

18.15
Definition Of Unlawful Sale Of Firearms

A person commits the offense of unlawful sale of firearms when he knowingly
[1] [(sells) (gives)] a firearm of a size which may be concealed upon the person to any person who is under 18 years of age.

[or]

[2] [(sells) (gives)] a firearm to any person who is under 21 years of age and who has been [(convicted of the offense of _____) (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 within the past 5 years.

[or]

[6] [(sells) (gives)] a firearm to any person who is mentally retarded.

[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]], incidental to a sale, without withholding delivery of such [(rifle) (shotgun) [other long gun]] 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 amended, 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 nonhomogenous 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.

Committee Note

720 ILCS 5/24-3 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §24-3 (1991)), amended by P.A. 88-680, effective January 1, 1995.

Give Instruction 18.16.

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, 1994)), use 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.”

If paragraph [9] is given, give Instruction 18.35G, defining the word “firearm,” and Instruction 18.35I, defining the word “handgun.”

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, 1992) (formerly Ill.Rev.Stat. ch. 38, §24-2(h) (1991)); see also *People v. Smith*, 71 Ill.2d 95, 374 N.E.2d 472, 15 Ill.Dec. 864 (1978). When an exemption is raised by the defendant, give Instruction 18.01A, defining the applicable exemption, and Instruction 4.18, defining the phrase “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.