18.00
WEAPONS

18.01
Definition Of Unlawful Use Of Weapons

A person commits the offense of unlawful use of weapons when he knowingly

[1] [(sells) (manufactures) (purchases) (possesses) (carries)] a [(bludgeon) (black-jack) (sling-shot) (sand-club) (sand-bag) (metal knuckles) (throwing star) (switchblade knife) (ballistic knife)].

[or]

[2] [(carries) (possesses)] a [(dagger) (dirk) (billy) (dangerous knife) (razor) (stiletto) (broken bottle) (piece of glass) (stun gun or taser) [or other dangerous or deadly weapon or instrument of like character]] with intent to use the [(dagger) (dirk) (billy) (dangerous knife) (razor) (stiletto) (broken bottle) (piece of glass) (stun gun or taser) [or other dangerous or deadly weapon or instrument of a like character]] unlawfully against another.

[or]

[3] carries [(on or about his person) (in a vehicle)] a [(tear gas gun projector) (tear gas bomb) (any object containing a noxious liquid gas or substance other than an object containing a non-lethal noxious liquid gas or substance designed solely for personal defense when carried by a person 18 years of age or older)].

[or]

[4] [(carries) (possesses)] a [(pistol) (revolver) (firearm) (stun gun or taser)] [(concealed on or about his person) (in a vehicle)] except when on his land, in his abode, or in his fixed place of business.

[or]

[5] sets a spring gun.

[or]

[6] possesses a device or attachment [(designed) (used) (intended for use)] in silencing the report of any firearm.

[or]

[7] [(sells) (manufactures) (purchases) (possesses) (carries)] [(a machine gun) (any combination of parts designed or intended for use in converting any weapon into a machine gun) (any combination of parts from which a machine gun can be assembled if such parts are in possession or under the control of a person) (a rifle having one or more barrels less than 16 inches in length) (a shotgun having one or more barrels less than 18 inches in length) (a weapon made from a rifle or shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches) (a [(bomb) (bomb-shell) (grenade)] [or a bottle or other container containing an explosive substance of over one-quarter ounce for like purposes])].

[or]

[8] [(carries) (possesses)] a [(firearm) (stun gun or taser) (deadly weapon)] [(in a place which is licensed to sell intoxicating beverages) (at a public gathering held pursuant to a license issued by a governmental body) (at a public gathering at which an admission is charged)], excluding a place where a showing, demonstration, or lecture involving the exhibit of unloaded firearms is conducted.

[or]

[9] [(carries) (possesses)] [(in a vehicle) (on or about his person)] a [(pistol) (revolver) (stun gun or taser) (firearm) (ballistic knife)] when he is hooded, robed, or masked in such a manner as to conceal his identity.

[or]

[10] [(carries) (possesses)] on or about his person a [(pistol) (revolver) (stun gun or taser) (firearm)] while upon [(a public street) (a public alley) (public lands)] within the corporate limits of [(a city) (a village) (an incorporated town)] except when an invitee for the purpose of [(the display of such weapon) (lawful commerce in weapons)] or when on his land, in his abode, or in his fixed place of business.

[or]

[11] [(sells) (manufactures) (purchases)] an explosive bullet.

[or]

[12] [(carries) (possesses)] on or about his person [(a) (an)] [(bludgeon) (black-jack) (sling-shot) (sand-club) (sand-bag) (metal knuckles) (switchblade knife) (ballistic knife) (tear gas gun projector bomb) (object containing noxious liquid or gas) (pistol) (revolver) (firearm) ([

(bomb) (grenade) [or a bottle or other container containing an explosive substance over one-quarter ounce]) (cartridge)] while [(in the building) (on the grounds)] of [(an elementary school) (a secondary school) (a community college) (a college) (a university)].

Committee Note

720 ILCS 5/24-1 (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1 (1991)), amended by P.A. 86-1003, P.A. 86-1028, P.A. 86-1393, effective February 5, 1990; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.02.

When applicable, give Instruction 18.35, defining the term "ballistic knife"; Instruction 18.35A, defining the term "switchblade knife"; Instruction 18.35E, defining the term "stun gun or taser"; Instruction 18.35B, defining the term "explosive bullet"; Instruction 18.35D, defining the term "machine gun"; and Instruction 18.35C, defining the term "cartridge". The term "bludgeon" has been defined as a "stick with one end loaded, thicker or heavier than the other end." People v. Tate, 68 Ill.App.3d 881, 386 N.E.2d 584, 25 Ill.Dec. 313 (1st Dist.1979).

P.A. 88-467 deleted paragraph 12 from Section 24-1(a). Accordingly, alternative [12] should not be used if the offense was committed on or after July 1, 1994, the effective date of P.A. 88-467.

The bracketed phrase "or other dangerous or deadly weapon or instrument of a like character" in paragraph [2] should be used only when the weapon charged is not one of the weapons specifically enumerated. When the phrase is used, it must be used in conjunction with one or more of the enumerated weapons. Firearms are not included in the phrase. See People v. Rutledge, 104 Ill.2d 394, 472 N.E.2d 438, 84 Ill.Dec. 478 (1984).

Section 24-1(a)(7), which in part makes it unlawful to possess a "bomb, bomb-shell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes," specifically includes "black powder bombs," "molotov cocktails," and "artillery projectile" within the category of "other containers." If appropriate, one of these phrases may be added to paragraph [7]. The phrase "or a bottle or other container containing an explosive substance of over one-quarter ounce for like purposes" should be used only in conjunction with one or more of the specifically prohibited items.

Section 24-1(d) provides that in some circumstances the presence of a weapon in a private vehicle is "*prima facie*" evidence that it is possessed by all occupants of the vehicle. No instruction should be given concerning the *prima facie* effect of this evidence. People v. Gray, 99 Ill.App.3d 851, 426 N.E.2d 290, 55 Ill.Dec. 315 (5th Dist.1981).

Section 24-2 exempts certain persons from the offenses created in Sections 24-1(a)(1), (a)(3), (a)(4), (a)(7), (a)(8), (a)(10), and (a)(11). 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."

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

18.01A
Exemptions To Weapons Offenses

A [(description of exempt person)] may lawfully [(description of conduct charged)]. The defendant has the burden of proving by a preponderance of the evidence that at the time of the offense charged he was [(description of exempt person)].

Committee Note

720 ILCS 5/24-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-2 (1991)).

Give Instruction 4.18, defining the phrase "preponderance of the evidence."

Do not use this instruction with Instruction 18.09.

Section 24-2 exempts certain persons from the offenses established by Section 24-1. Additionally, many of the sections of Article 24 that create offenses contain exemptions. See Sections 24-1(a)(12), 24-1.1(a), 24-2.1(b), 24-2.2(b), 24-3(g), 24-3(j), 24-3.2(d), and 24-3.3. This instruction can be used whether the exemption is embodied in the section creating the offense or in the exemption provisions of Section 24-2. Section 24-2(h) specifically places the burden of proving the applicability of the exemption on the defendant. The defendant must prove the exemption by a preponderance of the evidence. People v. Smith, 71 Ill.2d 95, 374 N.E.2d 472, 15 Ill.Dec. 864 (1978).

This instruction cannot be used when the defense asserted is not a statutory exemption but rather an affirmative defense created by Article 24. See, e.g., Section 24-1.1(c) which establishes an affirmative defense to the offense of Unlawful Possession of a Weapon by a Person in Custody of the Department of Corrections and suggested instructions governing that affirmative defense set forth in the Committee Note to Instruction 18.09. Of course, when appropriate, a defendant would also be entitled to instructions concerning the affirmative defenses set forth in Chapter 24-25.00.

18.02
Issues In Unlawful Use Of Weapons

To sustain the charge of unlawful use of weapons, the State must prove the following proposition[s]:

[1] That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)] a [(bludgeon) (black-jack) (sling-shot) (sand-club) (sand-bag) (metal knuckles) (throwing star) (switchblade knife) (ballistic knife)].

[or]

[2] *First Proposition:* That the defendant knowingly [(carried) (possessed)] a [(dagger) (dirk) (billy) (dangerous knife) (razor) (stiletto) (broken bottle) (piece of glass) (stun gun or taser) [or other dangerous or deadly weapon or instrument of a like character]]; and

Second Proposition: That the defendant did so with intent to use the [(dagger) (dirk) (billy) (dangerous knife) (razor) (stiletto) (broken bottle) (piece of glass) (stun gun or taser) [or other dangerous or deadly weapon or instrument of a like character]] unlawfully against another person.

[or]

[3A] That the defendant knowingly carried [(on or about his person) (in a vehicle)] a [(tear gas gun projector) (tear gas bomb)].

[or]

[3B] That the defendant knowingly carried [(on or about his person) (in a vehicle)] an object containing a lethal noxious liquid gas or substance.

[or]

[3C] *First Proposition:* That the defendant knowingly carried [(on or about his person) (in a vehicle)] an object containing a non-lethal noxious liquid gas or substance; and

Second Proposition: That when the defendant did so, he was less than 18 years of age.

[or]

Second Proposition: That the object containing the noxious liquid gas or substance was not designed solely for personal defense.

[or]

[4] *First Proposition:* That the defendant knowingly [(carried) (possessed)] a [(pistol) (revolver) (firearm) (stun gun or taser)] [(concealed on or about his person) (in a vehicle)]; and

Second Proposition: That when the defendant did so, he was not on his land, in his abode, or in his fixed place of business.

[or]

[5] That the defendant knowingly set a spring gun.

[or]

[6] That the defendant knowingly possessed a device or attachment which was [(designed) (used) (intended for use)] in silencing the report of any firearm.

[or]

[7A] That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)] a machine gun.

[or]

[7B] That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)] any combination of parts designed or intended for use in converting a weapon into a machine gun.

[or]

[7C] *First Proposition:* That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)] any combination of parts from which a machine gun could be assembled; and

Second Proposition: That the combination of parts was in the possession or under the control of a person.

[or]

[7D] *First Proposition:* That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)] a rifle; and

Second Proposition: That the rifle had one or more barrels less than 16 inches in length.

[or]

[7E] *First Proposition:* That the defendant knowingly [(sold) (manufactured)

(purchased) (possessed) (carried)] a shotgun; and

Second Proposition: That the shotgun had one or more barrels less than 18 inches in length.

[or]

[7F] *First Proposition:* That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)] a weapon made from a rifle or shotgun whether by alteration, modification, or otherwise; and

Second Proposition: That the weapon as modified had an overall length of less than 26 inches.

[or]

[7G] That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)] a [(bomb) (bombshell) (grenade) [or a bottle or other container containing an explosive substance over one-quarter ounce for like purposes]].

[or]

[8] *First Proposition:* That the defendant knowingly [(carried) (possessed)] a [(firearm) (stun gun or taser) (deadly weapon)]; and

Second Proposition: That when the defendant did so, he was [(in a place licensed to sell intoxicating beverages) (at a public gathering held pursuant to a license issued by a governmental body) (at a public gathering at which an admission was charged)]; and

Third Proposition: That a [(showing) (demonstration) (lecture)] involving the exhibit of unloaded firearms was not being conducted at the [(place) (gathering)] where the defendant [(carried) (possessed)] the [(firearm) (stun gun or taser) (deadly weapon)].

[or]

[9] *First Proposition:* That the defendant knowingly [(carried) (possessed)] [(in a vehicle) (on or about his person)] a [(pistol) (revolver) (stun gun or taser) (firearm) (ballistic knife)]; and

Second Proposition: That when the defendant did so he was hooded, robed, or masked in such a manner as to conceal his identity.

[or]

[10] *First Proposition:* That the defendant knowingly [(carried) (possessed)] on or about his person a [(pistol) (revolver) (stun gun or taser) (firearm)]; and

Second Proposition: That when the defendant did so, he was upon [(a public street) (a public alley) (public lands)] within the corporate limits of [(a city) (a village) (an unincorporated town)]; and

Third Proposition: That when the defendant did so, he was not an invitee for the purpose of [(the display of such weapon) (lawful commerce in weapons)]; and

Fourth Proposition: That when the defendant did so, he was not on his land, in his abode, or in his fixed place of business.

[or]

[11] That the defendant knowingly [(sold) (manufactured) (purchased)] an explosive bullet.

[or]

[12] *First Proposition:* That the defendant knowingly [(carried) (possessed)] on or about his person [(a) (an)] [(bludgeon) (black-jack) (sling-shot) (sand-club) (sand-bag) (metal knuckles) (switchblade knife) (ballistic knife) (tear gas gun projector bomb) (object containing noxious liquid or gas) (pistol) (revolver) (firearm) ([(bomb) (grenade)] [or a bottle or other container containing an explosive substance over one-quarter ounce]) (cartridge)]; and

Second Proposition: That the defendant did so while [(in the building) (on the grounds)] of [(an elementary school) (a secondary school) (a community college) (a college) (a university)].

If you find from your consideration of all the evidence that [(any one of these propositions) (this proposition)] 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) (this proposition)] 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 ____, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1 (1991)), as amended by P.A. 86-1003, effective February 5, 1990.

Give Instruction 18.01.

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction 18.01.

The bracketed numbers [1] through [12] correspond to the paragraphs of the same number in Instruction 18.01, the definitional instruction for these offenses. Paragraph [3] of the definitional instruction, defining the offenses of possession of tear gas gun projectors and bombs and other objects containing noxious substances, has been further subdivided into paragraphs [3A] through [3C] for clarity purposes. Likewise, paragraph [7] of the definitional instruction, defining the offenses of possession of machine guns, rifles, shotguns, and bombs, has been further subdivided into paragraphs [7A] through [7F]. Select the proposition(s) that correspond to the paragraph selected from the definitional instruction.

The bracketed phrase "or other dangerous or deadly weapon or instrument of a like character" in the First Proposition of the second set of propositions should be used only when the weapon charged is not one of the weapons specifically enumerated. When the phrase is used, it must be used in conjunction with one or more of the enumerated weapons. Firearms are not included in the phrase. See People v. Rutledge, 104 Ill.2d 394, 472 N.E.2d 438, 84 Ill.Dec. 478 (1984).

Section 24-1(a)(8) makes it an offense to possess a firearm or other specified weapon in a place licensed to sell intoxicating beverages or at certain public gatherings unless a demonstration or lecture involving the exhibition of unloaded firearms is being conducted. The statute is unclear as to whether the "exhibition of unloaded firearms" exception is applicable to places licensed to sell intoxicating beverages or is only applicable to the specified types of public gatherings. Paragraph [8] of this instruction assumes that Section 24-1(a)(8) permits weapons to be possessed in places licensed to sell intoxicating beverages as long as an exhibition concerning unloaded firearms is being conducted.

See the Committee Note to Instruction 18.01 concerning the need for definitional instructions and the effect of Section 24-1(d) which provides that in some circumstances the presence of a weapon in a private vehicle is "*prima facie* evidence" that the weapon is possessed by all occupants of the vehicle.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

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.

18.03
Definition Of Aggravated Unlawful Use Of Weapons--Possessing A Silencer--Enhancing Factor Based Upon Location

A person commits the offense of aggravated unlawful use of weapons when he knowingly possesses a device or attachment of any kind [(designed for use) (used) (intended for use)] in silencing the report of a firearm while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

Committee Note

720 ILCS 5/24-1(c)(1) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(1) (1991)), amended by P.A. 86-946, effective January 1, 1990; P.A. 87-524, effective January 1, 1992; P.A. 87-930, effective January 1, 1993; P.A. 88-156, effective July 28, 1993; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.04.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(6) (possessing a silencer) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.03 series instruction.

Section 24-1(c)(1) provides enhanced penalties for the violation of Section 24-1(a)(6) when committed on the premises listed in the above alternatives numbered [1] through [13]. A violation of Section 24-1(a)(6) is increased from a Class 3 to a Class 2 felony. Select the alternative that corresponds to the location in the charge.

The Committee has created separate instructions for "aggravated" unlawful use of weapons because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that "simple" unlawful use of weapons instructions will often be given as a lesser included offense when "aggravated" unlawful use of weapons is charged, the Committee titled this offense "aggravated unlawful use of weapons" to distinguish it from "simple" unlawful use of weapons. If only "aggravated" unlawful use of weapons instructions are given to the jury, the term "aggravated" should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.04.

When applicable, give Instruction 18.35F (defining the term "school") and 18.35J (defining the term "courthouse").

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.03U
Definition Of Aggravated Unlawful Use Of Weapons--Possessing A Bludgeon, Sling-Shot, Metal Knuckles, Throwing Star, Switchblade, Or Ballistic Knife--Enhancing Factor Based Upon Location

A person commits the offense of aggravated unlawful use of weapons when he knowingly [(sells) (manufactures) (purchases) (possesses) (carries)] a [(bludgeon) (black-jack) (sling-shot) (sand-club) (sand-bag) (metal knuckles) (throwing star) (switchblade knife) (ballistic knife)] while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

Committee Note

720 ILCS 5/24-1(c)(2) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(2) (1991)), amended by P.A. 86-946, effective January 1, 1990; P.A. 87-524, effective January 1, 1992; P.A. 87-930, effective January 1, 1993; P.A. 88-156, effective July 28, 1993; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.04U.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife) is the predicate offense charged. When Section 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.03 series instruction.

Section 24-1(c)(2) provides enhanced penalties for the violation of Section 24-1(a)(1) when committed on the premises listed in the above alternatives numbered [1] through [13]. A

violation of Section 24-1(a)(1) is increased from a Class A misdemeanor to a Class 4 felony. Select the alternative that corresponds to the location in the charge.

The Committee has created separate instructions for "aggravated" unlawful use of weapons because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that "simple" unlawful use of weapons instructions will often be given as a lesser included offense when "aggravated" unlawful use of weapons is charged, the Committee titled this offense "aggravated unlawful use of weapons" to distinguish it from "simple" unlawful use of weapons. If only "aggravated" unlawful use of weapons instructions are given to the jury, the term "aggravated" should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.04U.

When applicable, give Instruction 18.35A (defining the term "switchblade knife"), Instruction 18.35F (defining the term "school"), and Instruction 18.35J (defining the term "courthouse"). Also, when applicable, give Instruction 18.35 (defining the term "ballistic knife"); however, Section 24-1(e) exempts crossbows, common or compound bows, and underwater spearguns from the definition of a ballistic knife. The term "bludgeon" has been defined as a "stick with one end loaded, thicker or heavier than the other end." People v. Tate, 68 Ill.App.3d 881, 386 N.E.2d 584, 25 Ill.Dec. 313 (1st Dist.1979).

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.03V
Definition Of Aggravated Unlawful Use Of Weapons--Carrying Tear Gas Or Noxious Liquid Gas--Enhancing Factor Based Upon Location

A person commits the offense of aggravated unlawful use of weapons when he knowingly carries [(on or about his person) (in a vehicle)] a [(tear gas gun projector) (tear gas bomb) (any object containing a noxious liquid gas or substance other than an object containing a non-lethal noxious liquid gas or substance designed solely for personal defense when carried by a person 18 years of age or older)] while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

Committee Note

720 ILCS 5/24-1(c)(2) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(2) (1991)), amended by P.A. 86-946, effective January 1, 1990; P.A. 87-524, effective January 1, 1992; P.A. 87-930, effective January 1, 1993; P.A. 88-156, effective July 28, 1993; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.04V.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(3) (carrying tear gas or noxious liquid gas) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.03 series instruction.

Section 24-1(c)(2) provides enhanced penalties for the violation of Section 24-1(a)(3) when committed on the premises listed in the above alternatives numbered [1] through [13]. A

violation of Section 24-1(a)(3) is increased from a Class A misdemeanor to a Class 4 felony. Select the alternative that corresponds to the location in the charge.

The Committee has created separate instructions for "aggravated" unlawful use of weapons because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that "simple" unlawful use of weapons instructions will often be given as a lesser included offense when "aggravated" unlawful use of weapons is charged, the Committee titled this offense "aggravated unlawful use of weapons" to distinguish it from "simple" unlawful use of weapons. If only "aggravated" unlawful use of weapons instructions are given to the jury, the term "aggravated" should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.04V.

When applicable, give Instruction 18.35F (defining the term "school"), and Instruction 18.35J (defining the term "courthouse").

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.03W
Definition Of Aggravated Unlawful Use Of Weapons--Possessing A Concealed Weapon--Enhancing Factor Based Upon Location

A person commits the offense of aggravated unlawful use of weapons when he knowingly [(carries) (possesses)] a [(pistol) (revolver) (stun gun or taser) (firearm)] [(in a vehicle) (concealed on or about his person)] except when on his land, in his abode, or in his fixed place of business while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

Committee Note

720 ILCS 5/24-1(c)(1.5) (West, 1994), added by P.A. 88-680, effective January 1, 1995. P.A. 88-680 removed this factor from Section 24-1(c)(2) and placed it in new Section 24-1(c)(1.5).

Give Instruction 18.04W.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(4) (possessing a concealed weapon) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.03 series instruction.

Section 24-1(c)(1.5) provides enhanced penalties for the violation of Section 24-1(a)(4) when committed on the premises listed in the above alternatives numbered [1] through [13]. A violation of Section 24-1(a)(4) is increased from a Class 4 to a Class 3 felony. Select the alternative that corresponds to the location in the charge.

The Committee has created separate instructions for "aggravated" unlawful use of weapons because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that "simple" unlawful use of weapons instructions will often be given as a lesser included offense when "aggravated" unlawful use of weapons is charged, the Committee titled this offense "aggravated unlawful use of weapons" to distinguish it from "simple" unlawful use of weapons. If only "aggravated" unlawful use of weapons instructions are given to the jury, the term "aggravated" should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.04W.

When applicable, give Instruction 18.35E (defining the phrase "stun gun or taser"), Instruction 18.35F (defining the word "school"), Instruction 18.35G (defining the word "firearm"), and Instruction 18.35J (defining the word "courthouse").

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.03X
Definition Of Aggravated Unlawful Use Of Weapons--Possessing A Rifle, Shotgun, Or Bomb--Enhancing Factor Based Upon Location

A person commits the offense of aggravated unlawful use of weapons when he knowingly [(sells) (manufactures) (purchases) (possesses) (carries)]

[A] a rifle having one or more barrels less than 16 inches in length; while

[or]

[B] a shotgun having one or more barrels less than 18 inches in length; while

[or]

[C] a weapon made from a rifle or shotgun whether by alteration, modification, or otherwise, if such weapon as modified had an overall length of less than 26 inches; while

[or]

[D] a [(bomb) (bomb-shell) (grenade)] [or a bottle or other container containing an explosive substance over one-quarter ounce for like purposes]; while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

Committee Note

720 ILCS 5/24-1(c)(1) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(1) (1991)), amended by P.A. 86-946, effective January 1, 1990; P.A. 87-524, effective January 1, 1992; P.A. 87-930, effective January 1, 1993; P.A. 88-156, effective July 28, 1993; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.04X.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.03 series instruction.

Sections 24-1(a)(7)(ii) and (7)(iii) define the offenses of possession of rifles, shotguns, and bombs which have been subdivided into paragraphs [A] through [D] for clarity purposes. Select the alternative that corresponds to the offense in the charge.

Section 24-1(c)(1) provides enhanced penalties for the violation of Sections 24-1(a)(7)(ii) and (7)(iii) when committed on the premises listed in the above alternatives numbered [1] through [13]. A violation of Section 24-1(a)(7)(ii) or (7)(iii) is increased from a Class 3 to a Class 2 felony. Select the alternative that corresponds to the location in the charge.

The Committee has created separate instructions for “aggravated” unlawful use of weapons because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that “simple” unlawful use of weapons instructions will often be given as a lesser included offense when “aggravated” unlawful use of weapons is charged, the Committee titled this offense “aggravated unlawful use of weapons” to distinguish it from “simple” unlawful use of weapons. If only “aggravated” unlawful use of weapons instructions are given to the jury, the term “aggravated” should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.04X.

When applicable, give Instruction 18.35F (defining the term “school”), and Instruction 18.35J (defining the term “courthouse”).

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.03XX
Definition Of Aggravated Unlawful Use Of Weapons--Possessing A Machine Gun--Enhancing Factors

A person commits the offense of aggravated unlawful use of weapons when he knowingly [(sells) (manufactures) (purchases) (possesses) (carries)]

[A] a machine gun; while

[or]

[B] any combination of parts designed or intended for use in converting a weapon into a machine gun; while

[or]

[C] any combination of parts from which a machine gun could be assembled if such combination of parts was in the possession or under the control of a person; while

[1] possessing the [(machine gun) (machine gun parts)] in the compartment of a motor vehicle.

[or]

[2] possessing the [(machine gun) (machine gun parts)] on his person while [(it is) (they are)] loaded.

Committee Note

720 ILCS 5/24-1(b) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(b) (1991)), amended by P.A. 88-467, effective July 1, 1994.

Give Instruction 18.04XX.

Give Instruction 18.35D, defining the term “machine gun”.

When applicable, give Instruction 23.43B, defining the term “motor vehicle”.

Use this instruction when 24-1(a)(7)(i) (possessing a machine gun) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.03 series instruction.

Section 24-1(a)(7)(i) defines the offenses of possession of a machine gun or parts of a machine gun which have been subdivided into paragraphs [A] through [C] for clarity purposes.

Select the alternative that corresponds to the offense in the charge.

Section 24-1(b) provides enhanced penalties for the violation of Section 24-1(a)(7)(i) when committed under the conditions listed in the above alternatives numbered [1] and [2]. A violation of Section 24-1(a)(7)(i) is increased from a Class 2 to a Class X felony. Select the alternative that corresponds to the condition in the charge.

The Committee has created separate instructions for "aggravated" unlawful use of weapons because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that "simple" unlawful use of weapons instructions will often be given as a lesser included offense when "aggravated" unlawful use of weapons is charged, the Committee titled this offense "aggravated unlawful use of weapons" to distinguish it from "simple" unlawful use of weapons. If only "aggravated" unlawful use of weapons instructions are given to the jury, the word "aggravated" should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.04XX.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.03Y
Definition Of Aggravated Unlawful Use Of Weapons--Concealing One's Identity--Enhancing Factor Based Upon Location

A person commits the offense of aggravated unlawful use of weapons when he knowingly [(carries) (possesses)] [(in a vehicle) (on or about his person)] a [(pistol) (revolver) (stun gun or taser) (firearm) (ballistic knife)] when he is hooded, robed, or masked in such a manner as to conceal his identity while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

Committee Note

720 ILCS 5/24-1(c)(1.5) (West, 1994), added by P.A. 88-680, effective January 1, 1995. P.A. 88-680 removed this factor from Section 24-1(c)(2) and placed it in new Section 24-1(c)(1.5).

Give Instruction 18.04Y.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(9) (concealing one's identity) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.03 series instruction.

Section 24-1(c)(1.5) provides enhanced penalties for the violation of Section 24-1(a)(9) when committed on the premises listed in the above alternatives numbered [1] through [13]. A violation of Section 24-1(a)(9) is increased from a Class 4 to a Class 3 felony. Select the alternative that corresponds to the location in the charge.

When applicable, give Instruction 18.35 (defining the term "ballistic knife"), Instruction 18.35E (defining the phrase "stun gun or taser"), Instruction 18.35F (defining the word "school"), Instruction 18.35G (defining the word "firearm"), and Instruction 18.35J (defining the word "courthouse").

The Committee has created separate instructions for "aggravated" unlawful use of weapons because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that "simple" unlawful use of weapons instructions will often be given as a lesser included offense when "aggravated" unlawful use of weapons is charged, the Committee titled this offense "aggravated unlawful use of weapons" to distinguish it from "simple" unlawful use of weapons. If only "aggravated" unlawful use of weapons instructions are given to the jury, the word "aggravated" should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.04Y.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.03Z
Definition Of Aggravated Unlawful Use Of Weapons--Possessing A Weapon On A Public Way Or Land Within City Limits--Enhancing Factor Based Upon Location

A person commits the offense of aggravated unlawful use of weapons when he knowingly [(carries) (possesses)] on or about his person a [(pistol) (revolver) (stun gun or taser) (firearm)] while upon [(a public street) (a public alley) (public lands)] within the corporate limits of [(a city) (a village) (an incorporated town)] except when an invitee for the purpose of [(the display of such weapon) (lawful commerce in weapons)] or when on his land, in his abode, or in his fixed place of business; while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

Committee Note

720 ILCS 5/24-1(c)(1.5) (West, 1994), added by P.A. 88-680, effective January 1, 1995. P.A. 88-680 removed this factor from Section 24-1(c)(2) and placed it in new Section 24-1(c)(1.5).

Give Instruction 18.04Z.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), or 24-1(a)(9) (concealing one's identity) is the predicate offense charged, use the appropriate 18.03 series instruction.

Section 24-1(c)(1.5) provides enhanced penalties for the violation of Section 24-1(a)(10) when committed on the premises listed in the above alternatives numbered [1] through [13]. A

violation of Section 24-1(a)(10) is increased from a Class 4 to a Class 3 felony. Select the alternative that corresponds to the location in the charge.

The Committee has created separate instructions for "aggravated" unlawful use of weapons because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that "simple" unlawful use of weapons instructions will often be given as a lesser included offense when "aggravated" unlawful use of weapons is charged, the Committee titled this offense "aggravated unlawful use of weapons" to distinguish it from "simple" unlawful use of weapons. If only "aggravated" unlawful use of weapons instructions are given to the jury, the word "aggravated" should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.04Z.

When applicable, give Instruction 18.35E (defining the phrase "stun gun or taser"), Instruction 18.35F (defining the word "school"), Instruction 18.35G (defining the word "firearm"), and Instruction 18.35J (defining the word "courthouse").

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.04
Issues In Aggravated Unlawful Use Of Weapons--Possessing A Silencer--Enhancing Factor Based Upon Location

To sustain the charge of aggravated unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly possessed a device or attachment of any kind [(designed for) (used in) (intended for use in)] silencing the report of a firearm; and

Second Proposition: That the defendant did so while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

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.

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.

Committee Note

720 ILCS 5/24-1(c)(1) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(1) (1991)), amended by P.A. 86-946, effective January 1, 1990; P.A. 87-524, effective January 1, 1992; P.A. 87-930, effective January 1, 1993; P.A. 88-156, effective July 28, 1993; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.03.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(6) (possessing a silencer) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid

gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.04 series instruction.

The bracketed numbers [1] through [13] under the Second Proposition correspond to the alternatives of the same number in Instruction 18.03, the definitional instruction for this offense. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Exemptions to the aggravated version of offenses under Section 24-1(c)(1) are set forth in Section 24-1(c)(3). The defendant bears the burden of proving the exemptions 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." The exemptions set forth in Section 24-2 are not applicable to the non-aggravated versions of offenses under Section 24-1(a)(6).

See Committee Note to Instruction 18.03 concerning the need for definitional instructions and a discussion of penalty enhancement under Section 24-1(a)(6) based upon the location of the offense charged.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.04U
Issues In Aggravated Unlawful Use Of Weapons--Possessing A Bludgeon, Sling-Shot, Metal Knuckles, Throwing Star, Switchblade, Or Ballistic Knife--Enhancing Factor Based Upon Location

To sustain the charge of aggravated unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)] a [(bludgeon) (black-jack) (sling-shot) (sand-club) (sand-bag) (metal knuckles) (throwing star) (switchblade knife) (ballistic knife)]; and

Second Proposition: That the defendant did so while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

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.

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.

Committee Note

720 ILCS 5/24-1(c)(2) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(2) (1991)), amended by P.A. 86-946, effective January 1, 1990; P.A. 87-524, effective January 1, 1992; P.A. 87-930, effective January 1, 1993; P.A. 88-156, effective July 28, 1993; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.03U.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal

knuckles, throwing star, switchblade, or ballistic knife) is the predicate offense charged. When Section 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.04 series instruction.

The bracketed numbers [1] through [13] under the Second Proposition correspond to the alternatives of the same number in Instruction 18.03U, the definitional instruction for this offense. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Exemptions to the aggravated version of offenses under Section 24-1(c)(2) are set forth in Section 24-1(c)(3). Also, the exemptions set forth in Section 24-2(d) are applicable to all offenses under Section 24-1(a)(1). The defendant bears the burden of proving the exemptions 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."

See Committee Note to Instruction 18.03U concerning the need for definitional instructions and a discussion of penalty enhancement under Section 24-1(a)(1) based upon the location of the offense charged.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.04V
Issues In Aggravated Unlawful Use Of Weapons--Carrying Tear Gas Or Noxious Liquid Gas--Enhancing Factor Based Upon Location

To sustain the charge of aggravated unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly carried [(in a vehicle) (on or about his person)]

[A] a [(tear gas gun projector) (tear gas bomb)]; and

[or]

[B] an object containing a lethal noxious liquid gas or substance; and

[or]<

[C] an object containing a non-lethal noxious liquid gas or substance and that when the defendant did so, he was less than 18 years of age; and

[or]

[D] an object containing a non-lethal noxious liquid gas or substance which was not designed solely for personal defense; and

Second Proposition: That the defendant did so while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

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.

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.

Committee Note

720 ILCS 5/24-1(c)(2) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(2) (1991)), amended by P.A. 86-946, effective January 1, 1990; P.A. 87-524, effective January 1, 1992; P.A. 87-930, effective January 1, 1993; P.A. 88-156, effective July 28, 1993; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.03V.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(3) (carrying tear gas or noxious liquid gas) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.04 series instruction.

The first part of Instruction 18.03U, which defines the offenses under Section 24-1(a)(3), has been subdivided into paragraphs [A] through [D] under the First Proposition for clarity purposes. Select the paragraphs that correspond to the bracketed alternatives selected in the first part of Instruction 18.03U.

The bracketed numbers [1] through [13] under the Second Proposition correspond to the alternatives of the same number in Instruction 18.03U. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Exemptions to the aggravated version of offenses under Section 24-1(c)(2) are set forth in Section 24-1(c)(3). Also, the exemptions set forth in Section 24-2(a) are applicable to all offenses under Section 24-1(a)(3). The defendant bears the burden of proving the exemptions 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."

See Committee Note to Instruction 18.03V concerning the need for definitional instructions and a discussion of penalty enhancement under Section 24-1(a)(3) based upon the location of the offense charged.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.04W
Issues In Aggravated Unlawful Use Of Weapons--Possessing A Concealed Weapon--Enhancing Factor Based Upon Location

To sustain the charge of aggravated unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(carried) (possessed)] a [(pistol) (revolver) (stun gun or taser) (firearm)] [(in a vehicle) (concealed on or about his person)]; and

Second Proposition: That when the defendant did so, he was not on his land, in his abode, or in his fixed place of business; and

Third Proposition: That the defendant did so while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

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.

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.

Committee Note

720 ILCS 5/24-1(c)(1.5) (West, 1994), added by P.A. 88-680, effective January 1, 1995. P.A. 88-680 removed this factor from Section 24-1(c)(2) and placed it in new Section 24-1(c)(1.5).

Give Instruction 18.03W.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(4) (possessing a concealed weapon) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's

identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.04 series instruction.

The bracketed numbers [1] through [13] under the Third Proposition correspond to the alternatives of the same number in Instruction 18.03W, the definitional instruction for this offense. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Exemptions to the aggravated version of offenses under Section 24-1(c)(1.5) are set forth in Section 24-1(c)(3). Also, the exemptions set forth in Sections 24-2(a), 2(b), and 2(f) are applicable to all offenses under Section 24-1(a)(4). The defendant bears the burden of proving the exemptions 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 phrase "preponderance of the evidence."

See Committee Note to Instruction 18.03W concerning the need for definitional instructions and a discussion of penalty enhancement under Section 24-1(a)(4) based upon the location of the offense charged.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.04X
Issues In Aggravated Unlawful Use Of Weapons--Possessing A Rifle, Shotgun, Or Bomb--Enhancing Factor Based Upon Location

To sustain the charge of aggravated unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)]

[A] a rifle having one or more barrels less than 16 inches in length; and

[or]

[B] a shotgun having one or more barrels less than 18 inches in length; and

[or]

[C] a weapon made from a rifle or shotgun whether by alteration, modification, or otherwise, if such weapon as modified had an overall length of less than 26 inches; and

[or]

[D] a [(bomb) (bomb-shell) (grenade)] [or a bottle or other container containing an explosive substance over one-quarter ounce for like purposes]; and

Second Proposition: That the defendant did so while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

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.

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.

Committee Note

720 ILCS 5/24-1(c)(1) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(1) (1991)), amended by P.A. 86-946, effective January 1, 1990; P.A. 87-524, effective January 1, 1992; P.A. 87-930, effective January 1, 1993; P.A. 88-156, effective July 28, 1993; and P.A. 88-467, effective July 1, 1994.

Give Instruction 18.03X.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Sections 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.04 series instruction.

The bracketed letters [A] through [D] under the First Proposition correspond to the alternatives of the same letter in Instruction 18.03X, the definitional instruction for this offense, and the bracketed numbers [1] through [13] under the Second Proposition correspond to the alternatives of the same number in Instruction 18.03X. Select the alternatives that correspond to the alternatives selected from the definitional instruction.

Exemptions to the aggravated version of offenses under Section 24-1(c)(1) are set forth in Section 24-1(c)(3). Also, the exemptions set forth in Section 24-2(c) are applicable to all offenses under Sections 24-1(a)(7)(ii) and (7)(iii). The defendant bears the burden of proving the exemptions 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.”

See Committee Note to Instruction 18.03X concerning the need for definitional instructions and a discussion of penalty enhancement under Sections 24-1(a)(7)(ii) and (7)(iii) based upon the location of the offense charged.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.04XX
Issues In Aggravated Unlawful Use Of Weapons--Possessing A Machine Gun--Enhancing Factors

To sustain the charge of aggravated unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(sold) (manufactured) (purchased) (possessed) (carried)]

[A] a machine gun; and

[or]

[B] any combination of parts designed or intended for use in converting a weapon into a machine gun; and

[or]

[C] any combination of parts from which a machine gun could be assembled if such combination of parts was in the possession or under the control of a person; and

Second Proposition: That the defendant did so while

[1] possessing the [(machine gun) (machine gun parts)] in the compartment of a motor vehicle.

[or]

[2] possessing the [(machine gun) (machine gun parts)] on his person while [(it is) (they are)] loaded.

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.

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.

Committee Note

720 ILCS 5/24-1(b) (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §24-1(b) (1991)), amended by P.A. 88-467, effective July 1, 1994.

Give Instruction 18.03XX.

Use this instruction when Section 24-1(a)(7)(i) (possessing a machine gun) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), 24-1(a)(9) (concealing one's identity), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the

predicate offense charged, use the appropriate 18.04 series instruction.

The bracketed letters [A] through [C] under the First Proposition correspond to the alternatives of the same letter in Instruction 18.03XX, the definitional instruction for this offense, and the bracketed numbers [1] and [2] under the Second Proposition correspond to the alternatives of the same number in Instruction 18.03XX. Select the alternatives that correspond to the alternatives selected from the definitional instruction.

The exemptions set forth in Section 24-2(c) are applicable to the offenses under Section 24-1(a)(7)(i). The defendant bears the burden of proving the exemptions 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."

See Committee Note to Instruction 18.03XX concerning the need for definitional instructions and a discussion of penalty enhancement under Section 24-1(a)(7)(i) based upon the enhancing factors present when the charged offense was committed.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.04Y
Issues In Aggravated Unlawful Use Of Weapons--Concealing One's Identity--Enhancing Factor Based Upon Location

To sustain the charge of aggravated unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(carried) (possessed in a vehicle) (possessed on or about his person)] a [(pistol) (revolver) (stun gun or taser) (firearm) (ballistic knife)]; and

Second Proposition: That the defendant did so while hooded, robed, or masked in such a manner as to conceal his identity; and

Third Proposition: That the defendant did so while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

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.

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.

Committee Note

720 ILCS 5/24-1(c)(1.5) (West, 1994), added by P.A. 88-680, effective January 1, 1995. P.A. 88-680 removed this factor from Section 24-1(c)(2) and placed it in new Section 24-1(c)(1.5).

Give Instruction 18.03Y.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(9) (concealing one's identity) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-

1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), or 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged, use the appropriate 18.04 series instruction.

The bracketed numbers [1] through [13] under the Third Proposition correspond to the alternatives of the same number in Instruction 18.03Y, the definitional instruction for this offense. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Exemptions to the aggravated version of offenses under Section 24-1(c)(1.5) are set forth in Section 24-1(c)(3). The defendant bears the burden of proving the exemptions 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 phrase "preponderance of the evidence." The exemptions set forth in Section 24-2 are not applicable to the non-aggravated versions of offenses under Section 24-1(a)(9).

See Committee Note to Instruction 18.03Y concerning the need for definitional instructions and a discussion of penalty enhancement under Section 24-1(a)(9) based upon the location of the offense charged.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.04Z
Issues In Aggravated Unlawful Use Of Weapons--Possessing A Weapon On A Public Way Or Land Within City Limits--Enhancing Factor Based Upon Location

To sustain the charge of aggravated unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(carried) (possessed)] on or about his person a [(pistol) (revolver) (stun gun or taser) (firearm)]; and

Second Proposition: That when the defendant did so, he was upon [(a public street) (a public alley) (public lands)] within the corporate limits of [(a city) (a village) (an incorporated town)]; and

Third Proposition: That when the defendant did so, he was not an invitee for the purpose of [(the display of such weapon) (lawful commerce in weapons)]; and

Fourth Proposition: That when the defendant did so, he was not on his land, in his abode, or in his fixed place of business; and

Fifth Proposition: That the defendant did so while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

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.

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.

Committee Note

720 ILCS 5/24-1(c)(1.5) (West, 1994), added by P.A. 88-680, effective January 1, 1995. P.A. 88-680 removed this factor from Section 24-1(c)(2) and placed it in new Section 24-1(c)(1.5).

Give Instruction 18.03Z.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Use this instruction when Section 24-1(a)(10) (possessing a weapon on a public way or land within city limits) is the predicate offense charged. When Section 24-1(a)(1) (possessing a bludgeon, sling-shot, metal knuckles, throwing star, switchblade, or ballistic knife), 24-1(a)(3) (carrying tear gas or noxious liquid gas), 24-1(a)(4) (possessing a concealed weapon), 24-1(a)(6) (possessing a silencer), 24-1(a)(7)(i) (possessing a machine gun), 24-1(a)(7)(ii) or (7)(iii) (possessing a rifle, shotgun, or bomb), or 24-1(a)(9) (concealing one's identity) is the predicate offense charged, use the appropriate 18.03 series instruction.

The bracketed numbers [1] through [13] under the Fifth Proposition correspond to the alternatives of the same number in Instruction 18.03Z, the definitional instruction for this offense. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Exemptions to the aggravated version of offenses under Section 24-1(c)(1.5) are set forth in Section 24-1(c)(3). Also, the exemptions set forth in Sections 24-2(a), 2(b), and 2(f) are applicable to all offenses under Section 24-1(a)(10). The defendant bears the burden of proving the exemptions 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 phrase “preponderance of the evidence.”

See Committee Note to Instruction 18.03Z concerning the need for definitional instructions and a discussion of penalty enhancement under Section 24-1(a)(10) based upon the location of the offense charged.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.05
Definition Of Subsequent Offense Of Unlawful Use Of Weapons

A person commits the offense of subsequent offense of unlawful use of weapons when he, having been previously convicted of the offense of unlawful use of weapons, knowingly [(carries) (possesses)] a [(pistol) (revolver) (firearm) (stun gun or taser)] [(in a vehicle) (concealed on or about his person)] except when on his land, in his abode, or in his fixed place of business.

Committee Note

720 ILCS 5/24-1(a)(4) and (b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1(a)(4) and (b) (1991)).

Give Instruction 18.06.

When applicable, give Instruction 18.35E, defining the phrase "stun gun or taser."

Section 24-1(b) provides that a second or subsequent violation of Section 24-1(a)(4) increases the classification of the offense from a Class A misdemeanor to a Class 4 felony. Section 24-1(a)(4) prohibits carrying certain weapons in a vehicle or concealed on or about the person. When the prior conviction is for a violation of any subsection of Section 24-1(a) other than Section 24-1(a)(4), the enhanced penalty provision of Section 24-1(b) is not applicable and this instruction cannot be given.

Generally, when the degree or class of an offense depends on a prior conviction, the State must prove the existence of that prior conviction as an element of the offense. See People v. Hicks, 119 Ill.2d 29, 518 N.E.2d 148, 115 Ill.Dec. 623 (1987); People v. Palmer, 104 Ill.2d 340, 472 N.E.2d 795, 84 Ill.Dec. 658 (1984); People v. Mays, 80 Ill.App.3d 340, 399 N.E.2d 718, 35 Ill.Dec. 652 (3d Dist.1980). However, Chapter 38, Section 111-3(c), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction when used to increase the classification of an offense is not an element of the crime and may not be disclosed to the jury unless otherwise permitted by the issues. As a result, after the effective date of P.A. 86-964, prior convictions will not be presented to the jury and this instruction should not be used. See People v. Kennard, 204 Ill.App.3d 641, 561 N.E.2d 1188, 149 Ill.Dec. 492 (1st Dist.1990). For offenses occurring after June 30, 1990, use Instruction 18.01.

The exemptions set forth in Section 24-2 applicable to the offense created in Section 24-1(a)(4) are likewise applicable to subsequent offense unlawful use of weapons. 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 phrase "preponderance of the evidence."

Use applicable bracketed material.

18.05X
Definition Of Aggravated Unlawful Possession Of A Weapon

A person commits the offense of aggravated unlawful possession of a weapon when he knowingly

[1] carries [(on or about his person) (in any vehicle) (concealed on or about his person)] a [(pistol) (revolver) (stun gun) (taser) (firearm)] at a time when not [(on his land) (in his abode) (in his legal dwelling) (his fixed place of business)] [(on the land of another person) (in the legal dwelling of another person) as an invitee with that person's permission)] [,while (wearing) (in possession of) body armor];

[or]

[2] [(carries) (possesses)] a [(pistol) (revolver) (stun gun) (taser) (firearm)] on or about his person upon any [(public street) (alley) (public lands)] within the corporate limits of a [(city) (village) (incorporated town) when not [an invitee for (the purpose of the display of such weapon) (the lawful commerce in weapons)] [(on his land) (in his abode) (in his legal dwelling) (in his fixed place of business [(on the land) (in the legal dwelling) of another person as an invitee with that person's permission) [,while (wearing) (in possession of) body armor];

and

[A] the [(pistol) (revolver) (handgun)] possessed is uncased, loaded, and immediately accessible and the defendant had not been issued a currently valid license under the Firearm Concealed Carry Act.

[or]

[B] the firearm, other than a pistol, revolver, or handgun, possessed is uncased, unloaded, and the ammunition for the weapon was immediately accessible at the time of the offense.

[or]

[C] the [(pistol) (revolver) (handgun) possessed is uncased, unloaded, and the ammunition for the weapon is immediately accessible and the defendant has not been issued a currently valid license under the the Firearm Concealed Carry Act.

[or]

[D] the person has not been issued a currently valid Firearm Owners Identification Card.

[or]

[E] the person was previously adjudicated a delinquent minor under for an act that if committed by an adult would be a felony.

[or]

[F] the person, while possessing the weapon, is engaged in the commission of a qualifying offense.

[or]

[G] the person possessing the weapon had an order of protection issued against him within the previous 2 years.

[or]

[H] the person possessing the weapon was engaged in the [(commission) (attempted commission) of a qualifying offense involving the [(use) (threat)] of violence against the [(person) (property)] of another.

[or]

[I] the person possessing the weapon was under 21 years of age and in possession of a handgun, unless the person under 21 is [(engaged in lawful activities under the Wildlife Code) (the member of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using their firearms on those target ranges) (the patron of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such patrons are using their firearms on those target ranges) (a hunter, trapper or fisherman with a license or permit while engaged in hunting, trapping or fishing)].

Committee Note

720 ILCS 5/24-1.6 (West 2025). P.A. 103-822, effective January 1, 2025, changed the name of this offense from "Aggravated Unlawful Use Of A Weapon" to "Aggravated Unlawful Possession Of A Weapon". Other than the name change, the elements for the offense remain the same.

Give Instruction 18.06X

Give Instruction 18.35E defining the phrase "stun gun or taser", when applicable.

Section 24-1.6(a-5) incorporates the definition of handgun found in 430 ILCS 66/5. When applicable give Instruction 18.35II, which defines the word "handgun" as used in 430 ILCS 66/5.

Section 24-1.6 does not incorporate the definition of firearm found in 430 ILCS 65/1.1. As a result, the Committee takes no position on whether Instruction 18.35G, defining the word "firearm," should be given when this charge is before the jury.

Use applicable paragraphs and bracketed material.

The bracketed numbers and letters are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury. The Illinois Supreme Court found two sections of the aggravated unlawful use of weapons statute (720 ILCS 5/24-1.6) unconstitutional: the prohibition on carrying uncased firearms in vehicles and outside the home found at 720 ILCS 5/24-1.6(a)(1), (a)(3)(A) (*People v. Burns*, 2015 IL 117387, 79 N.E. 3d 159 (2015); *People v. Aguilar*, 2013 IL 112116, 2 N.E. 3d 321 (2013)) and the prohibition on carrying uncased firearms on a public way found at 720 ILCS 5/24-1.6(a)(2), (a)(3)(A) (*People v. Mosley*, 2015 IL 115872). For this reason, please be aware that the bracket letters in this instruction may or may not directly correspond to the subsections in 720 ILCS 5/24-1.6.

Use [B] for instances where the weapon at issue is a firearm other than a pistol, revolver or handgun. 720 ILCS 5/24-1.6(a)(3)(B).

In [F] and [H], the applicable offenses must be misdemeanors. Whether those offenses are misdemeanors or not is a question of law, and the jury does not need to be informed that the offenses are misdemeanors. When the commission or the attempted commission of a misdemeanor is applicable, as in [F] and [H], the Committee determines that the jury needs to be instructed on the applicable offense and attempt doctrine.

18.06
Issues In Subsequent Offense Of Unlawful Use Of Weapons

To sustain the charge of subsequent offense of unlawful use of weapons, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(carried) (possessed)] a [(pistol) (revolver) (firearm) (stun gun or taser)] [(in a vehicle) (concealed on or about his person)]; and

Second Proposition: That when the defendant did so, he was not on his own land, in his abode, or in his fixed place of business; and

Third Proposition: That the defendant has been previously convicted of unlawful use of weapons.

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 ____, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-1(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1(b) (1991)).

Give Instruction 18.05.

Section 24-1(b) provides that a second or subsequent violation of Section 24-1(a)(4) increases the classification of the offense from a Class A misdemeanor to a Class 4 felony. Section 24-1(a)(4) prohibits carrying certain weapons in a vehicle or concealed on or about the person. The first conviction must precede the *conduct* constituting the subsequent offense. See People v. Phillips, 56 Ill.App.3d 689, 371 N.E.2d 1214, 14 Ill.Dec. 161 (5th Dist.1978); People v. Miller, 115 Ill.App.3d 592, 450 N.E.2d 767, 71 Ill.Dec. 79 (2d Dist.1983). When the prior conviction is for a violation of any subsection of Section 24-1, other than Subsection 24-1(a)(4), the enhanced penalty provision of Section 24-1(b) is not applicable and this instruction cannot be given.

Generally, when the degree or class of an offense depends on a prior conviction, the State must prove the existence of that prior conviction as an element of the offense. See People v. Hicks, 119 Ill.2d 29, 518 N.E.2d 148, 115 Ill.Dec. 623 (1987); People v. Palmer, 104 Ill.2d 340, 472 N.E.2d 795, 84 Ill.Dec. 658 (1984); People v. Mays, 80 Ill.App.3d 340, 399 N.E.2d 718, 35 Ill.Dec. 652 (3d Dist.1980). However, Chapter 725, Section 111-3(c), as amended by P.A. 86-964, effective July 1, 1990, provides that a prior conviction when used to increase the classification of an offense is not an element of the crime and may not be disclosed to the jury unless otherwise permitted by the issues. As a result, after the effective date of P.A. 86-964, prior convictions will not be presented to the jury and this instruction should not be used. See People v. Kennard, 204 Ill.App.3d 641, 561 N.E.2d 1188, 149 Ill.Dec. 492 (1st Dist.1990). For offenses occurring after June 30, 1990, use Instruction 18.01.

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction

18.05.

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.

18.06X
Issues In Aggravated Unlawful Possession Of A Weapon

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

[1] *First Proposition*: That the defendant knowingly carried a [(pistol) (revolver) (stun gun) (taser) (firearm)] [(on or about his person) (in any vehicle) (concealed on or about his person)] [(while wearing or possessing body armor)];

[or]

[2] *First Proposition*: That the defendant knowingly [(carried) (possessed)] on or about his person upon any [(public street) (alley) (public lands) within the corporate limits of (a city) (a village) (an incorporated town)];

and

[1] *Second Proposition*: That when the defendant did so, he was not [(on his land) (in his abode) (in his legal dwelling) (in his fixed place of business)] [(on the land) (in the legal dwelling) of another person as an invitee with that person's permission];

[or]

[2] *Second Proposition*: That when the defendant did so, he was not [(an invitee for the purpose of the display of such weapon or the lawful commerce in weapons) (on his land) (in his abode) (in his legal dwelling) (in his fixed place of business) [(on the land) (in the legal dwelling) of another person as an invitee with that person's permission];

and

[A] *Third Proposition*: That the [(pistol) (revolver) (handgun)] was uncased, loaded, and immediately accessible at the time of the offense and the defendant has not been issued a currently valid license under the Firearm Concealed Carry Act.

[or]

[B] *Third Proposition*: That the firearm possessed was uncased, unloaded, and the ammunition for the weapon was immediately accessible at the time of the offense.

[or]

[C] *Third Proposition*: That the [(pistol) (revolver) (handgun)] was uncased, unloaded, and the ammunition for the weapon was immediately accessible at the time of the offense and the defendant had not been issued a currently valid license under the Firearm Concealed Carry Act.

[or]

[D] *Third Proposition*: That the defendant had not been issued a currently valid Firearm Owner's Identification Card at the time of the offense.

[or]

[E] *Third Proposition*: That the defendant was previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a felony.

[or]

[F] *Third Proposition*: That the defendant committed the offense of _____.

[or]

[G] *Third Proposition*: That the defendant had an order of protection issued against him or her within the previous 2 years.

[or]

[H] *Third Proposition*: That the defendant was engaged in the [(commission) (attempted commission)] of _____.

[or]

[I] *Third Proposition*: That the defendant was under 21 years of age and not engaged in lawful activities unless the person under 21 is [(engaged in lawful activities under the Wildlife Code) (the member of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using their firearms on those target ranges) (the patron of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such patrons are using their firearms on those target ranges) (a hunter, trapper or fisherman with a license or permit while engaged in hunting, trapping or fishing)].

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.

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.

Committee Note

720 ILCS 5/24-1.6. P.A. 103-822, effective January 1, 2025, changed the name of this offense from "Aggravated Unlawful Use of a Weapon" to "Aggravated Unlawful Possession Of A Weapon". Other than the name change, the elements for the offense remain the same.

Give Instruction 18.05X

The bracketed numbers and letters correspond to the alternatives of the same number and letter in Instruction 18.05X. Select the corresponding alternatives.

The bracketed number and letters are present solely for the guidance of the court and counsel and should not be included in the instructions submitted to the jury.

Use [B] for instances when the weapon at issue is a firearm other than a pistol, revolver or handgun, 720 ILCS 5/24-1.6(a)(3)(B).

When using [F] or [H], insert the name of alleged misdemeanor offense in the blank. Whether an offense is a misdemeanor or not is a question of law, and the jury need not be informed that the offense is a misdemeanor.

When the commission or the attempted commission of a misdemeanor is applicable, as in [F] and [H], the Committee determines that the jury needs to be instructed on the applicable offense and attempt doctrine. Insert the applicable misdemeanor in the blank space.

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. Give Instruction 5.03.

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.

18.07A
Definition Of Firearm--Unlawful Possession Of A Weapon By A Felon

The word "firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas. [The term does not include ____.]

[Whether a firearm is operable does not affect its status as a weapon.]

Committee Note

430 ILCS 65/1.1 (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §83-1.1 (1991)).

This instruction is for use only in conjunction with offenses charged under 720 ILCS 5/24-1.1 (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §24-1.1 (1991)). Do not use this instruction with offenses arising under 720 ILCS 5/24-1 (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §24-1 (1991)). Instead, see Instruction 18.35G.

Use the bracketed material in the first paragraph when appropriate. Insert in the blank the name or description of any gun or device excluded from this definition of the word "firearm" by subsection (1), (2), (3), or (4) of 430 ILCS 65/1.1 (West, 1994).

Use the bracketed second paragraph when a firearm's operability is at issue. See People v. White, 253 Ill.App.3d 1097, 1098, 627 N.E.2d 383, 384, 194 Ill.Dec. 267, 268 (4th Dist.1993), and People v. Hester, 271 Ill.App.3d 954, 957, 649 N.E.2d 1351, 1355, 208 Ill.Dec. 690, 694 (4th Dist.1995).

18.07B
Definition of Armed Habitual Criminal

A person commits the offense of being an armed habitual criminal when he knowingly [(receives) (sells) (possesses) (transfers)] any firearm after having been convicted of [(the offenses of _____ and _____) (two qualifying offenses)].

Committee Note

720 ILCS 5/24-1.7 (West 2024).

Give Instruction 18.08B.

See Instruction 4.05.

Insert in the blanks the applicable predicate offenses. See 720 ILCS 5/24-1.7.

Use the phrase "two qualifying offenses" where the defendant has stipulated that he has been convicted of two qualifying offenses as provided by section 24-1.7 of the Criminal Code of 2012 (720 ILCS 5/24-1.7). *People v. Tolliver*, 2022 IL App (2d) 210080, 217 N.E.3d 353; *People v. Taylor*, 2022 IL App (5th) 180192 ¶ 38, 193 N.E.3d 864.

In *People v. Tolliver*, the court held that where a defendant was willing to stipulate that he had previously been convicted of two qualifying offenses under the armed habitual criminal statute, "the court was obligated to accept the stipulation because the evidentiary significance of the predicate convictions was the same as a stipulation, except one created a risk of undue prejudice and the other did not." *Tolliver*, 2022 IL App (2d) 210090, ¶ 40.

In *People v. Ramirez,* 2023 Ill 128123 ¶22, the Illinois Supreme Court held that the elements of this offense include knowledge of a firearm.

Use applicable bracketed material when appropriate.

The brackets are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

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.

18.08B
Issues in Armed Habitual Criminal

To sustain the charge of armed habitual criminal, the State must prove the following propositions:

First Proposition: that the defendant knowingly [(received) (sold) (possessed) (transferred)] any firearm;

and

Second Proposition: that the defendant had previously been convicted of [(the offenses of _____ and _____) (two qualifying offenses)].

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.

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.

Committee Note

720 ILCS 5/24-1.7 (West 2024).

Give Instruction 18.07B.

When applicable, give Instruction 3.13X, "Proof of Prior Convictions – Defendant – Admissibility".

Insert in the blanks the applicable predicate offenses. See 720 ILCS 5/24-1.7.

Use the phrase "two qualifying offenses" where the defendant has stipulated that he has been convicted of two qualifying offenses as provided by section 24-1.7 of the Criminal Code of 2012 (720 ILCS 5/24-1.7). *People v. Tolliver*, 2022 IL App (2d) 210080, 217 N.E.3d 353; *People v. Taylor*, 2022 IL App (5th) 180192 ¶ 38, 193 N.E.3d 864.

Use applicable bracketed material when appropriate.

The brackets and numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

18.09
Definition Of Unlawful Possession Of A Weapon By A Person In The Custody Of The Department Of Corrections Facilities

A person commits the offense of possession of a weapon by a person in the custody of a Department of Corrections facility when he knowingly possesses [(a firearm) (firearm ammunition) (a ____)] while confined in a penal institution which is a facility of the Illinois Department of Corrections, regardless of the intent with which he possesses the [(firearm) (firearm ammunition) (____)].

Committee Note

720 ILCS 5/24-1.1(b) (West, 1993) (formerly Ill.Rev.Stat. ch. 38, §24-1.1(b) (1991)), amended by P.A. 88-300, effective January 1, 1994.

Give Instruction 18.10.

Do not use Instruction 4.09, defining the term "penal institution," because that definition, based upon Section 2-14 (720 ILCS 5/2-14 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §2-14 (1991))), includes facilities other than those of the Illinois Department of Corrections.

Section 24-1.1(c) provides that it shall be an affirmative defense that possession of the firearm, firearm ammunition, or weapon was specifically authorized by a rule, regulation, directive, or order of the Illinois Department of Corrections. When some evidence is presented to raise this defense, the following instruction should be given:

> "It is a defense to the charge of unlawful possession of a weapon by a person in the custody of a Department of Corrections facility that possession of the weapon was specifically authorized by a rule, regulation, directive, or order of the Illinois Department of Corrections."

The defense of necessity is not available for this offense. See Section 24-1.1(d).

If the charge involves a weapon enumerated in Section 24-1, other than a firearm or firearm ammunition, insert in the blank the name or description of the weapon.

Use applicable bracketed material.

18.10
Issues In Unlawful Possession Of A Weapon By A Person In The Custody Of The Department Of Corrections Facilities

To sustain the charge of possession of a weapon by a person in the custody of a Department of Corrections facility, the State must prove the following propositions:

First Proposition: That the defendant knowingly possessed [(a firearm) (firearm ammunition) (a ____)], regardless of the intent with which he possessed it; and

Second Proposition: That when the defendant did so, he was confined in a penal institution; and

Third Proposition: That the penal institution in which the defendant was confined was a facility of the Illinois Department of Corrections.

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.

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.

Committee Note

720 ILCS 5/24-1.1(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1.1(b) (1991)).

Give Instruction 18.09.

When the affirmative defense created in Section 24-1.1(c) is raised by the evidence, give the following instruction as the final proposition:

> "*Fourth Proposition:* That the defendant's possession of the [(firearm) (firearm ammunition) (____)] was not specifically authorized by a rule, regulation, directive, or order of the Illinois Department of Corrections)]."

The burden is on the State to overcome the affirmative defense beyond a reasonable doubt. See Chapter 720, Section 3-2. See also Committee Note to Instruction 18.09.

If a weapon enumerated in Section 24-1 forms the basis of the charge, insert in the blanks the name or description of the weapon.

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.

18.11
Definition Of Aggravated Discharge Of A Firearm—Discharge At A Person, Vehicle Or Building

A person commits the offense of aggravated discharge of a firearm when he [(knowingly) (intentionally)] discharges a firearm

[1] at or into a building he [knows) (reasonably should know)] to be occupied and from a place or position outside that building.

[or]

[2] in the direction of [(another person) (a vehicle he [(knows) (reasonably should know)] to be occupied by a person)].

Committee Note

Instruction and Committee Note Approved December 2, 2014

720 ILCS 5/24-1.2(a)(1) and (a)(2) (West 2013) as amended by P.A. 87-921, effective January 1, 1993 inserting "or intentionally" after "knowingly" at the end of the introductory language; and as amended by P.A. 91-12, effective January 1, 2000 inserting "or reasonably should know" in subdivisions (a)(1) and (a)(2) and adding "by a person" at the end of subdivision (2).

Give Instruction 18.12.

When applicable, give Instruction 18.35G, defining "firearm".

When applicable, give Instruction 18.35O, defining "school".

When applicable, give Instruction 18.35P, defining "school related activity".

This Instruction and Instruction 18.12 reflect the Class 1 felony variations of aggravated discharge of a firearm. For the Class X variations, see Instructions 18.13 and 18.14.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.12
Issues In Aggravated Discharge Of A Firearm—Discharge At A Person, Vehicle, Or Building

To sustain the charge of aggravated discharge of a firearm, the State must prove the following propositions:

First Proposition: That the defendant [(knowingly) (intentionally)] discharged a firearm;

and

[1] *Second Proposition*: That the defendant discharged the firearm at or into a building and from a place outside the building; and

Third Proposition: That when the defendant did so, he [(knew) (reasonably should have known)] the building was occupied.

[or]

[2] *Second Proposition*: That the defendant discharged the firearm in the direction of [(another person) (a vehicle he [(knew) (reasonably should have known)] was occupied)].

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.

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.

Committee Note

Instruction and Committee Note Approved December 2, 2014

720 ILCS 5/24-1.2(a)(1) and (a)(2) (West 2013) as amended by P.A. 87-921, effective January 1, 1993 inserting "or intentionally" after "knowingly" at the end of the introductory language; and as amended by P.A. 91-12, effective January 1, 2000 inserting "or reasonably should know" in subdivisions (a)(1) and (a)(2) and adding "by a person" at the end of subdivision (2).

Give Instruction 18.11.

When applicable, give Instruction 18.35G, defining "firearm".

When applicable, give Instruction 18.35O, defining "school".

When applicable, give Instruction 18.35P, defining "school related activity".

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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. Give Instruction 5.03.

18.13
Definition Of Aggravated Discharge Of A Firearm--Enhancing Factor Based On Status Of Victim

A person commits the offense of aggravated discharge of a firearm when he knowingly discharges a firearm in the direction of

[1] a [(person he knows to be) (vehicle he knows to be occupied by)] a [(peace officer) (person summoned or directed by a peace officer) (correctional institution employee) (fireman)]

[a] while the [(officer) (employee) (fireman)] is engaged in the execution of his official duties.

[or]

[b] to prevent the [(officer) (employee) (fireman)] from performing his official duties.

[or]

[c] in retaliation for the [(officer) (employee) (fireman)] performing his official duties.

[or]

[2] a [(person he knows to be) (vehicle he knows to be occupied by)] [(an emergency medical technician) (an ambulance driver) (a medical assistant) (a first aid attendant)] employed by a municipality [or other governmental unit]

[a] while the [(emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] is engaged in the execution of any of his official duties.

[or]

[b] to prevent the [(emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] from performing his official duties.

[or]

[c] in retaliation for the [(emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] performing his official duties.

Committee Note

720 ILCS 5/24-1.2(a)(3), (a)(4), (a)(5), and (a)(6) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §§24-1.2(a)(3), (a)(4), (a)(5), and (a)(6) (1991)), added by P.A. 86-1393, effective September 10, 1990; and amended by P.A. 87-921, effective January 1, 1993; and P.A. 88-433, effective January 1, 1994.

Give Instruction 18.14.

Regarding offenses committed upon emergency medical technicians (EMT) (paragraph [2]), if the definition of EMT or the type of EMT becomes an issue, see Sections 4.12, 4.13, or 4.15 of the Emergency Medical Services System Act (210 ILCS 50/4.12, 4.13, or 4.15 (West, 1992)) which define EMT-ambulance, EMT-paramedic, and EMT-intermediate. See 720 ILCS 5/2-6.5 (West Supp.1993).

This instruction and Instruction 18.14 reflect the Class X felony variations of aggravated discharge of a firearm. For the Class 1 variations, see Instructions 18.11 and 18.12.

See Instruction 18.35G, defining the term “firearm”.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.14
Issues In Aggravated Discharge Of A Firearm--Enhancing Factor Based On Status Of Victim

To sustain the charge of aggravated discharge of a firearm, the State must prove the following propositions:

First Proposition: That the defendant knowingly discharged a firearm; and

Second Proposition: That the defendant discharged the firearm in the direction of [(____) (a vehicle)]; and

[1] *Third Proposition:* That the defendant knew that [(____ was) (the vehicle was occupied by)] [(a peace officer) (a person summoned or directed by a peace officer) (a correctional institution employee) (a fireman)]; and

[or]

[2] *Third Proposition:* That the defendant knew that [(____ was) (the vehicle was occupied by)] [(an emergency medical technician) (an ambulance driver) (a medical assistant) (a first aid attendant)]; and

Fourth Proposition: That the defendant did so

[a] while [(____) (the peace officer) (the correctional officer) (the fireman) (the emergency medical technician) (the ambulance driver) (the medical assistant) (the first aid attendant)] was engaged in the execution of his official duties.

[or]

[b] to prevent [(____) (the peace officer) (the correctional officer) (the fireman) (the emergency medical technician) (the ambulance driver) (the medical assistant) (the first aid attendant)] from performing his official duties.

[or]

[c] in retaliation for [(____) (the peace officer) (the correctional officer) (the fireman) (the emergency medical technician) (the ambulance driver) (the medical assistant) (the first aid attendant)] performing his official duties.

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.

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.

Committee Note

720 ILCS 5/24-1.2(a)(3), (a)(4), (a)(5), and (a)(6) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §§24-1.2(a)(3), (a)(4), (a)(5), and (a)(6) (1991)), added by P.A. 86-1393, effective September 10, 1990; and amended by P.A. 87-921, effective January 1, 1993; and P.A. 88-433, effective January 1, 1994.

Give Instruction 18.13.

Insert in the blanks the name of the intended victim.

Use applicable paragraphs and bracketed material. The bracketed numbers and letters in this instruction correspond with the bracketed numbers and letters in Instruction 18.13.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.15
Definition Of Unlawful Sale Or Delivery Of Firearms

A person commits the offense of unlawful sale or delivery of firearms when he knowingly

[1] [(sells) (gives)] a firearm of a size which may be concealed upon the person to any person under 18 years of age.

[or]

[2] [(sells) (gives)] a firearm to a person under 21 years of age who has been [(convicted of a misdemeanor other than a traffic offense) (adjudged delinquent)].

[or]

[3] [(sells) (gives)] a firearm to any person who is a narcotic addict.

[or]

[4] [(sells) (gives)] a firearm to any person who has been convicted of a felony.

[or]

[5] [(sells) (gives)] a firearm to any person who has been a patient in a mental [(hospital) (institution)] within the past 5 years.

[or]

[6] [(sells) (gives)] a firearm to any person who is intellectually disabled.

[or]

[7] delivers a firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made.

[or]

[8] delivers a [(rifle) (shotgun) (other long gun) (stun gun) (taser)], incidental to a sale, without withholding delivery of such [(rifle) (shotgun) (other long gun) (stun gun) (taser)] for at least 24 hours after application for its purchase has been made.

[or]

[9] while holding a license under the Federal Gun Control Act of 1968 as [(a) (an)] [(dealer) (importer) (manufacturer) (pawnbroker)] [(manufactures) (sells to any unlicensed person) (delivers to any unlicensed person)] a handgun having a [(barrel) (slide) (frame)

(receiver)] which is a die casting of zinc alloy or other nonhomogeneous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit.

[or]

[10] [(sells) (gives)] a firearm to a person under 18 years of age who does not possess a valid Firearms Owner's Identification Card.

[or]

[11] [(sells) (gives)] a firearm while engaged in the business of selling firearms at wholesale or retail without being licensed as a federal firearms dealer under the federal Gun Control Act of 1968.

[or]

[12] [(sells) (gives)] ownership of a firearm to a person who does not display to the [(seller) (transferor)] of the firearm a currently valid Firearms Owner's Identification Card that has previously been issued in the transferee's name by the Department of State Police.

[or]

[13] delivers the firearm, not being entitled to the possession of the firearm, knowing it to have been stolen or converted.

Committee Note

Instruction and Committee Note Approved July 18, 2014

720 ILCS 5/24-3 (West 2013), amended by P.A. 88-680, effective January 1, 1995, amended by P.A. 93-162, effective July 10, 2003, adding paragraph [11], amended by P.A. 93-906, effective August 11, 2004, adding paragraph [12], amended by 94-6, effective June 3, 2005, adding "stun gun" and "taser" to paragraph [8], amended by P.A. 97-347, effective January 1, 2012, adding paragraph [13], amended by P.A. 97-1167, effective June 1, 2013, substituting "institution" for "hospital" in paragraph [5] and defining "mental institution" and "patient in a mental institution".

Give Instruction 18.16.

When applicable, give Instruction 18.35G, defining "firearm".

When applicable, give Instruction 18.35I, defining "handgun".

When applicable, give Instruction 18.35K, defining "mental institution".

When applicable, give Instruction 18.35L, defining "patient in a mental institution".

When applicable, give Instruction 18.35M, defining "person engaged in the business".

When applicable, give Instruction 18.35N, defining "with the principal objective of livelihood and profit".

Use the word "hospital" in paragraph [5] for offenses committed before June 1, 2013. Use the word "institution" in paragraph [5] for offenses committed on or after June 1, 2013.

When an enhanced version of the offenses of unlawful sale of firearms as set forth in Section 24-3(a) and 3(i) is charged (*see* 720 ILCS 5/24-3(k) (West 2013)), give Instructions 18.15X and 18.16X.

The bracketed phrase "other long gun" in paragraph [8] should be used only when a question is raised as to the precise nature of the weapon involved and then only in conjunction with the word "rifle" or "shotgun".

Sections 24-3(g) and (j) exempt certain persons and transactions from criminal liability. The defendant bears the burden of proving the exemption by a preponderance of the evidence. *See* 720 ILCS 5/24-2(h) (West 2013); *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 "preponderance of the evidence".

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

18.15X
Definition Of Aggravated Unlawful Sale Of Firearms--Enhancing Factor Based Upon Location

A person commits the offense of aggravated unlawful sale of firearms when he knowingly [(sells) (gives)] a firearm to any person who is under 18 years of age

[A] and the firearm is of a size which may be concealed upon the person; while

[or]

[B] who does not possess a valid Firearm Owner's Identification Card; while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse**.**

Committee Note

720 ILCS 5/24-3(k) (West, 1994), amended by P.A. 88-680, effective January 1, 1995.

Give Instruction 18.16X.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

Sections 24-3(a) and 3(i) define different ways of committing the offenses of selling or giving a firearm to a person under 18 years of age and are presented in separate paragraphs [A] and [B] for clarity purposes. Select the alternative that corresponds to the offense in the charge.

Section 24-3(k) provides enhanced penalties for the violation of Sections 24-3(a) and 3(i) when committed on the premises listed in the above alternatives numbered [1] through [13]. A violation of Section 24-3(a) or 3(i) is increased from a Class 3 to a Class 2 felony. Select the alternative that corresponds to the location in the charge.

The Committee has created separate instructions for "aggravated" unlawful sale of firearms because the State must prove the existence of the enhancing factors beyond a reasonable doubt. See People v. Martin, 266 Ill.App.3d 369, 378-79, 640 N.E.2d 638, 645, 203 Ill.Dec. 718, 725 (4th Dist.1994).

Because the Committee believes that "simple" unlawful sale of firearms instructions will often be given as a lesser included offense when "aggravated" unlawful sale of firearms is charged, the Committee titled this offense "aggravated unlawful sale of firearms" to distinguish it from "simple" unlawful sale of firearms. If only "aggravated" unlawful sale of firearms instructions are given to the jury, the term "aggravated" should be removed from the title as set out in the first sentence of this instruction and issues Instruction 18.16X.

When applicable, give Instruction 18.35F (defining the word "school"), Instruction 18.35J (defining the word "courthouse"), and Instruction 18.35G (defining the word "firearm").

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

18.16
Issues In Unlawful Sale Or Delivery Of Firearms

To sustain the charge of unlawful sale or delivery of firearms, the State must prove the following propositions:

[1] *First Proposition*: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the firearm was of a size which may be concealed upon a person; and

Third Proposition: That the person to whom the defendant [(sold) (gave)] the firearm was under 18 years of age; and

Fourth Proposition: That the defendant knew that the person to whom he [(sold) (gave)] the firearm was under 18 years of age.

[or]

[2] *First Proposition*: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the person to whom the defendant [(sold) (gave)] the firearm was under 21 years of age; and

Third Proposition: That the defendant knew the person to whom he [(sold) (gave)] the firearm had been [(convicted of a misdemeanor other than a traffic offense) (adjudged delinquent)].

[or]

[3] *First Proposition*: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the person to whom the defendant [(sold) (gave)] the firearm was a narcotic addict; and

Third Proposition: That the defendant knew that the person to whom he [(sold) (gave)] the firearm was a narcotic addict.

[or]

[4] *First Proposition*: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the person to whom the defendant [(sold) (gave)] the firearm had been convicted of the offense of _____; and

Third Proposition: That the defendant knew that the person to whom he [(sold) (gave)] the firearm had been convicted of the offense of _____.

[or]

[5] *First Proposition*: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the person to whom the defendant [(sold) (gave)] the firearm had been a patient in a mental [(hospital) (institution)] within the past 5 years; and

Third Proposition: That the defendant knew that the person to whom he [(sold) (gave)] the firearm had been a patient in a mental [(hospital) (institution)] within the past 5 years.

[or]

[6] *First Proposition*: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the person to whom the defendant [(sold) (gave)] the firearm was intellectually disabled; and

Third Proposition: That the defendant knew the person to whom he [(sold) (gave)] the firearm was intellectually disabled.

[or]

[7] *First Proposition*: That the defendant knowingly delivered, incidental to a sale, a firearm of a size which may be concealed upon the person; and

Second Proposition: That the defendant delivered the firearm within 72 hours after application for its purchase had been made.

[or]

[8] *First Proposition*: That the defendant knowingly delivered, incidental to a sale, a [(rifle) (shotgun) (other long gun) (stun gun) (taser)]; and

Second Proposition: That the defendant delivered such [(rifle) (shotgun) (other long gun) (stun gun) (taser)] within 24 hours after application for its purchase had been made.

[or]

[9] *First Proposition*: That the defendant knowingly [(manufactured) (sold) (delivered)] to an unlicensed person a handgun having a [(barrel) (slide) (frame) (receiver)] which is a die casting of a zinc alloy or other nonhomogeneous metal which melts or deforms at a temperature of less than 800 degrees Fahrenheit; and

Second Proposition: That the defendant held a license under the federal Gun Control Act of 1968 as [(a)(an)] [(dealer) (importer) (manufacturer) (pawnbroker)].

[or]

[10] *First Proposition*: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the person to whom the defendant [(sold) (gave)] the firearm was under 18 years of age; and

Third Proposition: That the defendant knew that the person to whom he [(sold) (gave)] the firearm was under 18 years of age; and

Fourth Proposition: That the person to whom the defendant [(sold) (gave)] the firearm did not possess a valid Firearm Owner's Identification Card; and

Fifth Proposition: That the defendant knew that the person to whom he [(sold) (gave)] the firearm did not possess a valid Firearm Owner's Identification Card.

[or]

[11] *First Proposition*: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the defendant was engaged in the business of selling firearms [(wholesale) (retail)]; and

Third Proposition: At the time the defendant was not licensed as a federal firearms dealer under the federal Gun Control Act of 1968.

[or]

[12] *First Proposition*: That the defendant [(sold) (transferred)] ownership of a firearm to another; and

Second Proposition: That the person to whom the defendant [(sold) (transferred)] ownership of the firearm did not display to defendant a currently valid Firearms Owner's Identification Card previously issued in that person's name by the Department of State Police.

[or]

[13] *First Proposition*: That the defendant was not entitled to possession of the firearm; and

Second Proposition: That the defendant delivered the firearm; and

Third Proposition: That the defendant knew the firearm was stolen or converted.

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 _____, you should find the defendant not guilty.]

Committee Note

Instru8ction and Committee Note Approved July 18, 2014

720 ILCS 5/24-3 (West 2013), amended by P.A. 88-680, effective January 1, 1995, amended by P.A. 93-162, effective July 10, 2003, adding paragraph [11], amended by P.A. 93-906, effective August 11, 2004, adding paragraph [12], amended by 94-6, effective June 3, 2005, adding "stun gun" and "taser" to paragraph [8], amended by P.A. 97-347, effective January 1, 2012, adding paragraph [13], amended by P.A. 97-1167, effective June 1, 2013, substituting "institution" for "hospital" in paragraph [5] and defining "mental institution" and "patient in a mental institution".

Give Instruction 18.15.

When applicable, give Instruction 18.35G, defining "firearm".

When applicable, give Instruction 18.35I, defining "handgun".

When applicable, give Instruction 18.35K, defining "mental institution".

When applicable, give Instruction 18.35L, defining "patient in a mental institution".

When applicable, give Instruction _18.35M, defining "person engaged in the business".

When applicable, give Instruction _18.35N, defining "with the principal objective of livelihood and profit".

Use the word "hospital" in paragraph [5] for offenses committed before June 1, 2013. Use the word "institution" in paragraph [5] for offenses committed on or after June 1, 2013.

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction 18.15.

See Committee Note to Instruction 18.15 for appropriate use of the bracketed phrase "other long gun" and the need for additional definition instructions.

Insert in the blank in the Third Proposition in the second set of propositions the misdemeanor conviction other than a traffic offense.

Insert in the blank in the Second Proposition in the fourth set of propositions the felony conviction.

Section 24-3, in part, provides that a person commits the offense of unlawful sale of firearms when he knowingly transfers a firearm to a person prohibited from possessing a firearm by reason of age, mental condition, prior convictions, or prior adjudication of delinquency. While Section 24-3 does require the mental state of knowledge, it does not indicate precisely which elements of the offense require knowledge on the part of the defendant. The statute appears to require that the transfer of the firearm be knowingly made but is less clear as to whether the defendant must also have knowledge of the status of the transferee as underage, a former mental patient, intellectually disabled, or possessing a prior conviction or adjudication of delinquency. Section 4-3 provides that where, as here, a statute defining an offense prescribes a mental state with respect to the offense as a whole, without distinguishing among the elements thereof, the prescribed mental state applies to each element of the offense. Since the status of the transferee is an element of the crime under Section 24-3, the Committee is of the opinion that Section 4-3 requires the defendant to have knowledge of that status at the time the firearm is transferred. Therefore, this instruction includes a requirement that the State prove that the defendant had knowledge of the relevant status of the person to whom the firearm was transferred. While the Committee is of the opinion that Sections 4-3 and 24-3 require this result, the Committee is not aware of any reported decision discussing the issue.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

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. Give Instruction 5.03.

18.16X
Issues In Aggravated Unlawful Sale Of Firearms--Enhancing Factor Based Upon Location

To sustain the charge of aggravated unlawful sale of firearms, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second Proposition: That the person to whom the defendant [(sold) (gave)] the firearm was under 18 years of age; and

Third Proposition: That the defendant knew that the person to whom he [(sold) (gave)] the firearm was under 18 years of age; and

[A] *Fourth Proposition:* That the firearm was of a size which may be concealed upon a person; and

Fifth Proposition: That the defendant did so while

[or]

[B] *Fourth Proposition:* That the person to whom the defendant [(sold) (gave)] the firearm did not possess a valid Firearm Owner's Identification Card; and

Fifth Proposition: That the defendant knew that the person to whom he [(sold) (gave)] the firearm did not possess a valid Firearm Owner's Identification Card; and

Sixth Proposition: That the defendant did so while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] on a public way within 1000 feet of the real property comprising a school.

[or]

[4] on any conveyance [(owned) (leased) (contracted)] by a school to transport students to and from [(school) (a school related activity)].

[or]

[5] in residential property owned, operated, and managed by a public housing agency.

[or]

[6] on the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[7] on a public way within 1000 feet of the real property comprising residential property owned, operated, and managed by a public housing agency.

[or]

[8] in a public park.

[or]

[9] on the real property comprising a public park.

[or]

[10] on a public way within 1000 feet of the real property comprising a public park.

[or]

[11] in a courthouse.

[or]

[12] on the real property comprising a courthouse.

[or]

[13] on a public way within 1000 feet of the real property comprising a courthouse.

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.

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.

Committee Note

720 ILCS 5/24-3(k) (West, 1994), amended by P.A. 88-680, effective January 1, 1995.

Give Instruction 18.15X.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

The bracketed portions [A] and [B] correspond to the alternatives of the same letter in Instruction 18.15X, the definitional instruction for this offense, and the bracketed numbers [1] through [13] correspond to the alternatives of the same number in Instruction 18.15X. Select the alternatives that correspond to the alternatives selected from the definitional instruction.

See the Committee Note to Instruction 18.16 regarding the mental state of knowledge which the Committee has set forth in the Third Proposition and the Fifth Proposition in alternative [B].

See Committee Note to Instruction 18.15X concerning the need for definitional instructions and a discussion of penalty enhancement under Sections 24-3(a) and 3(i) based upon the location of the offense charged.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

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.

18.17
Definition Of Unlawful Possession Of Firearms And Firearm Ammunition

A person commits the offense of unlawful possession of [(firearms) (firearm ammunition) (handguns)] when he

[1] is under 18 years of age and knowingly has in his possession a [(firearm of a size) (handgun)] which may be concealed upon his person.

[or]

[2] is under 21 years of age and has been [(convicted of the offense of ____) (adjudged delinquent)] and knowingly has in his possession [(a firearm) (firearm ammunition) (a handgun)].

[or]

[3] is a narcotic addict and knowingly has in his possession [(a firearm) (firearm ammunition) (a handgun)].

[or]

[4] has been a patient in a mental hospital within the past 5 years and knowingly has in his possession [(a firearm) (firearm ammunition) (a handgun)].

[or]

[5] is intellectually disabled and knowingly has in his possession [(a firearm) (firearm ammunition) (a handgun)].

[or]

[6] knowingly has in his possession an explosive bullet.

Committee Note

720 ILCS 5/24-3.1 (West 2023).

When applicable, give Instruction 18.35I, defining "handgun".

When giving paragraph [6], give Instruction 18.35B, defining "explosive bullet".

Although Section 24-3.1 does not include a mental state, any possession must be knowing. See 720 ILCS 5/4-2 (West 1994). See also *People v. Woodworth*, 187 Ill.App.3d 44, 542 N.E.2d 1321 (5th Dist.1989).

Insert in the blank the name of the misdemeanor other than a traffic offense when applicable.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

18.18
Issues In Unlawful Possession Of Firearms And Firearm Ammunition

To sustain the charge of unlawful possession of [(firearms) (firearm ammunition) (handguns)], the State must prove the following proposition[s]:

[1] *First Proposition:* That the defendant was under 18 years of age; and

Second Proposition: That the defendant knowingly had in his possession a [(firearm) (handgun)]; and

Third Proposition: That the [(firearm) (handgun)] was of a size which could be concealed on defendant's person.

[or]

[2] *First Proposition:* That the defendant was under 21 years of age; and

Second Proposition: That the defendant had been [(convicted of the offense of ____) (adjudged delinquent)]; and

Third Proposition: That the defendant knowingly had in his possession [(a firearm) (firearm ammunition) (a handgun)].

[or]

[3] *First Proposition:* That the defendant was a narcotic addict; and

Second Proposition: That the defendant knowingly had in his possession [(a firearm) (firearm ammunition) (a handgun)].

[or]

[4] *First Proposition:* That the defendant was a patient in a mental hospital within the past 5 years; and

Second Proposition: That the defendant knowingly had in his possession [(a firearm) (firearm ammunition) (a handgun)].

[or]

[5] *First Proposition:* That the defendant was intellectually disabled; and
Second Proposition: That the defendant knowingly had in his possession [(a firearm) (firearm ammunition) (a handgun)].

[or]

[6] That the defendant knowingly had in his possession an explosive bullet.

If you find from your consideration of all the evidence that [(this) (each one of these)] proposition[s] has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that [(this) (any one of these)] proposition[s] has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

720 ILCS 5/24-3.1 (West 2023).

Give Instruction 18.17.

The bracketed numbers [1] through [6] correspond to the paragraphs of the same number in Instruction 18.17, the definitional instruction for these offenses.

Insert in the blank in the second set of propositions the name of the misdemeanor other than a traffic offense when applicable.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

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.

18.19
Definition Of Unlawful Sale Or Delivery Of Firearms On School Or Public Housing Premises

A person commits the offense of unlawful [(sale) (delivery)] of firearms on the premises of a [(school) (public housing facility)] when he, being 18 years of age or older, [(knowingly) (intentionally) (recklessly)] [(sells) (gives) (delivers)] a firearm to any person under 18 years of age while

[1] in a school [regardless of the [(time of day) (time of year)]].

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]].

[or]

[3] in residential property owned, operated, and managed by a public housing agency.

[or]

[4] on the real property comprising residential property owned, operated, and managed by a public housing agency.

Committee Note

720 ILCS 5/24-3.3 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §24-3.3 (1991)), amended by P.A. 87-524, effective January 1, 1992.

Give Instruction 18.20.

When appropriate, give Instruction 18.35F, defining the word "school."

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

The bracketed numbers [1] through [4] correspond to the locations indicated in Section 24-3.3. Select the alternative that corresponds to the location in the charge.

Because Section 24-3.3 does not include a mental state, the Committee decided to provide three alternative mental states pursuant to 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). The Committee believes this action to be in accordance with People v. Anderson, 148 Ill.2d 15, 591 N.E.2d 461, 169 Ill.Dec. 288 (1992), which held that even though the criminal hazing statute listed no mental state, Section 4-3(b) still placed on the

State the burden of proving either intent, knowledge, or recklessness. (*But see* People v. Gean, 143 Ill.2d 281, 573 N.E.2d 818, 158 Ill.Dec. 5 (1991), People v. Tolliver, 147 Ill.2d 397, 589 N.E.2d 527, 168 Ill.Dec. 127 (1992), and People v. Whitlow, 89 Ill.2d 322, 433 N.E.2d 629, 60 Ill.Dec. 587 (1982) for cases in which the Illinois Supreme Court used Section 4-3(b) to choose one or two, but not all three, of these mental states for particular offenses having no statutorily specified mental state.) Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction.

Section 24-3.3 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."

Use applicable bracketed material.

18.20
Issues In Unlawful Sale Or Delivery Of Firearms On School Or Public Housing Premises

To sustain the charge of unlawful [(sale) (delivery)] of firearms on the premises of a [(school) (public housing facility)], the State must prove the following propositions:

First Proposition: That the defendant [(knowingly) (intentionally) (recklessly)] [(sold) (gave) (delivered)] a firearm; and

Second Proposition: That when the defendant did so, he was 18 years of age or older; and

Third Proposition: That the defendant [(sold) (gave) (delivered)] the firearm while

[1] in a school [regardless of the [(time of day) (time of year)]]; and

[or]

[2] on the real property comprising a school [regardless of the [(time of day) (time of year)]]; and

[or]

[3] in residential property owned, operated, and managed by a public housing agency; and

[or]

[4] on the real property comprising residential property owned, operated, and managed by a public housing agency; and

Fourth Proposition: That the person to whom the firearm was [(sold) (given) (delivered)] was under 18 years of age.

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 ____, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-3.3 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §24-3.3 (1991)), amended by P.A. 87-524, effective January 1, 1992.

Give Instruction 18.19.

When appropriate, give Instruction 18.35F, defining the word "school."

Use the bracketed portion of the last paragraph of the instruction when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction 18.19.

Use the bracketed material regarding the time of day or time of year of the events in question for alternatives [1] and [2] only when the time of day or time of year becomes a potential issue.

The bracketed numbers [1] through [4] under the Third Proposition correspond to the alternatives of the same number in Instruction 18.19, the definitional instruction for this offense. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Because Section 24-3.3 does not include a mental state, the Committee decided to provide three alternative mental states pursuant to 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). The Committee believes this action to be in accordance with People v. Anderson, 148 Ill.2d 15, 591 N.E.2d 461, 169 Ill.Dec. 288 (1992), which held that even though the criminal hazing statute listed no mental state, Section 4-3(b) still placed on the State the burden of proving either intent, knowledge, or recklessness. (*But see* People v. Gean, 143 Ill.2d 281, 573 N.E.2d 818, 158 Ill.Dec. 5 (1991), People v. Tolliver, 147 Ill.2d 397, 589 N.E.2d 527, 168 Ill.Dec. 127 (1992), and People v. Whitlow, 89 Ill.2d 322, 433 N.E.2d 629, 60 Ill.Dec. 587 (1982) for cases in which the Illinois Supreme Court used Section 4-3(b) to choose one or two, but not all three, of these mental states for particular offenses having no statutorily specified mental state.) Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction.

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.

18.21
Definition Of Failure To Keep A Register Of Firearm Sales By Dealer

A person, other than [(a manufacturer selling to a bona fide wholesaler) (a manufacturer selling to a bona fide retailer) (a wholesaler selling to a bona fide retailer)], who sells firearms of a size which may be concealed upon the person, commits the offense of failure to keep a register of firearm sales by dealer when he

[1] fails to keep a register of all firearms sold or given away, containing the date of the sale or gift, the name, address, age, and occupation of the person to whom the firearm is sold or given, the price of the firearm, the kind, description and number of the firearm, and the purpose for which it is purchased and obtained.

[or]

[2] on demand of a peace officer, fails to produce for the police officer's inspection all stock on hand and a register of all firearms sold or given away by him containing the dates of the sales or gifts, the name, address, age, and occupation of the persons to whom the firearms had been sold or given, the price of the firearm, the kind, description, and number of each firearm and the purpose for which the firearms were purchased and obtained.

Committee Note

720 ILCS 5/24-4 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-4 (1991)).

Give Instruction 18.22.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

18.22
Issues In Failure To Keep A Register Of Firearm Sales By Dealer

To sustain the charge of failure to keep a register of firearm sales by dealer, the State must prove the following propositions:

First Proposition: That the defendant was engaged as a seller, other than [(a manufacturer selling to a bona fide wholesaler) (a manufacturer selling to a bona fide retailer) (a wholesaler selling to a bona fide retailer)], of firearms of a size which might be concealed on a person; and

Second Proposition: That the defendant sold or gave away a firearm for which he did not keep a register containing the date of the sale or gift, the name, address, age, and occupation of the person to whom the firearm was sold or given, the price of the firearm, the kind, description, and number of the firearm, and the purpose for which the firearm was purchased and obtained.

[or]

Second Proposition: That upon demand of a police officer, the defendant failed to produce for the police officer's inspection all stock on hand and a register of all firearms sold or given away by the defendant containing the dates of sales or gifts, the name, address, age, and occupation of the persons to whom the firearms had been sold or given, the prices of the firearms, the kind, description, and number of each firearm, and the purpose for which the firearms were purchased and obtained.

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.

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.

Committee Note

720 ILCS 5/24-4 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-4 (1991)).

Give Instruction 18.21.

Use applicable paragraphs and 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.

18.23
Definition Of Defacing The Identification Marks Of Firearms

A person commits the offense of defacing the identification marks of firearms when he [(intentionally) (knowingly)] changes, alters, removes, or obliterates [(the name of the maker) (the name of the model) (the manufacturer's number) (any identification mark)] of a firearm.

Committee Note

720 ILCS 5/24-5 (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §24-5 (1991)), amended by P.A. 88-680, effective January 1, 1995.

Give Instruction 18.24.

No instruction should be given concerning the provision in Section 24-5(b) that possession of an altered firearm is "*prima facie* evidence" that the possessor altered the firearm. See People v. Gray, 99 Ill.App.3d 851, 426 N.E.2d 290, 55 Ill.Dec. 315 (5th Dist.1981). See also Committee Note to Instruction 18.24A.

Use applicable bracketed material.

18.23X
Definition Of Possession Of A Defaced Firearm

A person commits the offense of possession of a defaced firearm when he knowingly possesses any firearm whose importer's or manufacturer's serial number he knows to have been [(changed) (altered) (removed) (obliterated).]

Committee Note

720 ILCS 5/24-5(b) (West 2024).

Give Instruction 18.24X.

People v. Ramirez, 2023 IL 128123 (holding that an implied *mens rea* of knowledge applies to both elements of the offense: possession and defacement); overruling *People v. Stanley*, 397 Ill. App. 3d 598, 921 N.E.2d 445 (1st Dist. 2009) (holding that knowledge only applied to the possessory component of the offense).

Use applicable bracketed material.

18.24
Issues In Defacing The Identification Marks Of Firearms

To sustain the charge of defacing the identification marks of firearms, the State must prove the following proposition:

That the defendant [(intentionally) (knowingly)] changed, altered, removed, or obliterated [(the name of the maker) (the name of the model) (the manufacturer's number) (any identification mark)] of a firearm.

If you find from your consideration of all the evidence that this proposition has been proved beyond a reasonable doubt, you should find the defendant guilty.

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

Committee Note

720 ILCS 5/24-5 (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §24-5 (1991)), amended by P.A. 88-680, effective January 1, 1995.

Give Instruction 18.23.

See Committee Note to Instruction 18.23, concerning the effect of the statutory provision that possession of an altered firearm is "*prima facie* evidence" that the possessor altered the firearm.

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." See Instruction 5.03.

18.24A
Interference Arising From Possession Of Altered Firearms

Committee Note

This instruction has been withdrawn.

Committee Note

In 2004, as to possession of a firearm, the legislature removed the following language from Section 24-5(b), "shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same". See P.A. 93-906, effective August 11, 2004. Accordingly, no such inference exists.

See also *People v. Ramirez*, 2023 IL 128123 (holding that an implied mens rea of knowledge applies to both elements of the offense: possession and defacement); overruling *People v. Stanley*, 397 Ill. App. 3d 598, 921 N.E.2d 445 (1st Dist. 2009) (holding that knowledge only applied to the possessory component of the offense).

18.24X
Issues In Possession Of A Defaced Firearm

To sustain the charge of possession of a defaced firearm, the State must prove the following propositions:

First Proposition: That the defendant knowingly possessed a firearm; and

Second Proposition: That the [(importer's) (manufacturer's)] serial number on the firearm was [(changed) (altered) (removed) (obliterated)]; and

Third Proposition: That the defendant knew the [(importer's) (manufacturer's)] serial number on the firearm was [(changed) (altered) (removed) (obliterated)].

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.

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

Committee Note

720 ILCS 5/24-5(b) (West 2024)

Give Instruction 18.23X.

People v. Ramirez, 2023 IL 128123 (holding that an implied *mens rea* of knowledge applies to both elements of the offense: possession and defacement); overruling *People v. Stanley*, 397 Ill. App. 3d 598, 921 N.E.2d 445 (1st Dist. 2009) (holding that knowledge only applied to the possessory component of the offense).

Use applicable bracketed material.

18.25
Definition Of Failure To Possess A Firearm Owner's Identification Card

A person commits the offense of failure to possess a firearm owner's identification card when he knowingly [(acquires) (possesses)] [(a firearm) (firearm ammunition) (stun gun) (taser)] at a time when he does not have in his possession a firearm owner's identification card previously issued in his name by the Illinois State Police.

Committee Note

430 ILCS 65/2(a) (West 2024).

Give Instruction 18.26.

Persons identified in Section 65/2(b), including members of the armed forces, federal marshals and others, are excluded from the requirement of possessing a firearm owner's identification card. Section 65/2(b), however, does not indicate whether these exceptions are to be treated as exemptions from criminal liability or are to be treated as affirmative defenses. If Section 65/2(b) creates exemptions from criminal liability, then the defendant has the burden of proving the exemptions by a preponderance of the evidence, *People v. Smith*, 71 Ill.2d 95, 374 N.E.2d 472 (1978), and the instructions may be patterned after Instructions 18.01A and 18.02. If Section 65/2(b) creates an affirmative defense, then the State has the burden of disproving the exception once raised by the evidence, and the instructions should follow the format suggested in the Committee Note to Instructions 18.09 and 18.10. See 720 ILCS 5/3-2. Although the Committee takes no position on the issue, the fact that the legislature has not labeled the provisions of Section 65/2(b) as an affirmative defense is some indication that the exceptions in Section 65/2(b) should be treated as exemptions. See *People v. Smith*, 71 Ill.2d 95, 374 N.E.2d 472 (1978) ("whenever the legislature intends a provision to constitute an affirmative defense it has labeled it as such").

Use applicable bracketed material.

18.26
Issues In Failure To Possess A Firearm Owner's Identification Card

To sustain the charge of failure to possess a firearm owner's identification card, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(acquired) (possessed)] [(a firearm) (firearm ammunition) (stun gun) (taser)] within this State; and

Second Proposition: That the defendant at the time of his [(acquisition) (possession)] of the [(firearm) (firearm ammunition) (stun gun) (taser)] failed to have in his possession a firearm owner's identification card previously issued in his name by the Illinois State Police.

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.

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.

Committee Note

430 ILCS 65/2(a) (West 2024).

Give Instruction 18.25.

The fact that a defendant may own a firearm owner's identification card is irrelevant to the offense of possessing a firearm without having such card in his possession. See *People v. Cahill*, 37 Ill.App.3d 361, 345 N.E.2d 528 (2d Dist.1976); *People v. Elders*, 63 Ill.App.3d 554, 380 N.E.2d 10(5th Dist.1978).

Section 65/2(a) excludes certain persons from the requirement of possessing a Firearms Owner's Identification Card. See Committee Note to Instruction 18.25, concerning which party bears the burden of proof on the issue.

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.

18.27
Definition Of Unlawful Use Of Metal Piercing Bullets

A person commits the offense of unlawful use of metal piercing bullets when he knowingly [(manufactures) (sells) (purchases) (possesses) (carries)] a metal piercing bullet.

Committee Note

720 ILCS 5/24-2.1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-2.1 (1991)).

Give Instruction 18.28.

Give Instruction 18.35H, defining the phrase "metal piercing bullet."

Section 24-2.1(b) exempts certain persons from criminal liability. The defendant bears the burden of proving the exemption by a preponderance of the evidence. See Section 24-2.1(c); 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 phrase "preponderance of the evidence."

Use applicable bracketed material.

18.28
Issues In Unlawful Use Of Metal Piercing Bullets

To sustain the charge of unlawful use of metal piercing bullets, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(manufactured) (sold) (purchased) (possessed) (carried)] a bullet; and

Second Proposition: That at the time the defendant [(manufactured) (sold) (purchased) (possessed) (carried)] the bullet, he knew it was a metal piercing bullet.

If you find from your consideration of all the evidence that these propositions have 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 these propositions have 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 ____, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-2.1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-2.1 (1991)).

Give Instruction 18.27.

Give Instruction 18.35H, defining the phrase "metal piercing bullet."

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction 18.27.

Section 24-2.1 provides that a person commits the offense of unlawful use of metal piercing bullets when he knowingly manufactures, sells, purchases, possesses, or carries a metal piercing bullet. While Section 24-2.1 does require the mental state of knowledge, it does not indicate precisely which elements of the offense require knowledge on the part of the defendant. The statute appears to require that the manufacture, sale, purchase, possession, or carrying be knowing, but is less clear as to whether the defendant must know the bullet is metal piercing. Section 4-3 provides that where, as here, a statute defining an offense prescribes a mental state with respect to the offense as a whole, without distinguishing among the elements thereof, the prescribed mental state applies to each element of the offense. Since the nature of the bullet is an element of the offense under Section 24-2.1, the Committee is of the opinion that Section 4-3 requires the defendant to have knowledge of the nature of the bullet at the time it is possessed. Therefore, this instruction includes a requirement that the State prove that the defendant had knowledge of the metal piercing nature of the bullet. While the Committee is of the opinion that Sections 4-3 and 24-2.1 requires this result, the Committee is not aware of any reported decision discussing the issue.

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.

18.29
Definition Of Manufacture, Sale, Or Transfer Of Bullets Represented To Be Metal Piercing Bullets

A person commits the offense of [(manufacture) (sale) (transfer)] of metal piercing bullets when he knowingly [(manufactures) (sells) (offers to sell) (transfers)] any bullet which is represented to be [(metal or armor piercing) (polytetrafluoroethylene-coated) (jacketed and having a core other than lead or lead alloy) (wholly composed of metal or metal alloy other than lead)].

Committee Note

720 ILCS 5/24-2.2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-2.2 (1991)).

Give Instruction 18.30.

Section 24-2.2(b) exempts certain persons from criminal liability. The defendant bears the burden of proving the exemption by a preponderance of the evidence. See Section 24-2.2(c); 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 phrase "preponderance of the evidence."

Use applicable bracketed material.

18.30
Issues In Manufacture, Sale, Or Transfer Of Bullets Represented To Be Metal Piercing Bullets

To sustain the charge of [(manufacture) (sale) (transfer)] of bullets represented to be metal piercing bullets, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(manufactured) (sold) (offered to sell) (transferred)] a bullet; and

Second Proposition: That the defendant represented such bullet to be [(metal or armor piercing) (polytetrafluoroethylene-coated) (jacketed and having a core other than lead or lead alloy) (wholly composed of a metal or metal alloy other than lead)].

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 ____, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-2.2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-2.2 (1991)).

Give Instruction 18.29.

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction 18.29.

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.

18.31
Definition Of Unlawful Discharge Of Metal Piercing Bullets

A person commits the offense of unlawful discharge of metal piercing bullets when he, knowing that a firearm is loaded with a metal piercing bullet, [(intentionally) (recklessly)] discharges the firearm and the metal piercing bullet strikes another person.

Committee Note

720 ILCS 5/24-3.2(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-3.2(b) (1991)).

Give Instruction 18.32.

Give Instruction 18.35H, defining the phrase "metal piercing bullet."

Section 24-3.2(b) incorporates the definition of firearm found in 430 ILCS 65/1.1. As a result, Instruction 18.35G, which defines the word "firearm" in the language of 430 ILCS 65/1.1, should be given.

Section 24-3.2(d) 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 the exemption is raised by the defendant, give Instruction 18.01A, defining the applicable exemption, and Instruction 4.18, defining the phrase "preponderance of the evidence."

18.32
Issues In Unlawful Discharge Of Metal Piercing Bullets

To sustain the charge of unlawful discharge of metal piercing bullets, the State must prove the following propositions:

First Proposition: That the defendant knew that a firearm was loaded with a metal piercing bullet; and

Second Proposition: That the defendant [(intentionally) (recklessly)] discharged the firearm; and

Third Proposition: That the discharged metal piercing bullet struck another person.

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 ____, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-3.2(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-3.2(b) (1991)).

Give Instruction 18.31.

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction 18.31.

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.

18.33
Definition Of Unlawful Possession Of A Concealed Metal Piercing Bullet And Firearm

A person commits the offense of unlawful possession of a concealed metal piercing bullet and firearm when he knowingly possesses, concealed on or about his person, a metal piercing bullet and a firearm suitable for the discharge of the metal piercing bullet.

Committee Note

720 ILCS 5/24-3.2(c) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-3.2(c) (1991)).

Give Instruction 18.34.

Give Instruction 18.35H, defining the phrase "metal piercing bullet."

Unlike Section 24-3.2(b), Section 24-3.2(c) does not incorporate the definition of firearm found in 430 ILCS 65/1.1. As a result, the Committee takes no position on whether Instruction 18.35G, defining the word "firearm," should be given when this charge is before the jury.

The Committee discussed the issue of whether recklessness could suffice as a mental state for this offense based upon the use of the word "recklessly" in Section 24-3.2(a). The Committee was of the opinion that Section 24-3.2(a) is not sufficiently clear to evidence a legislative intent to deviate from the general rule that any possession must be knowing. See Chapter 38, Section 4-2; see also People v. Woodworth, 187 Ill.App.3d 44, 542 N.E.2d 1321, 134 Ill.Dec. 814 (5th Dist.1989). As a result, knowledge is the only mental state included in the instruction.

Section 24-3.2(d) 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 phrase "preponderance of the evidence."

18.34
Issues In Unlawful Possession Of A Concealed Metal Piercing Bullet And Firearm

To sustain the charge of unlawful possession of a concealed metal piercing bullet and firearm, the State must prove the following propositions:

First Proposition: That the defendant knowingly possessed a bullet; and

Second Proposition: That the defendant knew it was a metal piercing bullet; and

Third Proposition: That when the defendant did so, he knowingly possessed a firearm; and

Fourth Proposition: That the firearm was suitable for the discharge of the metal piercing bullet; and

Fifth Proposition: That the metal piercing bullet and the firearm were concealed on or about the defendant's person.

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 ____, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-3.2(c) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-3.2(c) (1991)).

Give Instruction 18.33.

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction 18.33.

See the Committee Note to Instruction 18.33 for a discussion of the applicable mental state.

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.

18.35
Definition Of Ballistic Knife

The term "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. [It does not include crossbows, common or compound bows, or underwater spearguns.]

Committee Note

720 ILCS 5/24-1(a) and (e) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1(a) and (e) (1991)).

Use bracketed material when appropriate.

18.35A
Definition Of Switchblade Knife

The term "switchblade knife" means a knife which has a blade that opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife.

Committee Note

720 ILCS 5/24-1(a)(1) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1(a)(1) (1991)).

18.35B
Definition Of Explosive Bullet

The term "explosive bullet" means the projectile portion of an ammunition cartridge which contains or carries an explosive charge which will explode upon contact with the flesh of a human or an animal.

Committee Note

720 ILCS 5/24-1(a)(11) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1(a)(11) (1991)).

See Instruction 18.35C, defining the word "cartridge."

18.35C
Definition Of Cartridge

The word "cartridge" means a tubular metal case having a projectile affixed at the front and a cap or primer at the rear end, with the propellant contained in the tube between the projectile and the cap.

Committee Note

720 ILCS 5/24-1(a)(11) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1(a)(11) (1991)).

18.35D
Definition Of Machine Gun

The term "machine gun" means any weapon which [(shoots) (is designed to shoot) (can be readily restored to shoot)] automatically more than one shot, without manually reloading by a single function of a trigger, including the frame or receiver of such weapon.

Committee Note

720 ILCS 5/24-1(a)(7) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1(a)(7) (1991)).

18.35E
Definition Of Stun Gun Or Taser

The phrase "stun gun or taser" means

[1] any device which is powered by electrical charging units, such as batteries, and which fires one or several barbs attached to a length of wire and which, upon hitting a human, can send out a current capable of disrupting a person's nervous system in such a manner as to render him incapable of normal functioning.

[or]

[2] any device which is powered by electrical charging units, such as batteries, and which, upon contact with a human or clothing worn by a human, can send out a current capable of disrupting a person's nervous system in such a manner as to render him incapable of normal functioning.

Committee Note

720 ILCS 5/24-1(a)(10) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-1(a)(10) (1991)).

Use applicable paragraphs.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

18.35F
Definition Of School--Weapons

The word "school" means any public or private elementary or secondary school, community college, college, or university.

Committee Note

720 ILCS 5/24-1(c)(4) (West Supp.1993) and 24-3.3 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §24-3.3 (1991)).

18.35G
Definition Of Firearm

The word "firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas. [The term does not include ____.]

Committee Note

430 ILCS 65/1.1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §83-1.1 (1991)).

Insert in the blank the name or description of any gun or device excluded from the definition by subsections (1), (2), (3), or (4) of Section 65/1.1.

Use bracketed material when appropriate.

18.35H
Definition Of Metal Piercing Bullet

The phrase "metal piercing bullet" includes polytetrafluoroethylene-coated bullets, jacketed bullets with other than lead or lead alloy cores, and ammunition of which the bullet is wholly composed of a metal or metal alloy other than lead. [The term does not include shotgun shells.]

Committee Note

720 ILCS 5/24-3.2(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-3.2(a) (1991)).

Use bracketed material when appropriate.

18.35I
Definition Of Handgun

The word "handgun" means a firearm designed to be held and fired by the use of a single hand, and includes a combination of parts from which a firearm can be assembled.

Committee Note

720 ILCS 5/24-3(h) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §24-3(h) (1991)).

18.35II
Definition Of Handgun For Aggravated Possession Of A Weapon

The word "handgun" means any device which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas that is designed to be held and fired by the use of a single hand. The word "handgun" does not include:

a stun gun or taser;

a machine gun, defined as any weapon, which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manually reloading by a single function of the trigger, including the frame or receiver of any such weapon, or sells, manufactures, purchases, possesses, or carries any combination of parts designed or intended for use in converting any weapon into a machine gun, or any combination or parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person;

a short -barreled rifle or shotgun, defined as any rifle having one or more barrels less than 16 inches in length or a shotgun having one or more barrels less than 18 inches in length or any weapon made from a rifle or shotgun, whether by alteration, modification, or otherwise, if such a weapon as modified has an overall length of less than 26 inches;

any pneumatic gun, spring gun, paint ball gun, or B-B gun which expels a single globular projectile not exceeding .18 inch in diameter, or which has a maximum muzzle velocity of less than 700 feet per second, or which expels breakable paint balls containing washable marking colors.

Committee Note

430 ILCS 66/5 (West 2025).

Section 24-1.6(a-5) incorporates the definition of handgun found in 430 ILCS 66/5. As a result this instruction, which defines the word "handgun" in the language of 430 ILCS 66/5, should be given when applicable.

18.35J
Definition Of Courthouse--Weapons

The word "courthouse" means any building that is used by the Circuit, Appellate, or Supreme Court of this State for the conduct of official business.

Committee Note

720 ILCS 5/24-1(c)(2) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §24-1(c)(2) (1991)), amended by P.A. 88-156, effective July 28, 1993.

18.35K
Definition Of Mental Institution

The phrase "mental institution" means any hospital, institution, clinic, evaluation facility, mental health center, or part thereof, which is used primarily for the care or treatment of persons with mental illness.

Committee Note

Instruction and Committee Note Approved July 18, 2014

720 ILCS 5/24-3(A)(e) (West 2013) P.A. 97-1167, effective June 1, 2013.

18.35L
Definition Of Patient In A Mental Institution

The phrase "patient in a mental institution" means the person was admitted, either voluntarily or involuntarily, to a mental institution for mental health treatment, unless the treatment was voluntary and solely for an alcohol abuse disorder and no other secondary substance abuse disorder or mental illness.

Committee Note

Instruction and Committee Note Approved July 18, 2014

720 ILCS 5/24-3(A)(e) (West 2013) P.A. 97-1167, effective June 1, 2013.

18.35M
Definition Of Person Engaged In The Business

The phrase "person engaged in the business" means a person who devotes time, attention, and labor to engaging in the activity as a regular course of trade or business with the principal objective of livelihood and profit, but does not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms.

Committee Note

Instruction and Committee Note Approved July 18, 2014

720 ILCS 5/24-3 (A)(j) (West 2013) P.A. 93-162, effective July 10, 2003.

18.35N
Definition Of With The Principal Objective Of Livelihood And Profit

The phrase "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection; however, proof of profit shall not be required as to a person who engaged in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism.

Committee Note

Instruction and Committee Note Approved July 18, 2014

720 ILCS 5/24-3 (A)(j) (West 2013) P.A. 93-162, effective July 10, 2003.

18.35O
Definition Of School

The term "school" means a public or private elementary or secondary school, community college, college, or university.

Committee Note

Instruction and Committee Note Approved December 2, 2014

720 ILCS 5/24-1.2(c) (West 2013).

18.35P
Definition Of School Related Activity

The phrase "school related activity" means any sporting, social, academic, or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

Committee Note

Instruction and Committee Note Approved December 2, 2014

720 ILCS 5/24-1.2(c) (West 2013).

18.37
Definition Of Unlawful Discharge Of A Firearm--Discharge In A Cemetery

A person commits the offense of unlawful discharge of a firearm when he

[1] [(intentionally) (knowingly) (recklessly)] [(hunts) (shoots any gun, pistol, or other missile) (discharges any gun, pistol, or other missile)] within the limits of any cemetery.

[or]

[2] [(intentionally) (knowingly) (recklessly)] causes any shot or missile to be discharged into or over any portion of a cemetery.

Committee Note

765 ILCS 835/1(e) (West, 1992) (formerly Ill.Rev.Stat. ch. 21, §15(e) (1991)).

Give Instruction 18.38.

Because Section 1(e) does not include a mental state, the Committee decided to provide three alternative mental states pursuant to 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). The Committee believes this action to be in accordance with People v. Anderson, 148 Ill.2d 15, 591 N.E.2d 461, 169 Ill.Dec. 288 (1992), which held that even though the criminal hazing statute listed no mental state, Section 4-3(b) still placed on the State the burden of proving either intent, knowledge, or recklessness. (*But see* People v. Gean, 143 Ill.2d 281, 573 N.E.2d 818, 158 Ill.Dec. 5 (1991), People v. Tolliver, 147 Ill.2d 397, 589 N.E.2d 527, 168 Ill.Dec. 127 (1992), and People v. Whitlow, 89 Ill.2d 322, 433 N.E.2d 629, 60 Ill.Dec. 587 (1982) for cases in which the Illinois Supreme Court used Section 4-3(b) to choose one or two, but not all three, of these mental states for particular offenses having no statutorily specified mental state.) Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction.

Section 1(g) of the statute excludes "the discharge of firearms loaded with blank ammunition as part of any funeral, any memorial observance or any other patriotic or military ceremony."

Use applicable bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.38
Issues In Unlawful Discharge Of A Firearm--Discharge In A Cemetery

To sustain the offense of unlawful discharge of a firearm, the State must prove the following proposition:

[1] That the defendant [(intentionally) (knowingly) (recklessly)] [(hunted) (shot a gun, pistol, or other missile) (discharged a gun, pistol, or other missile)] within the limits of a cemetery.

[or]

[2] That the defendant [(intentionally) (knowingly) (recklessly)] caused any shot or missile to be discharged into or over any portion of a cemetery.

If you find from your consideration of all the evidence that this proposition has been proved beyond a reasonable doubt, you should find the defendant guilty.

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

Committee Note

765 ILCS 835/1(e) (West, 1992) (formerly Ill.Rev.Stat. ch. 21, §15(e) (1991)), amended by P.A. 87-527, effective September 16, 1991.

Give Instruction 18.37.

Because Section 1(e) does not include a mental state, the Committee decided to provide three alternative mental states pursuant to 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). The Committee believes this action to be in accordance with People v. Anderson, 148 Ill.2d 15, 591 N.E.2d 461, 169 Ill.Dec. 288 (1992), which held that even though the criminal hazing statute listed no mental state, Section 4-3(b) still placed on the State the burden of proving either intent, knowledge, or recklessness. (*But see* People v. Gean, 143 Ill.2d 281, 573 N.E.2d 818, 158 Ill.Dec. 5 (1991), People v. Tolliver, 147 Ill.2d 397, 589 N.E.2d 527, 168 Ill.Dec. 127 (1992), and People v. Whitlow, 89 Ill.2d 322, 433 N.E.2d 629, 60 Ill.Dec. 587 (1982) for cases in which the Illinois Supreme Court used Section 4-3(b) to choose one or two, but not all three, of these mental states for particular offenses having no statutorily specified mental state.) Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction.

Use applicable bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.39
Definition Of Unlawful Sale Of Firearms By Liquor Licensee

A person commits the offense of unlawful sale of firearms by a liquor licensee when he [(holds) (is an agent or employee of a person who holds)] a license issued by the [(Illinois Liquor Control Commission) (local liquor control commissioner)] to sell at retail any alcoholic liquor and [(knowingly) (intentionally) (recklessly)] [(sells) (delivers)] a firearm to any other person [(in) (on)] the real property where the licensee is licensed to sell alcoholic liquors.

Committee Note

720 ILCS 5/24-3.4 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §24-3.4 (1991)), added by P.A. 87-591, effective January 1, 1992.

Give Instruction 18.40.

Because Section 24-3.4 does not include a mental state, the Committee decided to provide three alternative mental states pursuant to 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). The Committee believes this action to be in accordance with People v. Anderson, 148 Ill.2d 15, 591 N.E.2d 461, 169 Ill.Dec. 288 (1992), which held that even though the criminal hazing statute listed no mental state, Section 4-3(b) still placed on the State the burden of proving either intent, knowledge, or recklessness. (*But see* People v. Gean, 143 Ill.2d 281, 573 N.E.2d 818, 158 Ill.Dec. 5 (1991), People v. Tolliver, 147 Ill.2d 397, 589 N.E.2d 527, 168 Ill.Dec. 127 (1992), and People v. Whitlow, 89 Ill.2d 322, 433 N.E.2d 629, 60 Ill.Dec. 587 (1982) for cases in which the Illinois Supreme Court used Section 4-3(b) to choose one or two, but not all three, of these mental states for particular offenses having no statutorily specified mental state.) Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction.

Section 24-3.4 exempts certain persons from criminal liability. The defendant bears the burden of proving the exemption by a preponderance of the evidence. See Section 5/24-2(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."

Use applicable bracketed material.

18.40
Issues In Unlawful Sale Of Firearms By Liquor Licensee

To sustain the charge of unlawful sale of firearms by a liquor licensee, the State must prove the following propositions:

First Proposition: That the defendant [(intentionally) (knowingly) (recklessly)] [(sold) (delivered)] a firearm to another person; and

Second Proposition: That when the defendant did so, he [(held a license) (was an agent or employee of a person who held a license)] to sell alcoholic liquor at retail issued by the [(Illinois Liquor Control Commission) (local liquor control commissioner)]; and

Third Proposition: That when the defendant did so, he was [(in) (on)] the real property of the establishment where [(he) (the licensee)] is licensed to sell alcoholic liquors.

If you find from your consideration of the evidence that each one of these propositions have been proved beyond a reasonable doubt, you should find the defendant guilty.

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

Committee Note

720 ILCS 5/24-3.4 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §24-3.4 (1991)), added by P.A. 87-591, effective January 1, 1992.

Give Instruction 18.39.

Because Section 24-3.4 does not include a mental state, the Committee decided to provide three alternative mental states pursuant to 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). The Committee believes this action to be in accordance with People v. Anderson, 148 Ill.2d 15, 591 N.E.2d 461, 169 Ill.Dec. 288 (1992), which held that even though the criminal hazing statute listed no mental state, Section 4-3(b) still placed on the State the burden of proving either intent, knowledge, or recklessness. (*But see* People v. Gean, 143 Ill.2d 281, 573 N.E.2d 818, 158 Ill.Dec. 5 (1991), People v. Tolliver, 147 Ill.2d 397, 589 N.E.2d 527, 168 Ill.Dec. 127 (1992), and People v. Whitlow, 89 Ill.2d 322, 433 N.E.2d 629, 60 Ill.Dec. 587 (1982) for cases in which the Illinois Supreme Court used Section 4-3(b) to choose one or two, but not all three, of these mental states for particular offenses having no statutorily specified mental state.) Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction.

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.

18.41
Definition Of Reckless Discharge Of A Firearm

A person commits the offense of reckless discharge of a firearm when he

[1] discharges a firearm in a reckless manner which endangers the bodily safety of an individual.

[or]

[2] is a driver of a moving motor vehicle and he knows of and consents to his passenger discharging a firearm in a reckless manner which endangers the bodily safety of an individual.

Committee Note

720 ILCS 5/24-1.5 (West, 1992), added by P.A. 88-217, effective August 6, 1993.

Give Instruction 18.42.

Give Instruction 23.43B, defining the term "motor vehicle", if an issue arises as to whether the defendant was the driver of a motor vehicle or another person was a passenger in a motor vehicle.

Use applicable paragraph.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

18.42
Issues In Reckless Discharge Of A Firearm

To sustain the charge of reckless discharge of a firearm, the State must prove the following propositions:

[1] *First Proposition*: That the defendant discharged a firearm in a reckless manner; and

Second Proposition: That when the defendant did so, he endangered the bodily safety of an individual.

[or]

[2] *First Proposition*: That the defendant was the driver of a moving motor vehicle; and

Second Proposition: That the defendant knew of and consented to his passenger discharging a firearm in a reckless manner; and

Third Proposition: That when the passenger did so, the bodily safety of an individual was endangered.

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.

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.

Committee Note

720 ILCS 5/24-1.5 (West, 1992), added by P.A. 88-217, effective August 6, 1993.

Give Instruction 18.41.

Use applicable paragraphs.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

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.

18.43
Definition Of Gunrunning

A person commits the offense of gunrunning when he transfers three or more firearms by [any combination of]:

[A] knowingly [(selling) (giving)] a firearm of a size which may be concealed upon the person to any person who is under 18 years of age [(, and) (.)]

[or]

[B] knowingly [(selling) (giving)] a firearm to any person who is under 21 years of age and who has been [(convicted of the offense of ____) (adjudged delinquent)] [(, and) (.)]

[or]

[C] knowingly [(selling) (giving)] a firearm to any person who is a narcotic addict [(, and) (.)]

[or]

[D] knowingly [(selling) (giving)] a firearm to any person who has been convicted of a felony [(, and) (.)]

[or]

[E] knowingly [(selling) (giving)] a firearm to any person who has been a patient in a mental hospital within the past 5 years [(, and) (.)]

[or]

[F] knowingly [(selling) (giving)] a firearm to any person who is intellectually disabled [(, and) (.)]

[or]

[G] knowingly delivering a firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least 72 hours after application for its purchase has been made [(, and) (.)]

[or]

[H] knowingly delivering a [(rifle) (shotgun) [or other long gun]], incidental to a sale, without withholding delivery of such [(rifle) (shotgun) [or other long gun]] for at least 24 hours after application for its purchase has been made [(, and) (.)]

[or]

[I] while holding a license under the Federal Gun Control Act of 1968, as amended, as

[(a) (an)] [(dealer) (importer) (manufacturer) (pawnbroker)], knowingly [(manufacturing) (selling to any unlicensed person) (delivering to any unlicensed person)] a handgun having a [(barrel) (slide) (frame) (receiver)] which is a die casting of zinc alloy or other nonhomogenous metal which will melt or deform at a temperature of less than 800 degrees Fahrenheit [(, and) (.)]

[or]

[J] knowingly [(selling) (giving)] a firearm to a person under 18 years of age who does not possess a valid Firearm Owner's Identification Card.

Committee Note

720 ILCS 5/24-3A (West 2023).

Give Instruction 18.44.

The bracketed phrase "or other long gun" in paragraph [H] should be used only when a question is raised as to the precise nature of the weapon involved and then only in conjunction with the word "rifle" or "shotgun."

If paragraph [I] is given, give Instruction 18.35G, defining the word "firearm," and Instruction 18.35I, defining the word "handgun."

The offense of gunrunning requires a violation of Section 24-3 (unlawful sale of firearms). Sections 24-3(g) and (j) exempt certain persons and transactions 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 phrase "preponderance of the evidence."

Use applicable paragraphs and bracketed material.

The bracketed letters are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

18.44
Issues In Gunrunning

To sustain the charge of gunrunning, the State must prove the following propositions:

First Proposition: That the defendant knowingly transferred three or more firearms; and

Second Proposition: That when the defendant transferred these firearms, he did so in the following way[s]:

[A] *First:* That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second: That the firearm was of a size which may be concealed upon a person; and

Third: That the person to whom the defendant [(sold) (gave)] the firearm was under 18 years of age; and

Fourth: That the defendant knew that the person to whom he [(sold) (gave)] the firearm was under 18 years of age.

[or]

[B] *First:* That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second: That the person to whom the defendant [(sold) (gave)] the firearm was under 21 years of age; and

Third: That the defendant knew that the person to whom he [(sold) (gave)] the firearm was under 21 years of age; and

Fourth: That the person to whom the defendant [(sold) (gave)] the firearm had been [(convicted of the offense of ____) (adjudged delinquent)]; and

Fifth: That the defendant knew that the person to whom he [(sold) (gave)] the firearm had been [(convicted of the offense of ____) (adjudged delinquent)].

[or]

[C] *First:* That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second: That the person to whom the defendant [(sold) (gave)] the firearm was a narcotic addict; and

Third: That the defendant knew that the person to whom he [(sold) (gave)] the firearm was a narcotic addict.

[or]

[D] *First:* That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second: That the person to whom defendant [(sold) (gave)] the firearm had been convicted of the offense of ____; and

Third: That the defendant knew that the person to whom he [(sold) (gave)] the firearm had been convicted of the offense of ____.

[or]

[E] *First:* That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second: That the person to whom the defendant [(sold) (gave)] the firearm had been a patient in a mental hospital within the past 5 years; and

Third: That the defendant knew that the person to whom he [(sold) (gave)] the firearm had been a patient in a mental hospital within the past 5 years.

[or]

[F] *First:* That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second: That the person to whom the defendant [(sold) (gave)] the firearm was intellectually disabled; and

Third: That the defendant knew the person to whom he [(sold) (gave)] the firearm was intellectually disabled.

[or]

[G] *First:* That the defendant knowingly delivered, incidental to a sale, a firearm of a size which may be concealed upon the person; and

Second: That the defendant delivered such firearm within 72 hours after application for its purchase had been made.

[or]

[H] *First:* That the defendant knowingly delivered, incidental to a sale, a [(rifle) (shotgun) [or other long gun]]; and

Second: That the defendant delivered such [(rifle) (shotgun) [or other long gun]] within 24 hours after application for its purchase had been made.

[or]

[I] *First:* That the defendant knowingly [(manufactured) (sold) (delivered)] to an unlicensed person a handgun having a [(barrel) (slide) (frame) (receiver)] which is a die casting of a zinc alloy or other nonhomogenous metal which melts or deforms at a temperature of less

than 800 degrees Fahrenheit; and

Second: That the defendant held a license under the Federal Gun Control Act of 1968 as a[n] [(dealer) (importer) (manufacturer) (pawnbroker)].

[or]

[J] *First:* That the defendant knowingly [(sold) (gave)] a firearm to another; and

Second: That the person to whom the defendant [(sold) (gave)] the firearm was under 18 years of age; and

Third: That the defendant knew that the person to whom he [(sold) (gave)] the firearm was under 18 years of age; and

Fourth: That the person to whom the defendant [(sold) (gave)] the firearm did not possess a valid Firearm Owner's Identification Card; and

Fifth: That the defendant knew that the person to whom he [(sold) (gave)] the firearm did not possess a valid Firearm Owner's Identification Card.

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 ____, you should find the defendant not guilty.]

Committee Note

720 ILCS 5/24-3A (West 2023).

Give Instruction 18.43.

Give the bracketed portion of the last paragraph when evidence of an exemption is presented. Insert in the blank the applicable exemption. See Committee Note to Instruction 18.43.

See Committee Note to Instruction 18.43 for appropriate use of the bracketed phrase “or other long gun” and the need for additional definition instructions.

Insert in the blank in the Fourth and Fifth Propositions in the second set of propositions (alternative [B]) the misdemeanor conviction other than a traffic offense.

Insert in the blank in the Second and Third Propositions in the fourth set of propositions (alternative [D]) the felony conviction.

The offense of gunrunning defined in Section 24-3A requires violations of Section 24-3

which, in part, provides that a person commits the offense of unlawful sale of firearms when he knowingly transfers a firearm to a person prohibited from possessing a firearm by reason of age, mental condition, prior convictions, or prior adjudication of delinquency. While Section 24-3 does require the mental state of knowledge, it does not indicate precisely which elements of the offense require knowledge on the part of the defendant. The statute appears to require that the transfer of the firearm be knowingly made but is less clear as to whether the defendant must also have knowledge of the status of the transferee as underage, a former mental patient, intellectually disabled, or possessing a prior conviction or adjudication of delinquency. Section 4-3 of the Criminal Code provides that where, as here, a statute defining an offense prescribes a mental state with respect to the offense as a whole, without distinguishing among the elements thereof, the prescribed mental state applies to each element of the offense. See 720 ILCS 5/4-3 (West 2023). Because the status of the transferee is an element of the crime under Section 24-3, the Committee believes that Section 4-3 requires the defendant to have knowledge of that status at the time the firearm is transferred. Therefore, this instruction includes a requirement that the State prove that the defendant had knowledge of the relevant status of the person to whom the firearm was transferred. While the Committee believes that Sections 4-3 and 24-3 require this result, the Committee is not aware of any reported decision discussing the issue.

Use applicable paragraphs and bracketed material.

The bracketed letters are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

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.