person
25 who has been issued a currently valid Firearm Owner's
26 Identification Card.

1 (d) Sentence.

2 (1) Aggravated unlawful use of a weapon is a Class 4
3 felony; a second or subsequent offense is a Class 2 felony
4 for which the person shall be sentenced to a term of
5 imprisonment of not less than 3 years and not more than 7
6 years.

7 (2) Except as otherwise provided in paragraphs (3) and
8 (4) of this subsection (d), a first offense of aggravated
9 unlawful use of a weapon committed with a firearm by a
10 person 18 years of age or older where the factors listed in
11 both items (A) and (C) or both items (A-5) and (C) of
12 paragraph (3) of subsection (a) are present is a Class 4
13 felony, for which the person shall be sentenced to a term
14 of imprisonment of not less than one year and not more than
15 3 years.

16 (3) Aggravated unlawful use of a weapon by a person who
17 has been previously convicted of a felony in this State or
18 another jurisdiction is a Class 2 felony for which the
19 person shall be sentenced to a term of imprisonment of not
20 less than 3 years and not more than 7 years.

21 (4) Aggravated unlawful use of a weapon while wearing
22 or in possession of body armor as defined in Section 33F-1
23 by a person who has not been issued a valid Firearms
24 Owner's Identification Card in accordance with Section 5 of
25 the Firearm Owners Identification Card Act is a Class X
26 felony.

1 (e) The possession of each firearm in violation of this
2 Section constitutes a single and separate violation.

3 (Source: P.A. 98-63, eff. 7-9-13.)