

18.08
Issues In Unlawful Possession Of A Weapon By A Felon

To sustain the charge of unlawful possession of a weapon by a felon, the State must prove the following propositions:

First Proposition: That the defendant knowingly possessed [(a firearm) (firearm ammunition) (____)]; and

Second Proposition: That the defendant had previously been convicted of the offense of ____.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty. [However, if you find the defendant has proved by a preponderance of the evidence that the Director of the Department of State Police has granted the defendant a Firearm Owner's Identification Card, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-1.1(a) (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §24-1.1(a) (1991)).

Give Instruction 18.07.

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. See Committee Note to Instruction 18.07.

If the charge involves a weapon prohibited by Section 24-1, other than a firearm or firearm ammunition, insert in the blank in the First Proposition the name or description of the weapon. If the weapon is prohibited by Section 24-1(a)(2), the following proposition must be added to reflect the requirement that the defendant possessed the weapon with an intent to use it unlawfully against another:

Second Proposition: That the defendant did so with intent to use the ____ unlawfully against another person; and

See *People v. Crawford*, 145 Ill.App.3d 318, 495 N.E.2d 1025, 99 Ill.Dec. 290 (1st Dist.1986). The Committee suggests that this proposition be included as the Second Proposition and that the Second Proposition in the original instruction be renumbered Third Proposition.

Insert in the blank in the second proposition the prior felony conviction.

In *People v. Gonzalez*, 151 Ill.2d 79, 87, 600 N.E.2d 1189, 1192-93, 175 Ill.Dec. 731, 734-35 (1992), the supreme court held that location is not a relevant consideration for this offense. Accordingly, the previous second proposition has been deleted. See also *People v. Hester*, 271 Ill.App.3d 954, 956, 649 N.E.2d 1351, 1354, 208 Ill.Dec. 690, 694 (4th Dist.1995).

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.