

1 AMENDMENT TO HOUSE BILL 902

2 AMENDMENT NO. _____. Amend House Bill 902 as follows:

3 by replacing the title with the following:

4 "AN ACT in relation to criminal law."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Criminal Code of 1961 is amended
8 by changing Sections 24-3, 24-3.1, 24-3.5, and 37-1 as
9 follows:

10 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

11 Sec. 24-3. Unlawful Sale of Firearms.

12 (A) A person commits the offense of unlawful sale of
13 firearms when he or she knowingly does any of the following:

14 (a) Sells or gives any firearm of a size which may
15 be concealed upon the person to any person under 18 years
16 of age.

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

20 (c) Sells or gives any firearm to any narcotic

1 addict.

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

5 (e) Sells or gives any firearm to any person who
6 has been a patient in a mental hospital within the past 5
7 years.

8 (f) Sells or gives any firearms to any person who
9 is mentally retarded.

10 (g) Delivers any firearm of a size which may be
11 concealed upon the person, incidental to a sale, without
12 withholding delivery of such firearm for at least 72
13 hours after application for its purchase has been made,
14 or delivers any rifle, shotgun or other long gun,
15 incidental to a sale, without withholding delivery of
16 such rifle, shotgun or other long gun for at least 24
17 hours after application for its purchase has been made.
18 However, this paragraph (g) does not apply to: (1) the
19 sale of a firearm to a law enforcement officer or a
20 person who desires to purchase a firearm for use in
21 promoting the public interest incident to his or her
22 employment as a bank guard, armed truck guard, or other
23 similar employment; (2) a mail order sale of a firearm to
24 a nonresident of Illinois under which the firearm is
25 mailed to a point outside the boundaries of Illinois; (3)
26 the sale of a firearm to a nonresident of Illinois while
27 at a firearm showing or display recognized by the
28 Illinois Department of State Police; or (4) the sale of a
29 firearm to a dealer licensed as a federal firearm dealer
30 under Section 923 of the federal Gun Control Act of 1968
31 (18 U.S.C. 923) ~~under--the-Federal-Firearms-Act-of-the~~
32 ~~United-States.~~

33 (h) While holding any license as a dealer,
34 importer, manufacturer or pawnbroker under the federal

1 Gun Control Act of 1968, manufactures, sells or delivers
2 to any unlicensed person a handgun having a barrel,
3 slide, frame or receiver which is a die casting of zinc
4 alloy or any other nonhomogeneous metal which will melt
5 or deform at a temperature of less than 800 degrees
6 Fahrenheit. The Department of State Police shall publish
7 a list of firearms prohibited under this paragraph (h) at
8 least annually for each federal firearms dealer required
9 to participate in Section 3.1 of the Firearm Owners
10 Identification Card Act. For purposes of this paragraph,
11 (1) "firearm" is defined as in the Firearm Owners
12 Identification Card Act; and (2) "handgun" is defined as
13 a firearm designed to be held and fired by the use of a
14 single hand, and includes a combination of parts from
15 which such a firearm can be assembled.

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

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

24 A person "engaged in the business" means a person
25 who devotes time, attention, and labor to engaging in the
26 activity as a regular course of trade or business with
27 the principal objective of livelihood and profit, but
28 does not include a person who makes occasional repairs of
29 firearms or who occasionally fits special barrels,
30 stocks, or trigger mechanisms to firearms.

31 "With the principal objective of livelihood and
32 profit" means that the intent underlying the sale or
33 disposition of firearms is predominantly one of obtaining
34 livelihood and pecuniary gain, as opposed to other

1 intents, such as improving or liquidating a personal
2 firearms collection; however, proof of profit is not
3 required as to a person who engages in the regular and
4 repetitive purchase and disposition of firearms for
5 criminal purposes or terrorism.

6 (B) Paragraph (h) of subsection (A) does not include
7 firearms sold within 6 months after enactment of Public Act
8 78-355 (approved August 21, 1973, effective October 1, 1973),
9 nor is any firearm legally owned or possessed by any citizen
10 or purchased by any citizen within 6 months after the
11 enactment of Public Act 78-355 subject to confiscation or
12 seizure under the provisions of that Public Act. Nothing in
13 Public Act 78-355 shall be construed to prohibit the gift or
14 trade of any firearm if that firearm was legally held or
15 acquired within 6 months after the enactment of that Public
16 Act.

17 (C) Sentence.

18 (1) Any person convicted of unlawful sale of
19 firearms in violation of any of paragraphs (c) through
20 (h) of subsection (A) commits a Class 4 felony.

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

24 (3) Any person convicted of unlawful sale of
25 firearms in violation of paragraph (a) of subsection (A)
26 commits a Class 2 felony.

27 (4) Any person convicted of unlawful sale of
28 firearms in violation of paragraph (a), (b), or (i) of
29 subsection (A) in any school, on the real property
30 comprising a school, within 1,000 feet of the real
31 property comprising a school, at a school related
32 activity, or on or within 1,000 feet of any conveyance
33 owned, leased, or contracted by a school or school
34 district to transport students to or from school or a

1 school related activity, regardless of the time of day or
2 time of year at which the offense was committed, commits
3 a Class 1 felony. Any person convicted of a second or
4 subsequent violation of unlawful sale of firearms in
5 violation of paragraph (a), (b), or (i) of subsection (A)
6 in any school, on the real property comprising a school,
7 within 1,000 feet of the real property comprising a
8 school, at a school related activity, or on or within
9 1,000 feet of any conveyance owned, leased, or contracted
10 by a school or school district to transport students to
11 or from school or a school related activity, regardless
12 of the time of day or time of year at which the offense
13 was committed, commits a Class 1 felony for which the
14 sentence shall be a term of imprisonment of no less than
15 5 years and no more than 15 years.

16 (5) Any person convicted of unlawful sale of
17 firearms in violation of paragraph (a) or (i) of
18 subsection (A) in residential property owned, operated,
19 or managed by a public housing agency or leased by a
20 public housing agency as part of a scattered site or
21 mixed-income development, in a public park, in a
22 courthouse, on residential property owned, operated, or
23 managed by a public housing agency or leased by a public
24 housing agency as part of a scattered site or
25 mixed-income development, on the real property comprising
26 any public park, on the real property comprising any
27 courthouse, or on any public way within 1,000 feet of the
28 real property comprising any public park, courthouse, or
29 residential property owned, operated, or managed by a
30 public housing agency or leased by a public housing
31 agency as part of a scattered site or mixed-income
32 development commits a Class 2 felony.

33 (D) For purposes of this Section:

34 "School" means a public or private elementary or

1 secondary school, community college, college, or university.

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

6 (E) No unit of local government, including a home rule
7 unit, may regulate the purchase or sale of firearms in a
8 manner inconsistent with this Section. This Section is a
9 limitation under subsection (i) of Section 6 of Article VII
10 of the Illinois Constitution on the concurrent exercise by
11 home rule units of powers and functions exercised by the
12 State.

13 (Source: P.A. 91-12, eff. 1-1-00; 91-673, eff. 12-22-99;
14 91-696, eff. 4-13-00.)

15 (720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

16 Sec. 24-3.1. Unlawful possession of firearms and firearm
17 ammunition.

18 (a) A person commits the offense of unlawful possession
19 of firearms or firearm ammunition when:

20 (1) He is under 18 years of age and has in his
21 possession any firearm of a size which may be concealed
22 upon the person; or

23 (2) He is under 21 years of age, has been convicted
24 of a misdemeanor other than a traffic offense or adjudged
25 delinquent and has any firearms or firearm ammunition in
26 his possession; or

27 (3) He is a narcotic addict and has any firearms or
28 firearm ammunition in his possession; or

29 (4) He has been a patient in a mental hospital
30 within the past 5 years and has any firearms or firearm
31 ammunition in his possession; or

32 (5) He is mentally retarded and has any firearms or
33 firearm ammunition in his possession; or

1 (6) He has in his possession any explosive bullet.

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

10 (b) Sentence.

11 Unlawful possession of firearms, other than handguns, and
12 firearm ammunition is a Class A misdemeanor. Unlawful
13 possession of handguns is a Class 4 felony.

14 (c) Nothing in paragraph (1) of subsection (a) of
15 this Section prohibits a person under 18 years of age
16 from participating in any lawful recreational activity
17 with a firearm such as, but not limited to, practice
18 shooting at targets upon established public or private target
19 ranges or hunting, trapping, or fishing in accordance with
20 the Wildlife Code or the Fish and Aquatic Life Code.

21 (Source: P.A. 91-696, eff. 4-13-00.)

22 (720 ILCS 5/24-3.5)

23 Sec. 24-3.5. Unlawful purchase of a firearm.

24 (a) For purposes of this Section, "firearms transaction
25 record form" means a form:

26 (1) executed by a transferee of a firearm stating:
27 (i) the transferee's name and address (including county
28 or similar political subdivision); (ii) whether the
29 transferee is a citizen of the United States; (iii) the
30 transferee's State of residence; and (iv) the date and
31 place of birth, height, weight, and race of the
32 transferee; and

33 (2) on which the transferee certifies that he or

1 she is not prohibited by federal law from transporting or
2 shipping a firearm in interstate or foreign commerce or
3 receiving a firearm that has been shipped or transported
4 in interstate or foreign commerce or possessing a firearm
5 in or affecting commerce.

6 (b) A person commits the offense of unlawful purchase of
7 a firearm who knowingly purchases or attempts to purchase a
8 firearm with the intent to deliver that firearm to another
9 person who is prohibited by federal or State law from
10 possessing a firearm.

11 (c) A person commits the offense of unlawful purchase of
12 a firearm when he or she, in purchasing or attempting to
13 purchase a firearm, intentionally provides false or
14 misleading information on a United States Department of the
15 Treasury, Bureau of Alcohol, Tobacco and Firearms firearms
16 transaction record form.

17 (d) Exemption. It is not a violation of subsection (b)
18 of this Section for a person to make a gift or loan of a
19 firearm to a person who is not prohibited by federal or State
20 law from possessing a firearm if the transfer of the firearm
21 is made in accordance with Section 3 of the Firearm Owners
22 Identification Card Act.

23 (e) Sentence.

24 (1) A person who commits the offense of unlawful
25 purchase of a firearm by purchasing a firearm with intent
26 to deliver the firearm in violation of subsection (b) or
27 by purchasing or attempting to purchase a firearm in
28 violation of subsection (c):

29 (A) is guilty of a Class 4 felony for
30 purchasing or attempting to purchase one firearm;

31 (B) is guilty of a Class 3 felony for
32 purchasing or attempting to purchase not less than 2
33 firearms and not more than 5 firearms at the same
34 time or within a one year period;

1 (C) is guilty of a Class 2 felony for
2 purchasing or attempting to purchase not less than 6
3 firearms and not more than 10 firearms at the same
4 time or within a 2 year period;

5 (D) is guilty of a Class 1 felony for
6 purchasing or attempting to purchase not less than
7 11 firearms and not more than 20 firearms at the
8 same time or within a 3 year period;

9 (E) is guilty of a Class X felony for which
10 the person shall be sentenced to a term of
11 imprisonment of not less than 6 years and not more
12 than 30 years for purchasing or attempting to
13 purchase not less than 21 firearms and not more than
14 30 firearms at the same time or within a 4 year
15 period;

16 (F) is guilty of a Class X felony for which
17 the person shall be sentenced to a term of
18 imprisonment of not less than 6 years and not more
19 than 40 years for purchasing or attempting to
20 purchase not less than 31 firearms and not more than
21 40 firearms at the same time or within a 5 year
22 period;

23 (G) is guilty of a Class X felony for which
24 the person shall be sentenced to a term of
25 imprisonment of not less than 6 years and not more
26 than 50 years for purchasing or attempting to
27 purchase more than 40 firearms at the same time or
28 within a 6 year period.

29 (1.6) A person who commits the offense of unlawful
30 purchase of a firearm by purchasing a firearm with the
31 intent to deliver the firearm in violation of subsection
32 (b) or by purchasing a firearm in violation of
33 subsection (c) shall be sentenced to an additional
34 term of imprisonment of 10 years for each firearm

1 purchased that was:

2 (A) used in a crime that involved a violation of
3 the Cannabis Control Act or the Illinois
4 Controlled Substances Act;

5 (B) used in a crime committed against a law
6 enforcement officer; or

7 (C) used in the commission of a felony.

8 (2) In addition to any other penalty that may be
9 imposed for a violation of this Section, the court may
10 sentence a person convicted of a violation of subsection
11 (c) of this Section to a fine not to exceed \$250,000 for
12 each violation.

13 (Source: P.A. 91-265, eff. 1-1-00.)

14 (720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

15 Sec. 37-1. Maintaining Public Nuisance. Any building used
16 in the commission of offenses prohibited by Sections 9-1,
17 10-1, 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1,
18 11-21, 11-22, 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1),
19 24-1(a)(7), 24-3, 28-1, 28-3, 31-5 or 39A-1 of the Criminal
20 Code of 1961, or prohibited by the Illinois Controlled
21 Substances Act, or the Cannabis Control Act, or used in the
22 commission of an inchoate offense relative to any of the
23 aforesaid principal offenses, or any real property erected,
24 established, maintained, owned, leased, or used by a
25 streetgang for the purpose of conducting streetgang related
26 activity as defined in Section 10 of the Illinois Streetgang
27 Terrorism Omnibus Prevention Act is a public nuisance.

28 (a-5) A building used in the commission of an offense
29 prohibited by Section 24-3 of this Code, may be abated as a
30 public nuisance only if the person using the building for the
31 commission of the offense has been convicted of a violation
32 of Section 24-3. A building used in the commission of a
33 violation of paragraph (h) of subsection (A) of Section 24-3

1 may be abated as a public nuisance only if the Department of
2 State Police has published a list of firearms prohibited
3 under that paragraph.

4 (b) Sentence. A person convicted of knowingly
5 maintaining such a public nuisance commits a Class A
6 misdemeanor. Each subsequent offense under this Section is a
7 Class 4 felony.

8 (Source: P.A. 91-876, eff. 1-1-01.)

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