

## Person-to-Person Firearm Transfers Part I – Conducting the Transfer

430 ILCS 65/3

(a-10)

Notwithstanding item (2) of subsection (a) of this Section, any person who is not a federally licensed firearm dealer and who desires to transfer or sell a firearm or firearms to any person who is not a federally licensed firearm dealer shall, before selling or transferring the firearms, contact a federal firearm license dealer under paragraph (1) of subsection (a-15) of this Section to conduct the transfer or the Illinois Department of State Police with the transferee's or purchaser's Firearm Owner's Identification Card number to determine the validity of the transferee's or purchaser's Firearm Owner's Identification Card under State and federal law including the National Instant Criminal Background Check System. This subsection shall not be effective until January 1, 2024. (emphasis added)

**Until that date the transferor shall contact the Illinois State Police with the transferee's or purchaser's Firearm Owner's Identification Card number to determine the validity of the card 2014. The Department of State Police may adopt rules concerning the implementation of this subsection. The Department of State Police shall provide the seller or transferor an approval number if the purchaser's Firearm Owner's Identification Card is valid. Approvals issued by the Department for the purchase of a firearm pursuant to this subsection are valid for 30 days from the date of issue (emphasis added).**

Take note of the fact that the language in the first paragraph requiring private parties to **either** contact a federal firearm license dealer **or** the Illinois State Police to conduct a background check does not take effect until January 1, 2024.

What's significant about this? Because of the small, but substantive change to 430 ILCS 65/6 that removes the requirement to have an expiration date on a FOID card – which the Department will employ because of the various automatic FOID renewals being implemented – the person-to-person (P2P) transfer authorization language was expanded and clarified. Remember, *THE CURRENT CHECK ON THE P2P PORTAL IS NOT A BACKGROUND CHECK*. This is nothing more than a check to see if the FOID is valid. If the card is valid, the private party will receive a transaction approval number and should make the sale. If the private party is told the card is not valid, they will not be told why, but will receive a denial and should not proceed with the transfer. They should reach out to the Office of Firearm Safety at 217-524-1669 and leave a message.

See the next page for records retention requirements

## Person-to-Person Firearm Transfers (continued)

### Part II – Records Retention

(b)

Any person within this State who transfers or causes to be transferred any firearm, stun gun, or taser shall keep a record of such transfer for a period of 10 years from the date of transfer. Any person within this State who receives any firearm, stun gun, or taser pursuant to subsection (a-10) shall provide a record of the transfer within 10 days of the transfer to a federally licensed firearm dealer and shall not be required to maintain a transfer record. The federally licensed firearm dealer shall maintain the transfer record for 20 years from date of receipt. A federally licensed firearm dealer may charge a fee not to exceed \$25 to retain the record. The record shall be provided and maintained in either an electronic or paper format. The federally licensed firearm dealer shall not be liable for the accuracy of any information in the transfer record submitted pursuant to this Section. Such records ~~record~~ shall contain the date of the transfer; the description, serial number or other information identifying the firearm, stun gun, or taser if no serial number is available; and, if the transfer was completed within this State, the transferee's Firearm Owner's Identification Card number and any approval number or documentation provided by the Department of State Police pursuant to subsection (a-10) of this Section; if the transfer was not completed within this State, the record shall contain the name and address of the transferee. On or after January 1, 2006, the record shall contain the date of application for transfer of the firearm. On demand of a peace officer such transferor shall produce for inspection such record of transfer. For any transfer pursuant to subsection (a-10) of this Section, on the demand of a peace officer, such transferee shall identify the federally licensed firearm dealer maintaining the transfer record. If the transfer or sale took place at a gun show, the record shall include the unique identification number. Failure to record the unique identification number or approval number is a petty offense. For transfers of a firearm, stun gun, or taser made on or after the effective date of this amendatory Act of the 100th General Assembly, failure by the private seller to maintain the transfer records in accordance with this Section, or failure by a transferee pursuant to subsection a-10 of this Section to identify the federally licensed firearm dealer maintaining the transfer record, is a Class A misdemeanor for the first offense and a Class 4 felony for a second or subsequent offense occurring within 10 years of the first offense and the second offense was committed after conviction of the first offense. Whenever any person who has not previously been convicted of any violation of subsection (a-5), the court may grant supervision pursuant to and consistent with the limitations of Section 5-6-1 of the Unified Code of Corrections. A transferee or transferor shall not be criminally liable under this Section provided that he or she provides the Department of State Police with the transfer records in accordance with procedures established by the Department (emphasis added). The Department shall establish, by rule, a standard form on its website.

Simplified – In a P2P transaction, the seller keeps the records for 10 years. The buyer must give a copy of the record to an FFL within 10 days, which the FFL has to retain for 20 years. The buyer can instead elect to give copy of record of sale to the ISP. The form must contain make, model, serial number of the firearm, FOID # and Approval # for the transferee. The ISP will provide a standard form to be utilized to track this information. Failure to record the approval number or identify the FFL maintaining the transfer record is a Class A misdemeanor for the first offense, and a Class 4 felony for the second or subsequent offense.