

MAJOR FIREARMS OFFENSES

1. FIREARMS USE OFFENSES

Aggravated Assault with a Firearm - 720 ILCS 5/12-2

Using a firearm (without discharging the weapon) in the commission of an assault is a Class A misdemeanor unless the crime is committed against certain victims, such as a peace officer, corrections officer or employee, certain public workers, and others. In those cases, the crime is a Class 4 felony. Shooting from a motor vehicle is a Class 3 felony.

Aggravated Assault with a Laser Device - 720 ILCS 5/12-2(c)(5)

Knowingly and without lawful justification shines or flashes a laser gunsight or other laser device that is attached or affixed to a firearm, so that the laser beam strikes near or in the immediate vicinity of any person. Penalty is a Class 4 felony with a potential prison sentence of one to three years.

Aggravated Battery with a Firearm - 720 ILCS 5/12-3.05(h)

Discharging a firearm, other than a machine gun or a firearm equipped with a silencer and causing any injury to another person is a Class X felony with a mandatory 6-to-30-year prison sentence. If the injured person is specified protected class, the term of imprisonment increases to a minimum of 15 years and a maximum of 60 years. If the person discharges a machine gun or a firearm equipped with a silencer causing any injury to another person, the sentence is a minimum of 12 years and a maximum of 45 years. If the offense involves discharging a machine gun or a firearm equipped with a silencer, and a peace officer, medical personnel, teacher, or student are injured the term of imprisonment is a minimum of 20 years and a maximum of 60 years.

Aggravated Battery with a Laser Device - 720 ILCS 5/12-3.05(f)(3)

Knowingly shining or flashes a laser gunsight or other laser device that is attached to a firearm, so that the laser beam strikes upon or against the person of another. Penalty is a Class 3 felony with a potential prison sentence of two to five years.

Reckless Discharge of a Firearm - 720 ILCS 5/24-1.5

This is a Class 4 felony offense that occurs when a person a firearm in a reckless manner which endangers the bodily safety of an individual. The driver of a vehicle can also be charged with the offense if the allows the passenger to shoot out of the vehicle.

Aggravated Discharge of a Firearm - 720 ILCS 5/24-1.2

This felony offense applies when a firearm is discharged in a manner and under specific circumstances that endanger others.

- Firing a weapon in the general direction of another individual or crowd of people.
- Firing into a vehicle or structure from outside. There is no requirement that someone actually be inside the vehicle or building, only that the defendant knew or should have known that someone could be inside the structure or vehicle.
- Use of a Silencer.

The penalty is a Class 1 felony with a possible prison sentence of four to fifteen years. However, if the firearm was discharged in the direction of the direction of a teacher, fire fighter, paramedic/EMT, law enforcement officer, correctional officer or other employee of a correctional facility, or community volunteer with the police the penalty becomes an enhanced Class X felony with a minimum 10 year prison sentence and maximum 45 year sentence or a minimum 12 year prison sentence and a maximum 50 years sentence if the firearm was a machine gun or equipped with a silencer.

Aggravated Vehicular Hijacking, or Aggravated Carjacking - 720 ILCS 5/18-4

Aggravated vehicular hijacking occurs when someone uses a firearm or other deadly weapon when the hijacking occurred. The penalty is a Class X felony is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. If during the commission of the offense, the defendant personally discharges a firearm it is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. If the discharge of the firearm proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person it is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court.

Aggravated Robbery - 720 ILCS 5/18-1

Takes personal property from another through the use of force or the threat of imminent force while implying that the perpetrator has a firearm or other dangerous weapon, including a knife, bludgeon, ax, or other deadly implement. The penalty is Class 1 felony with a possible prison sentence of 4-15 years.

Aggravated Unlawful Restraint - 720 ILCS 5/10-3.1

Occurs when a person commits unlawful restraint while using a deadly weapon. The penalty is a Class 3 felony with a possible prison sentence of two to five years.

Armed Violence - 720 ILCS 5/33A-2

A person may be convicted of armed violence if he or she commits a felony while carrying a dangerous weapon. The purpose is to create a more serious felony offense anytime a person commits a felony while armed with a weapon. An individual may also be charged with armed violence if he or she discharges a Category I or Category II weapon while committing another felony. A person may also be charged with armed violence if he discharges a Category I or II weapon during commission of a felony that results in bodily harm, permanent disability, disfigurement, or death of another person. A Category I weapon is a handgun, sawed-off rifle or shotgun or any other concealable firearm. A Category II weapon is any other rifle, shotgun, stun gun or Taser. Under the offense switchblades, knives, daggers, axes, hatchets or other deadly instruments are listed as Category II weapons.

Armed violence is a Class X felony. Punishment includes prison term from a period of 15 to 30 years for using a Class I weapon. Convicts can face a minimum prison term of 10 years for the use of a weapon of Category II. If the discharge of weapon causes bodily harm, disfigurement, or death the prison sentence may be increased to a minimum of 25 years.

Use of a Stolen Firearm in the Commission of an Offense - 720 ILCS 5/24-3.7

When a person knowingly uses a stolen firearm in the commission of any offense and the person knows that the firearm was stolen. The penalty is a Class 2 felony punishable by up to 3-7 years in prison.

Penalty Enhancements for use of a Firearm During Certain Offenses:

Illinois has what is commonly referred to as a “15-20-25 to Life” sentencing scheme. It acts as a sentencing enhancement or add on for certain offenses where a firearm is involved.

This gun add-on is a term of extra years that is added-on to whatever sentence is imposed by the judge. This extra sentence does not apply to every crime listed in the code but does apply to several specific crimes. These include:

- First Degree Murder 730 ILCS 5/5-8-1(a)(1)(d)
- Attempt First Degree Murder 720 ILCS 5/8-4(c)(B)-(D)
- Aggravated Battery to a Child 720 ILCS 5/12-3.05(h)
- Intentional Homicide of an Unborn Child 720 ILCS 5/9-1.2(d)
- Home Invasion 720 ILCS 5/19-6(c)
- Predatory Criminal Sexual Assault of a Child 720 ILCS 5/11-1.40(b)
- Aggravated Criminal Sexual Assault (includes 10 for dangerous weapon) 720 ILCS 5/11-1.30(d)
- Armed Robbery 720 ILCS 5/18-2(b)
- Aggravated Vehicular Hijacking 720 ILCS 5/18-4(b)
- Aggravated Kidnapping 720 ILCS 5/10-2(b)

The length of time that is added on depends on how the firearm was used during the crime for which the person was convicted. The additional time applies as follows:

- 15 years – for possessing a firearm
- 20 years – for firing the firearm
- 25 years to life – for proximately causing great bodily harm, permanent disability, permanent disfigurement, or death to another person

Unlawful Discharge of Firearm Projectiles - 720 ILCS 5/24-3.2

Knowing that the firearm is loaded with an armor piercing bullet, dragon's breath shotgun shell, bolo shell, or flechette shell, intentionally or recklessly discharges such firearm and such bullet or shell strikes another person. Possession of such ammo is a Class 2 felony. It is a Class X felony to intentionally or recklessly discharges such firearm and such bullet or shell strikes any other person.

Unlawful Use of a Firearm in the Shape of a Wireless Telephone - 720 ILCS 5/24-3.6

Applies to someone who manufactures, sells, transfers, purchases, possesses, or carries a firearm shaped or designed to appear as a wireless telephone. Exempts peace officers. The penalty is a Class 4 felony.

Criminal Damage to Property - 720 ILCS 5/21-1(a)(7)

Where a person knowingly shoots a firearm at any portion of a railroad train. Penalty is a Class 4 felony.

2. FIREARM POSSESSION OFFENSES

Aggravated Unlawful Use of Weapons – 720 ILCS 5/24-1.6

The unlawful use of weapons offenses generally involves the possession of a concealed or uncased, loaded firearm, or an unloaded firearm with ammunition that is immediately accessible, in any vehicle or public place, without a valid Firearm Owners Identification Card or a concealed carry permit. Even if a person has a valid FOID card, they are only allowed to transport the firearm if it is unloaded and in a case. Penalties can range from a Class A misdemeanor all the way up to a Class X felony if certain aggravating factors are present such as being a convicted felon or possession or wearing body armor and not having a FOID card.

Armed Habitual Criminal – 720 ILCS 5/24-1.7

This weapons charge makes it a crime for anyone with at least two convictions of certain types to possess, sell, receive or transfer a firearm:

- Unlawful use of a weapon by a convicted felon (including aggravated use)
- Forcible felony
- Illinois Controlled Substance Act or Cannabis Control Act violations qualifying as at least a Class 3 Felony
- Aggravated child battery
- Aggravated discharge of a firearm
- Intimidation (aggravated or not)
- Home invasion
- Aggravated battery involving use of a firearm
- Carjacking (aggravated or otherwise)

The penalty is a Class X felony requiring a prison sentence of 6 to 30 years.

FOID Card Violations – 430 ILCS 65

It is a Class A misdemeanor to possess a weapon without a FOID card if you are otherwise eligible to obtain a FOID card. However, it is a class 3 felony to possess a weapon without a FOID card when you are not otherwise eligible to obtain a FOID card due to being prohibited under Illinois and / or federal law.

Concealed Carry Violations – 430 ILCS 66

Illinois passed the Firearm Concealed Carry Act in 2013, which allows those 21 and over with a concealed carry license to carry a concealed handgun in public with certain restrictions. However, carrying concealed while under the influence of alcohol, other drug or drugs, intoxicating compound or combination of compounds is a Class A misdemeanor. Carrying a weapon in a restricted location is a Class B misdemeanor.

Firearm Dealer License Certification Act Violations – 430 ILCS 67

This law requires Illinois gun dealers to meet various requirements including dealer licensing, employee training, location restrictions, posted notifications, store security, and detailed recordkeeping. A

violation of any provision of this Act is a Class A misdemeanor for a first violation, and a Class 4 felony for a second or subsequent violation. In addition to any other penalty provided by law, any person or entity who violates any provision of this Section shall pay a civil penalty to the Illinois State Police in an amount not to exceed \$10,000 for each offense, as determined by the Illinois State Police.

Unlawful Possession of a Firearm by a Street Gang Member - 720 ILCS 5/24-1.8

Makes it unlawful for a person defined as a street gang member to carry a firearm and ammunition in public or in a vehicle while not having a FOID card. A violation is a Class 2 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to no less than 3 years and no more than 10 years.

Unlawful Use or Possession of Weapons by Felons - 720 ILCS 5/24-1.1

Makes it a crime for a person who has been convicted of a felony in Illinois or another state to possess a firearm or ammunition. The minimum penalty is a non-probationable Class 3 felony requiring a minimum 2 years and up to 10 years of prison. The penalty can be higher if the firearm is possessed in a correctional facility or under other circumstances.

Possession of a Stolen Firearm - 720 ILCS 5/24-3.8

A person has a firearm, but they are not entitled to have it because they know it is stolen or has been converted to mask or change identifying marks like the serial number. The penalty is a Class 2 felony

Aggravated Possession of a Stolen Firearm - 720 ILCS 5/24-3.9

When a person possesses 2 or more stolen firearms the penalties increase depending upon the number of firearms involved. It ranges from a Class 1 felony up to a Class X felony with a sentence of 6 years up to 60 years.

Possession of a Sawed-Off Shotgun or Rifle – 720 ILCS 24-1(a)(7)(ii)

Knowingly carry or possess any rifle having one or more barrels less than 16 inches in length or a shotgun having one or more barrels less than 18 inches . . . or any other rifle or shotgun that has an overall length of less than 26 inches. The penalty is a Class 3 Felony.

Possession of a Silencer – 720 ILCS 24-1(a)(6)

Knowingly possess any device or attachment that is used or intended for use in silencing any firearm unless you are law enforcement or otherwise exempted. The penalty is a Class 3 Felony.

Possession of a Machine Gun – 720 ILCS 5/24-1(a)(7)(i)

Illinois prohibits the knowing sale, manufacture, purchase, possession or carrying of a machine gun. Any combination of parts designed or intended for use in converting any weapon into a machine gun, or any combination or parts from which a machine gun can be assembled, also constitutes a machine gun for purposes of these prohibitions. The penalty is a Class 2 felony and requires a prison sentence of not less than 3 years and not more than 7 years, unless the weapon is possessed in the passenger compartment of a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code, or on the person, while the weapon is loaded, in which case it shall be a Class X felony.

3. ILLEGAL SALES AND TRANSFERS

Unlawful Sale or Delivery of Firearms - 720 ILCS 5/24-3

Under Illinois law a person must have a valid FOID card in order to acquire or possess firearms or ammunition. Therefore, the sale or delivery of a firearm to someone that does not have a FOID card is illegal. The unlawful sale or delivery of firearms is a felony offense. Punishment depends on the category of person you unlawfully supplied with a firearm as well as the number of offenses you have committed. The following are some examples of unlawful sale of firearms:

- Sells or gives a firearm to any person less than 18 years old;
- Sells or gives a firearm to a person under 21 years of age who has been convicted of a misdemeanor;
- Sells or gives a firearm to a drug addict;
- Sells or gives a firearm to someone who has been convicted of a felony;
- Sells or gives a firearm to someone who has been a patient in a mental institution within the past 5 years; or
- Sells or gives a firearm to someone who is intellectually disabled.
- Sells or gives a firearm while engaged in the business of selling firearms at wholesale or retail without being licensed as a federal firearms dealer under Section 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
- Sells or transfers ownership of a firearm to a person who does not have a valid Firearm Owner's Identification Card or a currently valid license to carry a concealed firearm.
- Sells a concealable firearm without withholding delivery for at least 72 hours after someone has applied to purchase it; or
- Sells a rifle, shotgun, or other long gun without withholding delivery for at least 72 hours after someone has applied to purchase it.

The penalties for the other provisions can range from a probationable Class 4 felony all the way up to a non-probationable Class X felony depending upon certain aggravating factors as location, the number of firearms illegally sold, and other aggravating factors. For example, the penalty for violating the 72 hour waiting period is a Class 4 Felony, punishable by up to 1-3 years in the Illinois Department of Corrections.

Unlawful Sale of Firearms by Liquor Licensee - 720 ILCS 5/24-3.4

It is illegal for someone who holds a license to sell at retail any alcoholic liquor issued by the Illinois Liquor Control Commission or local liquor control commissioner under the Liquor Control Act of 1934 or an agent or employee of the licensee to sell or deliver to any other person a firearm in or on the real property of the establishment where the licensee is licensed to sell alcoholic liquors unless the sale or delivery of the firearm is otherwise lawful under this Article and under the Firearm Owners Identification Card Act. The penalty is a Class 4 felony.

Firearms Trafficking - 720 ILCS 5/24-3B

A person commits firearms trafficking if he or she does not have a valid Firearm Owner's Identification Card and he or she brings, or causes to be brought, into Illinois, a firearm or firearm ammunition for the purpose of sale, delivery, or transfer to any other person or with the intent to sell, deliver, or transfer the firearm or firearm ammunition to any other person. The law exempts a non-resident who may lawfully possess a firearm in his or her resident state

Firearms trafficking is a Class 1 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to not less than 4 years and not more than 20 years. Firearms trafficking by a person who has been previously convicted of firearms trafficking, gunrunning, or a felony offense for the unlawful sale, delivery, or transfer of a firearm or firearm ammunition in this State or another jurisdiction is a Class X felony.

Gunrunning - 720 ILCS 5/24-3A

The crime of Gunrunning is committed when a person unlawfully sells or delivers 3 or more guns, in violation of the "Unlawful sale or delivery of firearms" law in Illinois.

Sentencing is dependent upon the number of firearms involved. Penalties can range from a Class 1 felony to a Class X felony for which the sentence shall be a term of imprisonment of not less than 10 years and not more than 50 years if the transfer is of more than 20 firearms.

Unlawful Purchase of a Firearm - 720 ILCS 5/24-3.5(b)

Also known as straw purchases. This is when an individual who is lawfully entitled to the purchase and possess a firearm transfers the purchased firearm to one who is prohibited by law from possessing a firearm under state or federal law.

Additionally, 720 ILCS 5/24-3.5(c) states that intentionally providing fake or misleading details on a Bureau of Alcohol, Tobacco, Firearms and Explosives record while trying to purchase a firearm is also illegal.

An individual who violates this law may be convicted of a Class 2 felony if the individual is trying to purchase a firearm. Class 2 felonies are punishable by between 3 and 7 years in prison.

If the individual is purchasing between two and five firearms (in a single year), the crime is a Class 1 felony. Class 1 felonies are punishable by between 4 and 15 years in prison.

If more than six firearms were purchased within a two-year period, the crime is a class X felony, which is punishable by between 9 and 40 years in prison.

Unlawful Sale or Delivery of a Firearm - 720 ILCS 5/24-3(A)(I)

This section of the UUC criminalizes the delivery of a firearm, if the deliverer knows that it has been stolen or converted and is not supposed to be in possession of the firearm.

If one firearm was delivered, the crime is a class 2 felony, punishable by between 3 and 7 years in prison.

The crime is a class 1 felony, which carries between 4 and 15 years in prison, if the delivery was for between two and five firearms which occurred within a single year.

If more than six but less than ten firearms were delivered within a two-year period, the crime is a class X felony, punishable by between 6 and 30 years in prison.

If between eleven and twenty firearms were delivered, the crime is a class X felony, which carries between 6 and 30 years in prison if the deliveries occurred within a three-year period.

If between twenty-one and thirty firearms were delivered in a four-year period, the crime is a class X felony, which carries from 6 to 50 years in prison.

If more than thirty-one firearms were delivered in a five-year period, the crime is a class X felony. Offenders may be punished to a prison sentence of between 6 and 60 years.

Melting Point Law - 720 ILCS 5/24-3(h)

It is unlawful for a dealer to sell any handgun "having a barrel, slide, frame or receiver which is a die casting of zinc alloy or any other non-homogeneous metal which will melt or deform at a temperature of less than 800 degrees F." Penalty is a Class 4 felony.

4. MISCELLANEOUS OFFENSES

Defacing Identification Marks of Firearms - 720 ILCS 5/24-5

It is a Class 2 felony to knowingly or intentionally change, alter, remove, or obliterate the name of the importer's or manufacturer's serial number of any firearm. It is a Class 3 felony to simply possess any firearm upon which any such importer's or manufacturer's serial number has been changed, altered, removed, or obliterated.

Ghost Guns – 720 ILCS 5/24-5.1

Under recent legislation it is now illegal to possess an unserialized frame or receiver if it was made using a 3-d printer. It is also illegal for any person to knowingly possess, transport, or receive a homemade firearm without a serial number that was imprinted by an FFL. A person caught in possession of an unserialized frame or receiver on a homemade ghost gun will be charged with a misdemeanor for the first offense and a Class 3 felony for the second offense. However, if you are caught trying to sell an unserialized homemade firearm it is a Class 4 felony.

Altered, Forged or Counterfeit Firearm Owner's Identification Cards - 430 ILCS 65/6.1

Any person who forges or materially alters a Firearm Owner's Identification Card or who counterfeits a Firearm Owner's Identification Card commits a Class 2 felony. Any person who knowingly possesses a forged or materially altered Firearm Owner's Identification Card with the intent to use it commits a Class 2 felony. A person who possesses a Firearm Owner's Identification Card with knowledge that it is counterfeit commits a Class 2 felony.

Firearms Storage – 720 ILCS 5/24-9(a)

Illinois generally makes it unlawful for a person to store or leave their firearm unlocked and accessible to a minor under the age of 14 who does not have a FOID card if the person knows or has reason to believe that the minor is likely to gain access to the firearm and the minor causes death or great bodily harm

with that firearm. The penalty is a Class C misdemeanor for a first offense. A second or subsequent violation is a Class A misdemeanor.

Reporting of Lost or Stolen Firearms - 720 ILCS 5/24-4.1

Illinois law requires gun owners to notify law enforcement regarding the loss or theft of a firearm. within 72 hours after discovering the loss or theft. It is a petty offense for a first violation. A second or subsequent violation of this Section is a Class A misdemeanor.

5. COMMON CONCEALED CARRY VIOLATIONS

Being under the influence of drugs or alcohol while carrying a concealed weapon - 430 ILCS 66/70(d)

A licensee shall not carry a concealed firearm while under the influence of alcohol, other drug or drugs, intoxicating compound or combination of compounds, or any combination thereof, under the standards set forth in subsection (a) of Section 11-501 of the Illinois Vehicle Code. A first or second violation is a Class A misdemeanor. A third violation becomes a Class 4 felony, which carries a sentence of up to one to three years in prison. A second violation also allows the State Police to revoke a person's CCL for up to six months, while a third violation will cause the Department to permanently revoke a CCL.

Failing to Surrender Revoked CCL - 430 ILCS 66/70(g)

A licensee whose license is revoked, suspended, or denied shall, within 48 hours of receiving notice of the revocation, suspension, or denial, surrender his or her concealed carry license to the local law enforcement agency where the person resides. A violation of this subsection is a Class A misdemeanor.

Carrying in a Prohibited Area - 430 ILCS 66/70(e)

Except as otherwise provided, a licensee in violation of this Act shall be guilty of a Class B misdemeanor. A second or subsequent violation is a Class A misdemeanor. The Illinois State Police may suspend a license for up to 6 months for a second violation and shall permanently revoke a license for 3 or more violations of Section 65 of this Act which list places where concealed carry is prohibited.

6. ASSAULT WEAPONS BAN VIOLATIONS

Carrying or possessing an unregistered assault weapon - 720 ILCS 5/24-1(b)

For carry or possession any "assault weapon" or .50 caliber rifle it is a Class A misdemeanor for single or first offense. This is generally punishable by up to a year in jail and a fine of up to \$2,500. For a second or subsequent violation it is a Class 3 felony.

Manufacturing, Selling, Delivering and Purchasing - 720 ILCS 5/24-1(b)

For manufacturing, selling, delivering, importing, or purchasing any "assault weapon" or .50 caliber rifle it is a Class 3 felony. These are generally punishable with five to 10 years in prison and fines of up to \$25,000. A second or subsequent possession charge is considered a Class 2 felony, which is generally punishable by three to seven years in prison and a fine of up to \$25,000.

High-Capacity Magazines - 720 ILCS 5/24-1.10

A person who knowingly manufactures, delivers, sells, purchases, possesses, or causes to be manufactured, delivered, sold, possessed, or purchased in violation of this Section a large capacity ammunition feeding device capable of holding more than 10 rounds of ammunition for long guns or more than 15 rounds of ammunition for handguns commits a petty offense with a fine of \$1,000 for each violation.