

1                                    AMENDMENT TO HOUSE BILL 403

2                    AMENDMENT NO. \_\_\_\_\_. Amend House Bill 403, AS AMENDED, by  
3 inserting after the enacting clause the following:

4                    "Section 1. Short title. This Act may be cited as the  
5 Firearms Retail Sale Licensing Act.

6                    Section 5. Definitions. In this Act:

7                    "Adjudicated as a disabled person" means adjudicated as a  
8 disabled person under the Probate Act of 1975 or the laws of  
9 another state.

10                   "BATF" means the Bureau of Alcohol, Tobacco and Firearms  
11 of the United States Department of the Treasury.

12                   "Cannabis" has the meaning ascribed to it in the Cannabis  
13 Control Act.

14                   "Controlled substance" has the meaning ascribed to it in  
15 the Illinois Controlled Substances Act.

16                   "Crime punishable by imprisonment for a term exceeding  
17 one year" does not include:

18                    (A) any federal or State offenses pertaining to  
19 antitrust violations, unfair trade practices, restraints  
20 of trade, or other similar offenses relating to the  
21 regulation of business practices, or

22                    (B) any State offense classified by the laws of the

1 State as a misdemeanor and punishable by a term of  
2 imprisonment of 2 years or less. What constitutes a  
3 conviction of such a crime must be determined in  
4 accordance with the law of the jurisdiction in which the  
5 proceedings were held. Any conviction which has been  
6 expunged, or set aside or for which a person has been  
7 pardoned or has had civil rights restored must not be  
8 considered a conviction for purposes of this Act, unless  
9 such pardon, expungement, or restoration of civil rights  
10 expressly provides that the person may not ship,  
11 transport, possess, or receive firearms.

12 "Department" means the Department of State Police.

13 "Dealer" means:

14 (A) any person engaged in the business of selling  
15 firearms at wholesale or retail,

16 (B) any person engaged in the business of repairing  
17 firearms or of making or fitting special barrels, stocks,  
18 or trigger mechanisms to firearms, or

19 (C) any person who is a pawnbroker.

20 "Licensed dealer" means any dealer who is licensed under  
21 the provisions of this Act.

22 "Pawnbroker" means any person whose business or  
23 occupation includes the taking or receiving, by way of pledge  
24 or pawn, of any firearm as security for the payment or  
25 repayment of money.

26 "Engaged in the business", as applied to a dealer in  
27 firearms, means a person who devotes time, attention, and  
28 labor to engaging in such activity as a regular course of  
29 trade or business with the principal objective of livelihood  
30 and profit, but such term does not include a person who makes  
31 occasional repairs of firearms or who occasionally fits  
32 special barrels, stocks, or trigger mechanisms to firearms,  
33 as defined in Section 921 (a)(11)(B) of the federal Gun  
34 Control Act of 1968.

1 "With the principal objective of livelihood and profit"  
2 means that the intent underlying the sale or disposition of  
3 firearms is predominantly one of obtaining livelihood and  
4 pecuniary gain, as opposed to other intents, such as  
5 improving or liquidating a personal firearms collection;  
6 provided that proof of profit is not required as to a person  
7 who engages in the regular and repetitive purchase and  
8 disposition of firearms for criminal purposes or terrorism.

9 "Firearm" has the meaning ascribed to it in Section 1.1  
10 of the Firearm Owners Identification Card Act.

11 "Handgun" has the meaning ascribed to it in paragraph  
12 (h)(2) of subsection (A) of Section 24-3 of the Criminal Code  
13 of 1961.

14 "Fugitive from justice" means any person who has fled  
15 from any State to avoid prosecution for a crime or to avoid  
16 giving testimony in any criminal proceeding.

17 "Indictment" means an indictment or information in any  
18 court under which a crime punishable by imprisonment for a  
19 term exceeding one year may be prosecuted.

20 "Licensed dealer" means any firearm dealer who is  
21 required to be licensed under both this Act and Section 923  
22 of the federal Gun Control Act of 1968 (18 U.S.C. 923).

23 "Mental condition" means having been adjudicated by the  
24 State as having a state of mind manifested by violent,  
25 suicidal, threatening or assaultive behavior.

26 "Multiple handgun sale" means the sale of 2 or more  
27 handguns to the same person within 5 business days by the  
28 same licensed dealer.

29 "Person" means any individual, corporation, company,  
30 association, firm, partnership, society, or joint stock  
31 company.

32 Section 10. Unlicensed firearms dealer; prohibition. No  
33 person, required to be licensed under this Act, may knowingly

1 sell or otherwise transfer, expose for sale or transfer, or  
2 have in his or her possession with intent to sell or transfer  
3 any firearm without being licensed under this Act. This  
4 prohibition does not apply to a person who makes occasional  
5 sales, exchanges, or purchases of firearms for the  
6 enhancement of a personal collection or as a hobby, who sells  
7 all or part of his or her personal collection of firearms, or  
8 who is not required to be licensed under this Act or Section  
9 921(a)(21) of the Gun Control Act of 1968 (18 U.S.C.  
10 921(a)(21)).

11 Section 15. License application; requirements.

12 (a) Each applicant for a firearms dealer license must:

13 (1) Make application on blank forms prepared and  
14 furnished at convenient locations throughout the State  
15 by the Department of State Police; and

16 (2) Submit evidence under penalty of perjury to the  
17 Department of State Police that:

18 (i) The applicant is 21 years of age or over;  
19 or

20 (ii) In the case of a corporation,  
21 partnership, or association, an individual  
22 possessing, directly or indirectly, the power to  
23 direct or cause the direction of management and  
24 policies of the corporation, partnership, or  
25 association:

26 (A) has not been convicted of a felony  
27 under the laws of this or any other  
28 jurisdiction;

29 (B) has not been convicted of and is not  
30 under indictment for a crime punishable by  
31 imprisonment for a term exceeding one year;

32 (C) is not a fugitive from justice;

33 (D) is not addicted to narcotics, a

1 controlled substance, or cannabis;

2 (E) has not been adjudicated as a  
3 disabled person or committed to a mental  
4 institution and does not have a mental  
5 condition that poses a clear and present danger  
6 to the applicant, another person, or the  
7 community.

8 (F) is not an alien who is illegally or  
9 unlawfully present in the United States under  
10 the laws of the United States;

11 (G) is not a former citizen of the United  
12 States who has renounced his or her  
13 citizenship;

14 (b) The provisions of subdivision (a)(2)(ii) do not  
15 apply to a person who has been granted relief from  
16 disabilities under subsection (c) of Section 925 of Title 18  
17 of the United States Code or to a licensed dealer who is  
18 indicted if, before the expiration of the term of the  
19 existing license, timely application is made for a new  
20 license during the term of indictment and until any  
21 conviction under the indictment becomes final.

22 (c) The applicant must submit a full set of legible  
23 fingerprints on forms prescribed by the Department.

24 (d) The applicant must have in the State premises from  
25 which he or she conducts business subject to a license under  
26 this Act or from which he or she intends to conduct such  
27 business within a reasonable period of time. This subsection  
28 (d) does not apply to a federally licensed firearm dealer  
29 whose primary place of business is located in another state.

30 The applicant must certify that the business to be  
31 conducted under the license is not prohibited under local law  
32 where the licensed premise is located.

33 (e) The applicant must submit to the Department an  
34 application fee of \$150.

1 (f) A license granted under this Act expires 3 years  
2 from its date of issue.

3 (g) No later than 30 days after the filing of a proper  
4 application and appropriate fee, submitted under Section 15  
5 of this Act, the Department must issue a license to the  
6 applicant that entitles the licensee to transport, ship,  
7 receive, and sell firearms and firearm ammunition during the  
8 period stated in the license. Nothing in this Act shall be  
9 construed to prohibit a licensed dealer from maintaining and  
10 disposing of a personal collection of firearms or firearms  
11 ammunition, subject only to the restrictions that apply in 18  
12 U.S.C. 923 of the Gun Control Act of 1968 and the Firearm  
13 Owners Identification Card Act.

14 Section 20. License retention.

15 (a) A person licensed under this Act must at all times  
16 have in effect a valid license issued by the United States  
17 Treasury Bureau of Alcohol, Tobacco and Firearms under 18  
18 U.S.C. 923 of the Gun Control Act of 1968.

19 (b) Business will not be conducted under a license until  
20 the requirements of local zoning ordinances have been met.

21 (c) A licensed dealer may not knowingly violate any  
22 provision of federal and State laws pertaining to the  
23 acquisition, sale, or transfer of firearms or firearms  
24 ammunition.

25 (d) Licensed dealers must participate in the dial up  
26 system as provided in Section 3.1 of the Firearm Owners  
27 Identification Card Act.

28 (e) Licensed dealers may display, sell, or transfer  
29 firearms or transact business at gun shows open to the  
30 general public or at any regular meeting or banquet of an  
31 incorporated collectors club, association, or membership  
32 organization in accordance with this Act and federal law.

33 (f) A separate license must be obtained for each

1 separate place of business. However, nothing in this Section  
2 must require a separate or additional license for a licensed  
3 dealer conducting business in accordance with item (e) of  
4 this Section at gun shows open to the general public or at  
5 any regular meeting or banquet of an incorporated collectors  
6 club, association, or membership organization.

7 (g) The license or a copy of the license issued by the  
8 Department must be displayed on the premise at a location  
9 where it can easily be read.

10 (h) The licensee must obtain a certificate of  
11 registration issued under the Retailers' Occupation Tax Act.

12 Section 25. Enforcement; hearings; suspension;  
13 revocation; notice.

14 (a) This Act must be enforced by the Department for the  
15 purpose of determining compliance with this Act. The  
16 Department may conduct one unannounced compliance inspection  
17 per year. Inspections may not disrupt the normal business  
18 operations of the licensee.

19 (b) The Department, after 30 days notice to the licensee  
20 and reasonable opportunity for the licensee to be heard, may  
21 revoke a license or may suspend a license up to one year upon  
22 satisfactory proof that the licensee has violated or  
23 permitted a violation of any requirement of this Act or is no  
24 longer eligible to obtain a license under Section 15. A  
25 person whose license has been revoked by the Department is  
26 disqualified to receive a license for 5 years after the  
27 revocation. Proceedings for revocation or suspension under  
28 this Section may only be initiated by the Department.

29 Section 30. Submission to the Department;

30 (a) Within 48 hours of discovering evidence of a  
31 break-in at a licensee's place of business listed on his or  
32 her license, he or she must report the incident to the

1 Department.

2 (b) Within 48 hours of discovering evidence of a theft  
3 or loss of firearms or ammunition from his or her inventory,  
4 the licensee must report the incident to the Department.

5 (c) Within 48 hours of discovering evidence of a lost or  
6 stolen shipment of firearms or firearms ammunition, the  
7 licensee must report the incident to the Department.

8 (d) Within 7 days of making a sale of multiple handguns,  
9 the licensee must forward a copy of the multiple purchase  
10 form to the Department. Unless required for a open criminal  
11 investigation, the Department must destroy any and all  
12 records or copies pertaining to the multiple purchase form  
13 with in 30 days. All records maintained by the licensee are  
14 the property of the licensee and may not be removed from his  
15 or her property without the licensee's consent or by court  
16 order.

17 Section 35. Penalties

18 (a) A person who knowingly makes a false statement or  
19 knowingly conceals a material fact or uses false information  
20 or identification in any application for a license under this  
21 Act commits a Class A misdemeanor.

22 (b) A person who is engaged in the business of selling  
23 firearms or ammunition without a license under this Act  
24 commits a Class A misdemeanor for the first offense. A second  
25 or subsequent offense is a Class 4 felony. In any other  
26 action or proceeding under the provisions of this Act, the  
27 court, when it finds that such action was without foundation  
28 or was initiated vexatiously, frivolously, or in bad faith  
29 must allow the prevailing party, other than the State or unit  
30 of local government, a reasonable attorney's fee, and the  
31 State or unit of local government which brought such action  
32 must be liable therefor.



1 Section 40. Exemptions. The following persons are not  
2 required to be licensed under this Act:

3 (1) Persons considered licensed collectors by the BATF.

4 (2) Any person who is not engaged in the business."; and

5 by renumbering "Section 5" as "Section 105"; and

6 by replacing subsection (d) of Sec. 24-3.1 of the renumbered  
7 Section 105 with the following:

8 "(d) A unit of local government, including a home rule  
9 unit, may not regulate the acquisition, possession,  
10 transportation, storage, purchase, sale, or other dealing in  
11 rifles and shotguns, and may not regulate ammunition,  
12 components, accessories, or accoutrements for rifles and  
13 shotguns and these regulations are exclusive powers and  
14 functions of the State. This Section is a denial and  
15 limitation of home rule powers and functions under subsection  
16 (h) of Section 6 of Article VII of the Illinois  
17 Constitution."; and

18 by replacing Section 99 with the following:

19 "Section 999. Effective date. This Act takes effect  
20 upon becoming law, except that the Firearms Retail Sale  
21 Licensing Act takes effect July 1, 2002."