

18.15
Definition Of Unlawful Sale Or Delivery Of Firearms

A person commits the offense of unlawful sale or delivery of firearms when he knowingly

[1] [(sells) (gives)] a firearm of a size which may be concealed upon the person to any person under 18 years of age.

[or]

[2] [(sells) (gives)] a firearm to a person under 21 years of age who has been [(convicted of a misdemeanor other than a traffic offense) (adjudged delinquent)].

[or]

[3] [(sells) (gives)] a firearm to any person who is a narcotic addict.

[or]

[4] [(sells) (gives)] a firearm to any person who has been convicted of a felony.

[or]

[5] [(sells) (gives)] a firearm to any person who has been a patient in a mental [(hospital) (institution)] within the past 5 years.

[or]

[6] [(sells) (gives)] a firearm to any person who is intellectually disabled.

[or]

[7] delivers a firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made.

[or]

[8] delivers a [(rifle) (shotgun) (other long gun) (stun gun) (taser)], incidental to a sale, without withholding delivery of such [(rifle) (shotgun) (other long gun) (stun gun) (taser)] for at least 24 hours after application for its purchase has been made.

[or]

[9] while holding a license under the Federal Gun Control Act of 1968 as [(a) (an)] [(dealer) (importer) (manufacturer) (pawnbroker)] [(manufactures) (sells to any unlicensed person) (delivers to any unlicensed person)] a handgun having a [(barrel) (slide) (frame)]

(receiver)] which is a die casting of zinc alloy or other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit.

[or]

[10] [(sells) (gives)] a firearm to a person under 18 years of age who does not possess a valid Firearms Owner's Identification Card.

[or]

[11] [(sells) (gives)] a firearm while engaged in the business of selling firearms at wholesale or retail without being licensed as a federal firearms dealer under the federal Gun Control Act of 1968.

[or]

[12] [(sells) (gives)] ownership of a firearm to a person who does not display to the [(seller) (transferor)] of the firearm a currently valid Firearms Owner's Identification Card that has previously been issued in the transferee's name by the Department of State Police.

[or]

[13] delivers the firearm, not being entitled to the possession of the firearm, knowing it to have been stolen or converted.

Committee Note

Instruction and Committee Note Approved July 18, 2014

720 ILCS 5/24-3 (West 2013), amended by P.A. 88-680, effective January 1, 1995, amended by P.A. 93-162, effective July 10, 2003, adding paragraph [11], amended by P.A. 93-906, effective August 11, 2004, adding paragraph [12], amended by 94-6, effective June 3, 2005, adding "stun gun" and "taser" to paragraph [8], amended by P.A. 97-347, effective January 1, 2012, adding paragraph [13], amended by P.A. 97-1167, effective June 1, 2013, substituting "institution" for "hospital" in paragraph [5] and defining "mental institution" and "patient in a mental institution".

Give Instruction 18.16.

When applicable, give Instruction 18.35G, defining "firearm".

When applicable, give Instruction 18.35I, defining "handgun".

When applicable, give Instruction 18.35K, defining "mental institution".

When applicable, give Instruction 18.35L, defining "patient in a mental institution".

When applicable, give Instruction 18.35M, defining "person engaged in the business".

When applicable, give Instruction 18.35N, defining “with the principal objective of livelihood and profit”.

Use the word “hospital” in paragraph [5] for offenses committed before June 1, 2013. Use the word “institution” in paragraph [5] for offenses committed on or after June 1, 2013.

When an enhanced version of the offenses of unlawful sale of firearms as set forth in Section 24-3(a) and 3(i) is charged (*see* 720 ILCS 5/24-3(k) (West 2013)), give Instructions 18.15X and 18.16X.

The bracketed phrase “other long gun” in paragraph [8] should be used only when a question is raised as to the precise nature of the weapon involved and then only in conjunction with the word “rifle” or “shotgun”.

Sections 24-3(g) and (j) exempt certain persons and transactions from criminal liability. The defendant bears the burden of proving the exemption by a preponderance of the evidence. *See* 720 ILCS 5/24-2(h) (West 2013); *see also* *People v. Smith*, 71 Ill.2d 95, 374 N.E.2d 472 (1978). When an exemption is raised by the defendant, give Instruction 18.01A, defining the applicable exemption, and Instruction 4.18, defining “preponderance of the evidence”.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.