

18.24A
Interference Arising From Possession Of Altered Firearms

Committee Note

720 ILCS 5/24-5(b) provides that possession of an altered firearm is “*prima facie* evidence” that the possessor altered the firearm. An instruction incorporating this statutory provision was included in the First Edition of IPI-Criminal, but deleted from subsequent editions.

Dictum in *People v. Gray*, 99 Ill.App.3d 851, 426 N.E.2d 290, 55 Ill.Dec. 315 (1981), supports the view that the legislature's use of the term “*prima facie*” is a direction to the court on when to submit the evidence to the jury and should not be translated into a jury instruction. *Gray* holds that the jury should not be instructed in the language of the statute about the “*prima facie*” effect of certain evidence. The term is a legal one which, according to *Gray*, might be read by a jury as creating the type of presumption that is constitutionally impermissible in criminal cases, and might also confuse the jury as to which party carries the burden of proof.