

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 ____)] (a felony offense)[.][.]; and]

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 2023).

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 720 ILCS 5/24-1 (West 2023), 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:

Third Proposition: That the defendant did so with intent to use the ____ unlawfully against another person.

Insert in the blank in the second proposition 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.”

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.