

# HB4039



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4039

by Rep. Pamela Reaves-Harris

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/24-3

from Ch. 38, par. 24-3

Amends the Criminal Code of 2012. Provides that it is a Class 4 felony for a person who holds a license as a dealer, importer, manufacturer, or pawnbroker of firearms under the federal Gun Control Act of 1968 to sell or deliver a firearm to a person listed on the Federal Bureau of Investigation's terror watch list.

LRB099 08140 RLC 28290 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 2012 is amended by changing  
5 Section 24-3 as follows:

6 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

7 Sec. 24-3. Unlawful sale or delivery of firearms.

8 (A) A person commits the offense of unlawful sale or  
9 delivery of firearms when he or she knowingly does any of the  
10 following:

11 (a) Sells or gives any firearm of a size which may be  
12 concealed upon the person to any person under 18 years of  
13 age.

14 (b) Sells or gives any firearm to a person under 21  
15 years of age who has been convicted of a misdemeanor other  
16 than a traffic offense or adjudged delinquent.

17 (c) Sells or gives any firearm to any narcotic addict.

18 (d) Sells or gives any firearm to any person who has  
19 been convicted of a felony under the laws of this or any  
20 other jurisdiction.

21 (e) Sells or gives any firearm to any person who has  
22 been a patient in a mental institution within the past 5  
23 years. In this subsection (e):

1            "Mental institution" means any hospital,  
2            institution, clinic, evaluation facility, mental  
3            health center, or part thereof, which is used primarily  
4            for the care or treatment of persons with mental  
5            illness.

6            "Patient in a mental institution" means the person  
7            was admitted, either voluntarily or involuntarily, to  
8            a mental institution for mental health treatment,  
9            unless the treatment was voluntary and solely for an  
10           alcohol abuse disorder and no other secondary  
11           substance abuse disorder or mental illness.

12           (f) Sells or gives any firearms to any person who is  
13           intellectually disabled.

14           (g) Delivers any firearm of a size which may be  
15           concealed upon the person, incidental to a sale, without  
16           withholding delivery of such firearm for at least 72 hours  
17           after application for its purchase has been made, or  
18           delivers any rifle, shotgun or other long gun, or a stun  
19           gun or taser, incidental to a sale, without withholding  
20           delivery of such rifle, shotgun or other long gun, or a  
21           stun gun or taser for at least 24 hours after application  
22           for its purchase has been made. However, this paragraph (g)  
23           does not apply to: (1) the sale of a firearm to a law  
24           enforcement officer if the seller of the firearm knows that  
25           the person to whom he or she is selling the firearm is a  
26           law enforcement officer or the sale of a firearm to a

1 person who desires to purchase a firearm for use in  
2 promoting the public interest incident to his or her  
3 employment as a bank guard, armed truck guard, or other  
4 similar employment; (2) a mail order sale of a firearm to a  
5 nonresident of Illinois under which the firearm is mailed  
6 to a point outside the boundaries of Illinois; (3) the sale  
7 of a firearm to a nonresident of Illinois while at a  
8 firearm showing or display recognized by the Illinois  
9 Department of State Police; or (4) the sale of a firearm to  
10 a dealer licensed as a federal firearms dealer under  
11 Section 923 of the federal Gun Control Act of 1968 (18  
12 U.S.C. 923). For purposes of this paragraph (g),  
13 "application" means when the buyer and seller reach an  
14 agreement to purchase a firearm.

15 (h) While holding any license as a dealer, importer,  
16 manufacturer or pawnbroker under the federal Gun Control  
17 Act of 1968, manufactures, sells or delivers to any  
18 unlicensed person a handgun having a barrel, slide, frame  
19 or receiver which is a die casting of zinc alloy or any  
20 other nonhomogeneous metal which will melt or deform at a  
21 temperature of less than 800 degrees Fahrenheit. For  
22 purposes of this paragraph, (1) "firearm" is defined as in  
23 the Firearm Owners Identification Card Act; and (2)  
24 "handgun" is defined as a firearm designed to be held and  
25 fired by the use of a single hand, and includes a  
26 combination of parts from which such a firearm can be

1 assembled.

2 (i) Sells or gives a firearm of any size to any person  
3 under 18 years of age who does not possess a valid Firearm  
4 Owner's Identification Card.

5 (j) Sells or gives a firearm while engaged in the  
6 business of selling firearms at wholesale or retail without  
7 being licensed as a federal firearms dealer under Section  
8 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
9 In this paragraph (j):

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

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

26 (k) Sells or transfers ownership of a firearm to a

1 person who does not display to the seller or transferor of  
2 the firearm a currently valid Firearm Owner's  
3 Identification Card that has previously been issued in the  
4 transferee's name by the Department of State Police under  
5 the provisions of the Firearm Owners Identification Card  
6 Act. This paragraph (k) does not apply to the transfer of a  
7 firearm to a person who is exempt from the requirement of  
8 possessing a Firearm Owner's Identification Card under  
9 Section 2 of the Firearm Owners Identification Card Act.  
10 For the purposes of this Section, a currently valid Firearm  
11 Owner's Identification Card means (i) a Firearm Owner's  
12 Identification Card that has not expired or (ii) an  
13 approval number issued in accordance with subsection  
14 (a-10) of subsection 3 or Section 3.1 of the Firearm Owners  
15 Identification Card Act shall be proof that the Firearm  
16 Owner's Identification Card was valid.

17 (1) In addition to the other requirements of this  
18 paragraph (k), all persons who are not federally  
19 licensed firearms dealers must also have complied with  
20 subsection (a-10) of Section 3 of the Firearm Owners  
21 Identification Card Act by determining the validity of  
22 a purchaser's Firearm Owner's Identification Card.

23 (2) All sellers or transferors who have complied  
24 with the requirements of subparagraph (1) of this  
25 paragraph (k) shall not be liable for damages in any  
26 civil action arising from the use or misuse by the

1 transferee of the firearm transferred, except for  
2 willful or wanton misconduct on the part of the seller  
3 or transferor.

4 (1) Not being entitled to the possession of a firearm,  
5 delivers the firearm, knowing it to have been stolen or  
6 converted. It may be inferred that a person who possesses a  
7 firearm with knowledge that its serial number has been  
8 removed or altered has knowledge that the firearm is stolen  
9 or converted.

10 (m) While holding any license as a dealer, importer,  
11 manufacturer, or pawnbroker under the federal Gun Control  
12 Act of 1968, sells or delivers a firearm to a person listed  
13 on the Federal Bureau of Investigation's terror watch list.

14 (B) Paragraph (h) of subsection (A) does not include  
15 firearms sold within 6 months after enactment of Public Act  
16 78-355 (approved August 21, 1973, effective October 1, 1973),  
17 nor is any firearm legally owned or possessed by any citizen or  
18 purchased by any citizen within 6 months after the enactment of  
19 Public Act 78-355 subject to confiscation or seizure under the  
20 provisions of that Public Act. Nothing in Public Act 78-355  
21 shall be construed to prohibit the gift or trade of any firearm  
22 if that firearm was legally held or acquired within 6 months  
23 after the enactment of that Public Act.

24 (C) Sentence.

25 (1) Any person convicted of unlawful sale or delivery  
26 of firearms in violation of paragraph (c), (e), (f), (g),

1       ~~or~~ (h), or (m) of subsection (A) commits a Class 4 felony.

2           (2) Any person convicted of unlawful sale or delivery  
3 of firearms in violation of paragraph (b) or (i) of  
4 subsection (A) commits a Class 3 felony.

5           (3) Any person convicted of unlawful sale or delivery  
6 of firearms in violation of paragraph (a) of subsection (A)  
7 commits a Class 2 felony.

8           (4) Any person convicted of unlawful sale or delivery  
9 of firearms in violation of paragraph (a), (b), or (i) of  
10 subsection (A) in any school, on the real property  
11 comprising a school, within 1,000 feet of the real property  
12 comprising a school, at a school related activity, or on or  
13 within 1,000 feet of any conveyance owned, leased, or  
14 contracted by a school or school district to transport  
15 students to or from school or a school related activity,  
16 regardless of the time of day or time of year at which the  
17 offense was committed, commits a Class 1 felony. Any person  
18 convicted of a second or subsequent violation of unlawful  
19 sale or delivery of firearms in violation of paragraph (a),  
20 (b), or (i) of subsection (A) in any school, on the real  
21 property comprising a school, within 1,000 feet of the real  
22 property comprising a school, at a school related activity,  
23 or on or within 1,000 feet of any conveyance owned, leased,  
24 or contracted by a school or school district to transport  
25 students to or from school or a school related activity,  
26 regardless of the time of day or time of year at which the



1 offense was committed, commits a Class 1 felony for which  
2 the sentence shall be a term of imprisonment of no less  
3 than 5 years and no more than 15 years.

4 (5) Any person convicted of unlawful sale or delivery  
5 of firearms in violation of paragraph (a) or (i) of  
6 subsection (A) in residential property owned, operated, or  
7 managed by a public housing agency or leased by a public  
8 housing agency as part of a scattered site or mixed-income  
9 development, in a public park, in a courthouse, on  
10 residential property owned, operated, or managed by a  
11 public housing agency or leased by a public housing agency  
12 as part of a scattered site or mixed-income development, on  
13 the real property comprising any public park, on the real  
14 property comprising any courthouse, or on any public way  
15 within 1,000 feet of the real property comprising any  
16 public park, courthouse, or residential property owned,  
17 operated, or managed by a public housing agency or leased  
18 by a public housing agency as part of a scattered site or  
19 mixed-income development commits a Class 2 felony.

20 (6) Any person convicted of unlawful sale or delivery  
21 of firearms in violation of paragraph (j) of subsection (A)  
22 commits a Class A misdemeanor. A second or subsequent  
23 violation is a Class 4 felony.

24 (7) Any person convicted of unlawful sale or delivery  
25 of firearms in violation of paragraph (k) of subsection (A)  
26 commits a Class 4 felony, except that a violation of

1           subparagraph (l) of paragraph (k) of subsection (A) shall  
2           not be punishable as a crime or petty offense. A third or  
3           subsequent conviction for a violation of paragraph (k) of  
4           subsection (A) is a Class 1 felony.

5           (8) A person 18 years of age or older convicted of  
6           unlawful sale or delivery of firearms in violation of  
7           paragraph (a) or (i) of subsection (A), when the firearm  
8           that was sold or given to another person under 18 years of  
9           age was used in the commission of or attempt to commit a  
10          forcible felony, shall be fined or imprisoned, or both, not  
11          to exceed the maximum provided for the most serious  
12          forcible felony so committed or attempted by the person  
13          under 18 years of age who was sold or given the firearm.

14          (9) Any person convicted of unlawful sale or delivery  
15          of firearms in violation of paragraph (d) of subsection (A)  
16          commits a Class 3 felony.

17          (10) Any person convicted of unlawful sale or delivery  
18          of firearms in violation of paragraph (l) of subsection (A)  
19          commits a Class 2 felony if the delivery is of one firearm.  
20          Any person convicted of unlawful sale or delivery of  
21          firearms in violation of paragraph (l) of subsection (A)  
22          commits a Class 1 felony if the delivery is of not less  
23          than 2 and not more than 5 firearms at the same time or  
24          within a one year period. Any person convicted of unlawful  
25          sale or delivery of firearms in violation of paragraph (l)  
26          of subsection (A) commits a Class X felony for which he or

1 she shall be sentenced to a term of imprisonment of not  
2 less than 6 years and not more than 30 years if the  
3 delivery is of not less than 6 and not more than 10  
4 firearms at the same time or within a 2 year period. Any  
5 person convicted of unlawful sale or delivery of firearms  
6 in violation of paragraph (1) of subsection (A) commits a  
7 Class X felony for which he or she shall be sentenced to a  
8 term of imprisonment of not less than 6 years and not more  
9 than 40 years if the delivery is of not less than 11 and  
10 not more than 20 firearms at the same time or within a 3  
11 year period. Any person convicted of unlawful sale or  
12 delivery of firearms in violation of paragraph (1) of  
13 subsection (A) commits a Class X felony for which he or she  
14 shall be sentenced to a term of imprisonment of not less  
15 than 6 years and not more than 50 years if the delivery is  
16 of not less than 21 and not more than 30 firearms at the  
17 same time or within a 4 year period. Any person convicted  
18 of unlawful sale or delivery of firearms in violation of  
19 paragraph (1) of subsection (A) commits a Class X felony  
20 for which he or she shall be sentenced to a term of  
21 imprisonment of not less than 6 years and not more than 60  
22 years if the delivery is of 31 or more firearms at the same  
23 time or within a 5 year period.

24 (D) For purposes of this Section:

25 "School" means a public or private elementary or secondary  
26 school, community college, college, or university.

1 "School related activity" means any sporting, social,  
2 academic, or other activity for which students' attendance or  
3 participation is sponsored, organized, or funded in whole or in  
4 part by a school or school district.

5 (E) A prosecution for a violation of paragraph (k) of  
6 subsection (A) of this Section may be commenced within 6 years  
7 after the commission of the offense. A prosecution for a  
8 violation of this Section other than paragraph (g) of  
9 subsection (A) of this Section may be commenced within 5 years  
10 after the commission of the offense defined in the particular  
11 paragraph.

12 (Source: P.A. 97-227, eff. 1-1-12; 97-347, eff. 1-1-12; 97-813,  
13 eff. 7-13-12; 97-1167, eff. 6-1-13; 98-508, eff. 8-19-13.)