

18.07

Definition Of Unlawful Possession Of A Weapon By A Felon

A person commits the offense of unlawful possession of a weapon by a felon when he, having been previously convicted of [(the offense of ____)] (a felony offense)], knowingly possesses [(a firearm) (firearm ammunition) (a ____)].

Committee Note

720 ILCS 5/24-1.1(a) (West 2023).

Give Instruction 18.08.

When applicable, give Instruction 18.07A, defining the word “firearm”.

Section 24-1.1(a) exempts certain persons from criminal liability. The defendant bears the burden of proving the exemption by a preponderance of the evidence. See Section 24-2(h); 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 the term “preponderance of the evidence.”

Insert in the first blank the prior felony conviction unless the defendant stipulates to the felony offense. In *People v. Walker*, 211 Ill.2d 317, 341, 812 N.E.2d 339 (2004), the supreme court held that “where the prosecution’s sole purpose for introducing evidence of the defendant’s prior felony conviction is to prove his status as a convicted felon and the defendant offers to stipulate to this element, the probative value of the name and nature of the prior conviction is outweighed by the risk of unfair prejudice and, thus, should be excluded.”

If the charge involves a weapon prohibited by Section 24-1 other than a firearm or firearms ammunition, insert in the second blank the name or description of the weapon. If the weapon is prohibited by Section 24-1(a)(2), the State must prove, in addition to possession, an intent to use the weapon unlawfully against another. *People v. Crawford*, 145 Ill.App.3d 318, 495 N.E.2d 1025 (1st Dist.1986). As a result, the phrase “with intent to use the ____ unlawfully against another” must be added to the end of the instruction when a Section 24-1(a)(2) weapon is charged.

Use applicable bracketed material.