

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 ____, knowingly possesses [(a firearm) (firearm ammunition) (a ____)].

Committee Note

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

Give Instruction 18.08.

Give Instruction 18.07A, defining the word “firearm,” if applicable.

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, 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 term “preponderance of the evidence.”

Insert in the first blank 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 bracketed alternatives referring to location have 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).

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, 99 Ill.Dec. 290 (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.