

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CALEB BARNETT, et al.,)
)
 Plaintiffs,)
)
 vs.) **Case No. 3:23-cv-209-SPM**
)
 KWAME RAOUL, et al.,)
)
 Defendants.)

DANE HARREL, et al.,)
)
 Plaintiffs,)
)
 vs.) **Case No. 3:23-cv-141-SPM**
)
 KWAME RAOUL, et al.,)
)
 Defendants.)

JEREMY W. LANGLEY, et al.,)
)
 Plaintiffs,)
)
 vs.) **Case No. 3:23-cv-192-SPM**
)
 BRENDAN KELLY, et al.,)
)
 Defendants.)

**REPLY IN SUPPORT OF PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT AND
RESPONSE IN OBJECTION TO DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT (FIFTH AMENDMENT ISSUES)**

Comes now the Langley Plaintiffs, by and through their attorneys, Thomas G. Maag and the Maag Law Firm, LLC, and state as follows:

INTRODUCTION

As is attributed to the American philosopher George Santayana, “Those who cannot remember the past are condemned to repeat it.”

In drafting the so called “Protect Illinois Communities Act”, the proponents of same were in such a hurry to get the statute, in fact any such statute, on the books, that they utterly ignored the Illinois Constitution’s three reading rule requirement, a requirement designed to slow the passage of legislation, to improve its quality, fell into a trap that had they spent a week or two researching why prior firearms laws have been declared unconstitutional, might have avoided this issue. Instead, like the Light Brigade, they rode headlong into the Valley of Death for statutes, well guarded by *Haynes* and its 5th Amendment.

Similarly, the Defendant was so desperate to respond to the Fifth Amendment issue, that it literally argued a summary judgment motion without a single document, affidavit or attachment attached.

FACTS

The simple fact is that PICA purports to require ordinary persons, even today, who possess unregistered PICA regulated firearms to register them.

The ISP, on its own webpage states,

“Failing to complete and submit the required endorsement affidavit while in possession of items regulated by PICA prior to January 1, 2024, is a violation of Illinois law – specifically, the FOID Act and the Criminal Code of 2012 – unless the individual is exempt. The sentencing ranges are set forth in 430 ILCS 65/14 and 720 ILCS 5/24-1(b). Persons who violate these requirements may be arrested and charged.”

This is the exact situation that existed 61 days after the enactment of the original 1934 version of the Federal National Firearms Act, which required NFA regulated firearms to be registered with the IRS within 60 days of passage of that Act. See. Ex. A, p. 2. Possession of an unregistered NFA regulated “firearm” after that 60 days was a crime.

As stated by the Seventh Circuit of the original National Firearms Act, “Registration would be an admission that another section or other sections of the Act had been violated and might support a conviction by a court.” *Dugan v. United States*, 341 F. 2d 85, 86 - Court of Appeals, 7th Circuit 1965. Likewise, the Seventh Circuit also stated, “we do not think that the fact that there might be cases where registration would not result in incrimination by the registrant is any answer to the contention that one who is required to register might thereby incriminate himself.” *Id.*

Defendant argue about past conduct and incrimination. What *past* conduct can the “registration affidavit”, an Orwellian euphemism for a firearm registration form, provide, that might incriminate the registration? How about the most obvious? The same situation that existed under the original National Firearms Act, and ruled on in *Haynes*.

Just like under the National Firearms Act of 1934, which required registration within 60 days of the act (See Ex. A, p. 2), all persons in Illinois who possessed PICA regulated firearms were supposed to register their firearms, .50 BMG ammunition and “accessories” on or before December 31, 2023. See Ex, B, page 2, citing 720 ILCS 5/24-1.9(d), see also Ex C, p. 1) Possession of these PICA regulated items after December 31, 2023, is, drum roll, a crime. Ex C, p. 2. Do not take Plaintiffs’ or their attorney’s word for it, look at what Defendant Kelly himself says, that is posted on his own website!

To wit, per the ISP official website on the relevant statute, per FAQ #26, in order for the previously possessed PICA firearm to be legal, the registration affidavit had to be submitted prior to January 1, 2024. Ex. C, p. 2.

Per the ISP official website, FAQ # 78, while there might not be an additional penalty for submitting a “late affidavit”, “the relevant jurisdiction could deem a late endorsement affidavit submittal to be invalid or insufficient.” See Ex. C, p. 3. In addition, per the official ISP website, FAQ# 30, “failure to submit the required endorsement affidavit ... prior to January 1, 2024, is a violation of Illinois law, specifically, the FOID Act and the Criminal Code of 2012... Persons who violate these requirement may be arrested and charged.” Ex. C, p.1.

In addition, even with such an “endorsement affidavit”, Defendant ISP considers any PICA firearm purchased during this Court’s stay of the PICA statute to be, “unlawful.” See Ex. C, p. 4, FAQ #55

On top of the foregoing, Defendant has posted the registration data on the LEADS system, making it available for police throughout Illinois. Ex. C, p. 5.

To say that the risks of self incrimination by registration at this point is anything but real, is delusional at best. Defendant himself is posting on his own official website warnings of potential arrest and prosecution that his lawyers are trying to suggest are make believe.

The online registration form does not indicate that any use or transactional immunity is being provided, at least none is obvious in the text, and Defendant fails to suggest where same might be found. Neither does the statute. Defendant makes no argument that neither it, nor any other prosecution authority will use this information against the registrant. These are the facts. In

fact, the opposite is true. Just like in the original 1934 National Firearms Act, any police official can access the information. (Ex. C, p. 4).

Despite these facts, the arguments of Defendant is that the right against self incrimination is not violated, for three specific reasons. None of which hold any water, and all of which border on the legally and factually frivolous.

Voluntary Benefit

Defendant's first argument is that the registration provides a "voluntary benefit" to the registrant that exempts owners from criminal prosecution. (Doc. 151, p. 2). That is simply untrue, and as shown above Defendant's own website admits the prosecution authorities may consider late registration insufficient to avoid prosecution. Coupled with the fact that, as noted in the ISP has provided, and will provide the information to every law enforcement agency in Illinois, there is no "benefit" to registration at this point. Unless the registrant was previously exempt, all a late registration does is admit the person filing same committed a crime.

In fact, unlike the 1934 version of the National Firearms Act, which at least would put the registrant in compliance with the National Firearms Act by registering the firearm, under PICA, the fact of registration is not an actual defense to a crime and does not put the registrant in compliance with the law.

Instead, any perceived "benefit" of registration, at this point, is illusory. While the statute does say,

In any administrative, civil, or criminal proceeding in this State, a completed endorsement affidavit submitted to the Illinois State Police by a person under this Section creates a rebuttable presumption that the person is entitled to possess

and transport the assault weapon, assault weapon attachment,
.50 caliber rifle, or .50 caliber cartridge.

The simple fact is that, as explained by the Illinois Supreme Court (as it is Illinois law), a rebuttable presumption provides no actual defense. To wit:

“A rebuttable presumption, such as exists here, is not evidence in itself, but arises as a rule of law or legal conclusion from the facts proved. (*Osborne v. Osborne*, 325 Ill. 229; *Brown v. Brown* 329 Ill. 198; *Trustees of Schools v. Lilly*, 373 Ill. 431.)

These presumptions “do not shift the burden of proof. Their only effect is to create the necessity of evidence to meet the prima facie case created thereby, and which, if no proof to the contrary is offered, will prevail.” (*Helbig v. Citizens' Insurance Co.*, 234 Ill. 251, 257; accord, *Brown v. Brown*, 329 Ill. 198; *Johnson v. Pendergast*, 308 Ill. 255.)

Stated differently, the presence of a presumption in a case only has the effect of shifting to the party against whom it operates the burden of going forward and introducing evidence to meet the presumption. If evidence is introduced which is contrary to the presumption, the presumption will cease to operate.”

Franciscan Sisters Health Care Corp. v. Dean, 95 Ill.2d 452, 462 (1983).

Said in plain English, the State simply has to show that the registration form was not timely filed, and then submit the registration form, and that is enough to convict you.

No One Is Compelled

The next argument is that Defendant says no-one is compelled to file a registration form. This statement is carefully crafted to attempt a literal truism, but it still tastes a falsehood. In the

sense that no one is, ultimately, compelled to continue to breath, the statement is literally true. But just as failing to breath has an obvious consequence, so does failure to register a possessed PICA regulated firearm under PICA, assuming no exemption. There is a criminal penalty, as set forth below.

f) Penalty. A person convicted of failure to possess a FOID Card as required by Section 2 of the Act **or complete an electronic endorsement affidavit as required by Section 24-1.9 of the Criminal Code of 2012**, commits a Class A misdemeanor or Class 3 or 4 felony depending upon the circumstances of the violation. (See 430 ILCS 65/14 and 720 ILCS 5/24-1(a)(15)).”

See Ex. B.

If that is not compulsion, under the law, nothing is. It also looks a whole lot like the phrase in the 1934 National Firearms Act, that, “... failing to register as state above becomes liable to a penalty of ...\$2,000, or to imprisonment for not more than five years, or both, as provided by law.” Ex. A, p. 2. Under *Haynes*, this is and was compelled self incrimination.

No Real and Substantial Possibility of Prosecution

In this case, if one has an unregistered PICA regulated firearm in the State of Illinois, and are not subject to a special statutory exemption, as of December 1, 2024, they are committing a crime, as noted Supra. It matters not how they obtained said firearm, the crime is the post 2023 possession. Whether or not the initial 2023 registration period violated the right against self incrimination, in the post 2023 time period it does.

Defendant cites to the Illinois Supreme Court, which stated this “provision permits persons who lawfully possessed [PICA regulated] weapons before January 10, 2023, to continue

to possess them as long as they provide [a registration] to the Illinois State Police by January 1, 2024. (Doc. 152, p. 7, citing *Caulkins v. Pritzker*, 2023 IL 129453 para 8, in turn citing 720 ILCS 24-19.9(c)(d). Yes and no.

What about persons that did not register by January 1, 2024? Is not their possession a criminal offense? As noted above ISP on its official website thinks so.

720 ILCS 24-1.9(c) states:

(c) Except as otherwise provided in subsection (d), beginning January 1, 2024, it is unlawful for any person within this State to knowingly possess an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge.

720 ILCS 24-1(d) states:

(d) This Section does not apply to a person's possession of an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge device if the person lawfully possessed that assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge prohibited by subsection (c) of this Section, if the person has provided in an endorsement affidavit, prior to January 1, 2024, under oath or affirmation and in the form and manner prescribed by the Illinois State Police, no later than October 1, 2023:

Thus, we *know* that, subject to any statutory exceptions, any firearm not registered prior to January 1, 2024, is illegal, period. 720 ILCS 24-1(d)'s exceptions facially do not apply to post 2023 registrations, period. *Caulkins* says nothing to the contrary.

So how did the Supreme Court in *United States v. Freed*, 401 U.S. 601 (1971), uphold the federal National Firearms Act, after the 1968 revisions, following *Haynes*? According to the Supreme Court, they did it because, as noted in *Freed*,

“the claimant is not confronted by "substantial and real," but merely "trifling or imaginary hazards of incrimination" –

first by reason of the statutory barrier against use [of the registration form and data] in a prosecution for prior or concurrent offenses, and

second by reason of the unavailability of the registration data, as a matter of administration, to local, state, and other federal agencies. [...] Since the state and other federal agencies never see the information, he is left in the same position as if he had not given it, but "had claimed his privilege in the absence of a . . . grant of immunity." [...] This, combined with the protection against use to prove prior or concurrent offenses, satisfies the Fifth Amendment requirements respecting self-incrimination.”

The registration form from 1968 for the 1968 revisions to the National Firearms Act reflect these protections, to wit:

“...The statute requiring you to register your firearms provides that information or evidence required to be submitted or retained by you (if a natural person) is registering your firearm during the special grace period shall not be used against you directly or indirectly...

(See IRS Form 4467(October 1968, “Registration of Certain Firearms During November 1968” attached hereto as Ex. D, p. 2, para. 5).

By not offering immunity, *and* publishing the registration data on LEADS to every law enforcement agency at least in the State, the PICA statute *fails*, at least as to late registrations, for the same reason that *Haynes* ruled the pre-1968 version of the National Firearms Act unconstitutional under the 5th Amendment. Had the Illinois legislature actually complied with their own State Constitutional 3 readings rules, perhaps, just perhaps, the Illinois General Assembly would have had sufficient time to research this issue, actually read cases like *Haynes* and *Freed*, both of which are common law school texts, and both provide the immunity and confidentiality that was recognized in *Freed*, and that upheld the National Firearms Act as it was amended in 1968, at least under the 5th Amendment. Instead, the Illinois General Assembly bumbled right into well settled law, so well settled, that our literal grandfathers could have cited the same cases fifty years ago to get the same result.

CONCLUSION

For the same reasons that the Supreme Court, in *Haynes* rendered the original version of the National Firearms Act unenforceable and unconstitutional under the Fifth Amendment in 1968, the Illinois General Assembly wrote a fatally defective statute. Granted, at least on Fifth Amendment issues, the *Freed* case provides a roadmap on how to solve that problem, but alas, the State has not done so, and shows no indication that it wishes to. PICA, as written, at least the registration related components, violate the Fifth Amendment. It is the duty of this Court, in fact, all courts, to interpret the law, and if an act is repugnant to the Constitution, to declare it to be so. *Marbury v. Madison*, 5 U.S. 137 (1803).

To that end, Plaintiffs renew their request for summary judgment in their favor on the Self Incrimination (5th Amendment) issue, enjoining Defendants, and those acting in concert with, or under the authority of Defendants, from enforcing or administering any portion of the

registration provisions of PICA, or related to possessing unregistered firearms, accessories or ammunition.

Dated: 2-13-2024

Respectfully Submitted,
Jeremy Langley, et al

By:s/Thomas G. Maag
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed, using the CM/ECF system, which will send notification to all registered users:

Dated: 2-13-24

S/Thomas G. Maag

FORM 1 (Revised 1934)
TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
(August 1934)

COLLECTOR'S STAMP

REGISTRATION OF FIREARMS

(This form to be executed, in duplicate, for each firearm possessed)

September 25, 1934

To COLLECTOR OF INTERNAL REVENUE at Boston, Mass.

The undersigned hereby registers, as required by section 5(a) of the National Firearms Act, the firearm described below possessed by him on July 26, 1934.

(1) Name Harold C. Wiswall (Person possessing firearm) Place of business or employment 87 Mick St. Boston

(2) Home Address Denton Road West (Street and number) City or town Wellesley State Mass.

(3) _____ (If owner is other than a natural person, state name and home address of an executive officer thereof)

(4) Date of acquisition About 10 years

(5) Is firearm still in your possession? Yes ("Yes" or "No") If transferred between July 26 and September 24, 1934, state when _____, and to whom _____

(6) If still in possession place where firearm is usually kept: Address Denton Road West (Street and number)

City or town Wellesley State Mass.

(7) Kind of firearm Stevens gamegetter 410 gauge (State whether machine gun, submachine gun, shotgun or rifle having barrel less than 18" in length, muffler, or silencer, etc.)

(8) Serial No. 7091 Model gamegetter Caliber 410 gauge

(9) Other marks of identification _____

(10) Manufacturer J. Stevens Arms Co. Chicopee Falls, U.S.A. (State name and address)

Sworn and subscribed to before me

this 25 day of Sept, 1934

C. M. McKenzie
D up Cal
(Official title)

Harold C. Wiswall
(Name of firm)

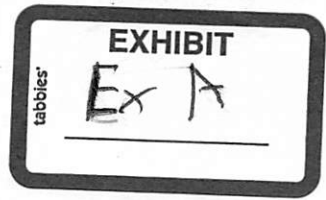
By Individual
(State whether individual owner, member of firm, or, if officer of corporation, give title)

Denton Road West
(Street and number)
Wellesley Mass.
(City or town) (State)

Received for registry this 25th day of Sept, 1934

Joseph P. ...
Collector.

(OVER)



COMMISSIONER OF REVENUE
(Department of the Treasury, Bureau of Internal Revenue, Form of 1934)
INSTRUCTIONS

The provisions of sections 1(a) and 5(a) of the National Firearms Act, approved June 26, 1934, are as follows:

SECTION 1(a)

"The term 'firearm' means a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition."

SECTION 5(a)

~~"Within sixty days after the effective date of this act every person possessing a firearm shall register, with the collector of the district in which he resides, the number or other mark identifying such firearm, together with his name, address, place where such firearm is usually kept, and place of business or employment, and, if such person is other than a natural person, the name and home address of an executive officer thereof: Provided, That no person shall be required to register under this section with respect to any firearm acquired after the effective date of, and in conformity with the provisions of, this act."~~

1. The term "muffler" or "silencer" includes any device for silencing or diminishing the report of any portable weapon, such as a rifle, carbine, pistol, revolver, machine gun, sub-machine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive, and is not limited to mufflers or silencers for "firearms" as defined in the act.

2. Every person (including an importer, manufacturer, dealer, and pawnbroker) in possession of a firearm within the definition of the act on July 26, 1934, shall on or before September 24, 1934 (whether or not in his possession on the latter date), register such firearm on this form in duplicate, with the collector for the district in which he resides. In case the firearm is merely in the custody of an employee, such as a watchman, the actual owner should execute this form.

~~3. The duplicate form after proper endorsement will be returned to the registrant by the collector, and the original forwarded to the Commissioner.~~

4. Persons failing to register as stated above become liable to a penalty of not more than \$2,000, or to imprisonment for not more than five years, or both, as provided by law.

5. The provisions of the National Firearms Act relating to registration of firearms are applicable solely to persons residing within the States of the United States and the District of Columbia.

Search all cases and statutes...

JX

Statutes, codes, and regulations / Illinois Administrativ...
/ Title 20 - CORRECTI... / Part 1230 - FIREAR...
/ Section 1230.15 - [Ef...

Ill. Admin. Code tit. 20 § 1230.15

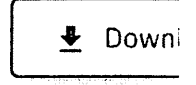
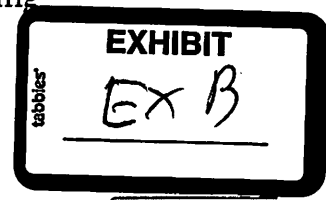
Current through Register Vol. 48, No. 5, February 2, 2024

Section 1230.15 - [Effective until 2/12/2024] FOID Card and Assault
Weapon Electronic Endorsement Affidavit Requirement

a) FOID Card Requirement. Pursuant to Section 2 of the Act, *no person may acquire or possess any firearm, stun gun, or taser within this State without having in his or her possession a Firearm Owner's Identification Card previously issued in his or her name by the Illinois State Police.* [430 ILCS 65/2(a)(1)]

1) Pursuant to Section 12 of the Act, if an Illinois resident without a FOID Card inherits a firearm or firearm ammunition upon the death of the owner, the provisions of the Act and this Part shall not apply to the person until 60 days after the passing or transfer of the firearm or ammunition. [430 ILCS 65/12]

2) *Except as provided in subsection (e) of Section 24-1.9 of the Criminal Code of 2012 and beginning on January 1, 2024, any person, who moves into this State in possession of an assault weapon, assault weapon attachment, .50 caliber rifle, .50 caliber cartridge, or*



3) If a FOID Card application is denied, then upon receipt of the denial notice, any person who possesses a firearm or firearm ammunition and applied for a FOID Card upon inheriting or moving to Illinois must transfer the firearm or firearm ammunition to a person authorized to possess the firearm.

b) Electronic Endorsement Affidavit Requirement. Any person, other than individuals exempt by Section 24-1.9(e) of the Criminal Code of 2012 [720 ILCS 5/24-1.9(d)], in possession of an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge, must electronically file an endorsement affidavit through the online FOID/FCCL system beginning October 1, 2023, but shall be completed no later than January 1, 2024.

1) *Any person who moves into Illinois in possession of an assault weapon, assault weapon attachment, .50 caliber rifle, .50 caliber cartridge, or large capacity ammunition feeding device, shall complete the endorsement affidavit within 60 days after moving to Illinois. [720 ILCS 5/24-1.9(d)]*

2) The electronic endorsement affidavit requirements of this Section do not apply to:

A) Peace officers;

B) Qualified law enforcement officers and retirees;

C) the acquisition and possession by a federal, State, or local law enforcement agency for the purpose of equipping that agency's peace officers; and

D) Wardens, superintendents, and keepers of correctional institutions for the detention of persons accused or convicted of an offense. (See 720 ILCS 5/24-1.9(e)(1-4)).

3) Exemptions for Official Duties.

duties:

- i) Armed security personnel in this State at a nuclear energy, storage, weapons, or development site or facility regulated by the federal Nuclear Regulatory Commission;
- ii) Private security personnel licensed under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004; and
- iii) Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard, who are also exempt while traveling to or from their places of duty.

B) However, these persons must complete an electronic endorsement affidavit if their possession of these items extends beyond the performance of their official duties. (See 720 ILCS 5/24 1.9(e)).

4) Other Exemptions.

A) The following persons are not required to complete an electronic endorsement affidavit under the following circumstances:

- i) Olympic target shooting competitors and coaches in possession of any firearm sanctioned by the International Olympic Committee and by USA Shooting;
- ii) Nonresidents who are transporting an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge to any other place where the nonresident may lawfully possess and carry that weapon;
- iii) Persons in possession of an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge

B, if the possession is only for hunting use expressly permitted under the Wildlife Code [520 ILCS 5]; and

v) Persons in possession of blank-firing assault weapons if the possession is only for props for a motion picture, television or video production or entertainment event. (See 720 ILCS 5/241.9(e)(7)(C)(v)).

B) However, these persons must have completed an electronic endorsement affidavit if their possession of these items extends beyond the circumstances outlined in subsection (b)(4)(A). For example, if a person owns an assault weapon and hunts with it, their possession extends beyond hunting use; or if a person owns an assault weapon and takes it to an event at the World Shooting and Recreational Complex at Sparta, their possession extends beyond possession at the World Shooting and Recreational Complex at Sparta. As a result, the persons in the above examples would be required to complete an electronic endorsement affidavit. If a person does not own an assault weapon but rather rents or borrows one from a neighbor for hunting or a teammate for a shooting event and returns it upon the conclusion of the purpose, their possession does not extend beyond the permitted circumstances and that person would not be required to complete an electronic endorsement affidavit.

5) Nothing in this Section shall be construed to make lawful the acquisition, transportation, or possession of firearms or firearm ammunition which is otherwise prohibited by law, for example this Act and the Wildlife Code [520 ILCS 5].

c) Electronic Endorsement Affidavit Contents. The endorsement affidavit shall include:

caliber rifle, or .50 caliber cartridge before January 10, 2023; or

B) inherited such items from a person with an endorsement under Section 24-1.9 of the Criminal Code of 2012 [720 ILCS 5/24-1.9] or from a person authorized under Section 24-1.9(e) (1) through (5) of the Criminal Code of 2012 [720 ILCS 5/24-1.9(e)(1)-(5)] to possess such items; or

C) moved into Illinois after January 10, 2023 with such items; or

D) is filing an endorsement affidavit voluntarily;

3) *The make, model, caliber, and serial number of each assault weapon or .50 caliber rifle;*

4) *A warning printed in bold type that states: "Warning: Entering false information on this form is punishable as perjury under Section 32-2 of the Criminal Code of 2012. Entering false information on this form is a violation of the Firearm Owners Identification Card Act." [720 ILCS 5/24-1.9(d)]; and*

5) An affirmation that the endorsement affidavit is signed under oath, swearing, affirming, and certifying, that the statements set forth in the endorsement affidavit are true and correct subject to the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109].

d) Electronic Endorsement Affidavit Filing Deadlines. The endorsement affidavit, shall be filed electronically through the online FOID/FCCL system, no later than:

1) January 1, 2024, if the person is an Illinois resident who possessed an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge, prior to January 10, 2023; or

Illinois.

e) **Electronic Endorsement Affidavit Voluntary Compliance.** Any person in possession of an assault weapon, assault weapon attachment, .50 caliber rifle, or .50 caliber cartridge, who is exempt from the endorsement affidavit requirements of Section 24-1.9(e) of the Criminal Code of 2012 [720 ILCS 5/24-1.9(e)] may electronically file an endorsement affidavit through the online FOID/FCCL system voluntarily at any time.

f) **Penalty.** A person convicted of failure to possess a FOID Card as required by Section 2 of the Act or complete an electronic endorsement affidavit as required by Section 24-1.9 of the Criminal Code of 2012, commits a Class A misdemeanor or Class 3 or 4 felony depending upon the circumstances of the violation. (See 430 ILCS 65/14 and 720 ILCS 5/24-1(a)(15)).

Ill. Admin. Code tit. 20, § 1230.15

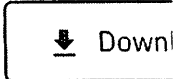
Transferred to 20 Ill. Adm. 3500.10 at 47 Ill. Reg. 2474.

Emergency rule added at 47 Ill. Reg. 14038, effective 9/15/2023, for a maximum of 150 days, exp. 2/12/2024 (Emergency)

Previous Section
Section 1230.10 - [Effective
2/12/2024] Definitions

Next Section
Section 1230.15 - [Effective
2/12/2024] Definitions for
Section 1230.75 (Transferred)

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a complete firearm or not?

21. Under Section 1.9 of the Act, semi-auto shotguns are limited to a 5-round capacity. Under Section 1.10 of the Act, shotguns (i.e., long guns) are limited to 10 rounds. 12-gauge shotgun shells come in 3 1/2", 3", 2 3/4" and even mini shells of 1 1/2". More than 5 mini shells will fit into a standard 12-gauge tube. How is the capacity size determined?

22. Does the Act regulate firearms with revolving cylinders that are capable of shooting both pistol and shotgun calibers from the same cylinder, such as those chambered in .45 long colt and .410 shot?

23. Are magazine tube extensions considered to be detachable magazines?

24. Does the ISP consider magazine tube extensions to be assault weapons attachments? Does an endorsement affidavit need to be submitted even if a person does not possess the firearm that said attachment would fit?

25. Is a handguard considered a shroud pursuant to PICA?

Endorsement Affidavit Requirements

26. Can Illinois residents legally keep current AR or assault weapons as defined by the new law?

27. Do Illinois residents have to submit endorsement affidavits for their AR-type or assault weapons as defined by the new law?

28. How much does it cost to file an endorsement affidavit for an AR 15 or assault weapon as defined by the new law?

29. Do I have to complete the endorsement affidavit electronically?

30. What happens if a person does not submit the required endorsement affidavit for their assault weapon(s) and/or device(s) but retains possession of regulated items on or after January 1, 2024?

Failing to complete and submit the required endorsement affidavit while in possession of items regulated by PICA prior to January 1, 2024, is a violation of Illinois law – specifically, the FOID Act and the Criminal Code of 2012 – unless the individual is exempt. The sentencing ranges are set forth in 430 ILCS 65/14 and 720 ^{main} /24-1(b). Persons who violate these requirements may be arrested and charged.

31. How will this law be enforced?

32. If I am a current resident of another state and own an assault weapon, assault weapon attachment, .50 caliber rifle, .50 BMG caliber

Windows taskbar showing system tray, search bar, and application icons. Time: 2:15 PM, 2/11/2024.



a complete firearm or not?

21. Under Section 1.9 of the Act, semi-auto shotguns are limited to a 5-round capacity. Under Section 1.10 of the Act, shotguns (i.e., long guns) are limited to 10 rounds. 12-gauge shotgun shells come in 3 1/2", 3", 2 3/4" and even mini shells of 1 1/2". More than 5 mini shells will fit into a standard 12-gauge tube. How is the capacity size determined?

22. Does the Act regulate firearms with revolving cylinders that are capable of shooting both pistol and shotgun calibers from the same cylinder, such as those chambered in .45 long colt and .410 shot?

23. Are magazine tube extensions considered to be detachable magazines?

24. Does the ISP consider magazine tube extensions to be assault weapons attachments? Does an endorsement affidavit need to be submitted even if a person does not possess the firearm that said attachment would fit?

25. Is a handguard considered a shroud pursuant to PICA?

Endorsement Affidavit Requirements

26. Can Illinois residents legally keep current AR or assault weapons as defined by the new law?

Yes, an Illinois resident may keep any AR 15 or assault weapon as defined by PICA if the firearm was owned prior to the effective date of the law if the required endorsement affidavit is submitted prior to January 1, 2024.

27. Do Illinois residents have to submit endorsement affidavits for their AR-type or assault weapons as defined by the new law?

28. How much does it cost to file an endorsement affidavit for an AR 15 or assault weapon as defined by the new law?

29. Do I have to complete the endorsement affidavit electronically?

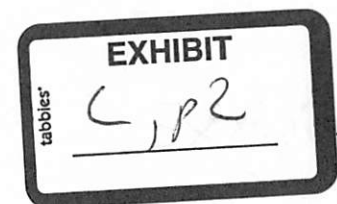
30. What happens if a person does not submit the required endorsement affidavit for their assault weapon(s) and/or device(s) but retains possession of regulated items on or after January 1, 2024?

31. How will this law be enforced?

32. If I am a current resident of another state and own an assault weapon, assault weapon attachment, .50 caliber rifle, .50 BMG caliber cartridge and move to Illinois on or after January 1, 2024, how do I comply with the law?

33. How do I complete an endorsement affidavit for my assault weapon attachment if I do not have a FOID card?

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Traveling Through Illinois with an Assault Weapon or High-Capacity Magazine

74. How can a non-resident of Illinois legally travel through Illinois with an assault weapon and/or high-capacity magazine?

Security of Endorsement Affidavits

75. What security measures does ISP have in place to limit the risk of a system cyberattack that could cause the release of information of endorsement affidavits, or any other information submitted through an individual's FOID portal? Specifically, what steps have been taken since 2021 when the FOID portal was hit with a cyberattack?

76. Under what authority is ISP entering endorsement affidavit information into the Law Enforcement Access Data System (LEADS)?

77. If I am an Illinois resident and I possess a valid Concealed Carry License, does my concealed carry handgun need to comply with PICA regulations?

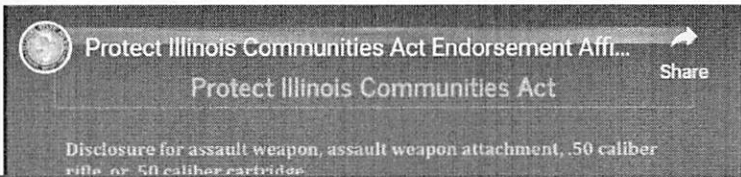
78. Will the FOID Portal close for individuals who are unable to complete an endorsement affidavit prior to January 1, 2024?

No. PICA sets deadlines for submitting endorsement affidavits depending upon the circumstances – possession prior to 1/10/23, inheritance, moving into Illinois, etc. The FOID Portal will remain open for individuals to complete an affidavit indefinitely. There are not separate fines or penalties for late submissions. However, the relevant jurisdiction could deem a late endorsement affidavit submittal to be invalid or insufficient.

FAQ Table of Changes

If you have questions about compliance with the Protect Illinois Communities Act not answered in the above FAQs or need help submitting an endorsement affidavit, you can email ISP.AskFOIDandCCL@illinois.gov, or visit one of the ISP FOID Kiosks.

Protect Illinois Communities Act Affidavit Process Video



prior to the January 1, 2024 deadline, how do I proceed?

51. If my FOID is/was revoked and I transferred the assault weapon, can I have the assault weapon back if my FOID is reinstated?

52. Can an entity temporarily in possession of the assault weapon, assault weapon attachment, .50 caliber rifle, .50 caliber BMG cartridge, or large capacity ammunition feeding device, for example a law enforcement agency, require the next of kin to produce proof they are entitled to receive the item?

53. If a person receives an assault weapon, assault weapon attachment, .50 BMG caliber rifle, .50 BMG caliber cartridge, or large capacity ammunition feeding device as an inheritance, what paperwork are they required to complete to possess or obtain the item?

Federal Law, Court Decisions, and Injunctions

54. How is the Firearm Owners Protection Act of 1986 (18 U.S.C.S. § 926) relevant to the ISP rulemaking under PICA?

55. What does the Southern District of Illinois' Order on April 28, 2023, and the Order by the U.S. Appellate Court on May 4, 2023, mean?

If the purchase of a firearm or firearm attachment regulated under PICA was initiated and completed between the date of the Southern District of Illinois' Order on April 28, 2023, until the stay of such Order by the U.S. Appellate Court on May 4, 2023, the possession of such weapon will be unlawful beginning January 1, 2024, pursuant to 720 ILCS 5/24-1.9(c).

Persons who possess a regulated firearm or firearm attachment are required to complete an endorsement affidavit prior to January 1, 2024, stating that any regulated firearm or firearm attachments were possessed prior to the enactment of PICA (January 10, 2023) pursuant to 720 ILCS 5/24-1.9(d).

man

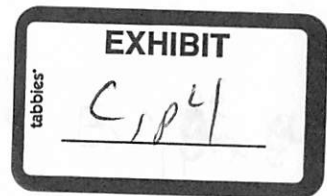
ISP will update this guidance as further court proceedings resolve.

56. What does the Illinois Supreme Court's decision in Caulkins v. Pritzker mean?

57. If PA 102-1116 is overturned by a federal court, will the endorsement affidavits previously submitted remain on file with ISP?

Federally Licensed Firearms Dealers

58. Can an FFL sell an AR 15 or assault weapon or high-capacity magazines to a qualified active/retired law enforcement officer for a personal purchase?



taken since 2021 when the FOID portal was hit with a cyberattack?

76. Under what authority is ISP entering endorsement affidavit information into the Law Enforcement Access Data System (LEADS)?

720 ILCS 24/5-1.9(d) provides in relevant part that endorsement affidavit information may be disclosed to law enforcement agencies acting in the performance of their duties.

"Notwithstanding any other law, information contained in the endorsement affidavit shall be confidential, is exempt from disclosure under the Freedom of Information Act, and shall not be disclosed, except to law enforcement agencies acting in the performance of their duties."

20 ILCS 2605/2605-45 provides in relevant part that the Division of Justice Services shall exercise the following functions:

(1) Operate and maintain the Law Enforcement Agencies Data System (LEADS), a statewide, computerized telecommunications system designed to provide services, information, and capabilities to the law enforcement and criminal justice community in the State of Illinois.

Insofar as law enforcement is authorized to receive the endorsement affidavit information in the performance of their duties and the ISP is authorized to operate and maintain LEADS for purposes of providing information to the law enforcement community, these provisions collectively grant the ISP the authority to utilize LEADS for the purposes of communicating to law enforcement whether a person has submitted an endorsement affidavit and is therefore subject to the exemption as set forth in 720 ILCS 24/5-1.9(d).

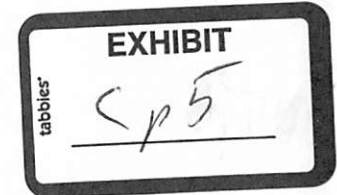
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FORM 4467

REGISTRATION OF CERTAIN FIREARMS DURING NOVEMBER 1968

(OCTOBER 1968)

(Chapter 53, Internal Revenue Code)

Department of the Treasury
Internal Revenue Service

(Submit in duplicate for each firearm possessed. See instructions on reverse)

IMPORTANT This form cannot be accepted for registration of firearm except when received by Director during the time period November 2, 1968, through December 1, 1968.

To: Director, Alcohol and Tobacco Tax Division
Internal Revenue Service
Washington, D.C. 20224

I request registration of the firearm described below:

1. DATE November 25, 1968		4. NAME AND RETURN ADDRESS (Number and Street, City, State, ZIP Code) Leonard C. Halverson 427 Locust Field Rd. East Falmouth, Mass 02536	
2. PLACE OF BUSINESS OR EMPLOYMENT Woods Hole Oceanographic Institution, Woods Hole, Nass.			
3. PLACE WHERE FIREARM IS USUALLY KEPT (See item 8 of Instructions) 427 Locust Field Rd. East Falmouth, Mass.			
5. DATE OF BIRTH (Month, day, year) March 30, 1918	6. SOCIAL SECURITY NUMBER ██████-██-████	7. DATE FIREARM ACQUIRED September 1966	
8. KIND OF FIREARM (Machine gun, short barrel shotgun, etc. See instruction 5(A) on reverse) "Any other weapon" smooth bore pistol		9. SERIAL NUMBER (See Item 7 of Instructions) 7065	
10. LENGTH OF BARREL (Inches) 12 1/4 inches	11. OVERALL LENGTH (If a weapon made from a shotgun or a rifle or if in "Any Other Weapon" category) 17 inches	12. CALIBER OR GAUGE 28 gauge	13. MODEL H & R Handy Gun
14. NAME AND ADDRESS OF MANUFACTURER OF FIREARM Harrington and richardson Arms Co. Worcester, Mass.		15. OTHER MARKS OF IDENTIFICATION none	

16. IF FIREARM IS UNSERVICEABLE EXPLAIN HOW IT WAS MADE UNSERVICEABLE (See Item 5(B) of Instructions)

Under the penalties of perjury I declare that this registration of firearm has been examined by me and to the best of my knowledge and belief, it is true, correct, and complete.

17. SIGNATURE

Leonard C. Halverson

18. TITLE OR STATUS (State whether individual owner, member of firm, or if officer of corporation, give title. If registrant is other than a natural person, give name and home address of an executive officer thereof)

individual owner

FOR USE OF INTERNAL REVENUE SERVICE - APPLICANT WILL MAKE NO ENTRY IN THIS PART

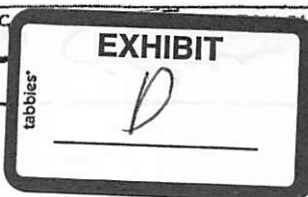
19. Received for registration. This form when checked and signed below constitutes evidence of registration under the National Firearms Act of 1968 (Chapter 53 of Title 26, United States Code). Such registration does not permit the registrant to possess the firearm in violation of state or local law; however, see Item 6 of Instructions as to limitation on use of any information submitted herein.

20. DATE

NOV 30 1968

21. SIGNATURE, DIRECTOR, ALCOHOL AND TOBACCO TAX DIVISION

[Signature]



INSTRUCTIONS

1. Registration of a Firearm.--Information required by this form should be printed or typewritten, and prepared in duplicate. Pen and ink may be used, but under no circumstances may a lead pencil be used. The original and duplicate must be submitted to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C. 20224.

2. Persons Required to Register Firearms.--Every person possessing a firearm as defined in Section 5845(a) of the Internal Revenue Code of 1954 (as amended by the National Firearms Act of 1968) WHICH IS NOT REGISTERED TO HIM in the National Firearms Registration and Transfer Record shall register each firearm so possessed on this form. All information required by the items on the other side must be fully and completely furnished.

3. Disposition of Registration Forms.--The original of this form will be retained in the National Firearms Registration and Transfer Record, Alcohol and Tobacco Tax Division. The copy, after registration has been effected, will be returned to the registrant.

4. Stolen or Lost Firearms or Documents.--Immediately upon the discovery that the firearm or the registration form has been stolen, lost, or destroyed, the registered owner must report the matter to the Director, Alcohol and Tobacco Tax Division. The report must state in detail the circumstances of the theft, loss, or destruction and include all known facts which may serve to identify the firearm or document.

5. Definitions.

(A) FIREARM--The term "firearm" means:

- (1) A shotgun having a barrel or barrels of less than 18 inches in length;
- (2) A weapon made from a shotgun if it has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches;
- (3) A rifle having a barrel or barrels of less than 16 inches in length;
- (4) A weapon made from a rifle if it has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length;
- (5) Any other weapon (as defined below);
- (6) A machine gun (as defined below);
- (7) A muffler or silencer for any firearm;
- (8) A destructive device (as defined below).

The term "any other weapon" as used in (5) above means (a) any weapon or device, other than a pistol or revolver having a rifled bore or bores, from which a shot is discharged through the energy of an explosive and which is capable of being concealed on the person; (b) a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire fixed shotgun ammunition; or (c) a weapon with combination shotgun and rifle barrels 12 inches or more, but less than 18 inches, in length, from which only a single discharge can be made from either barrel without manual reloading.

The term "machine gun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically, more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed, and intended for use in converting a weapon into a machine gun, and any combination of parts from which a

machine gun can be assembled if such parts are in the possession or under the control of a person. (The term includes "unserviceable" machine guns as well as machine guns previously determined to be "DEWATS").

The term "destructive device" as used in (8) above means: (1) any explosive incendiary or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter; except a shotgun or shotgun shell which the Secretary of the Treasury or his delegate finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts designed or intended for use in converting any device into a destructive device as defined in (1) or (2) and from which a destructive device may be readily assembled.

The term "destructive device" does not include (a) devices which are not designed or redesigned for use as a weapon, (b) any device although originally designed as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device, or (c) any surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to sections 4684(2), 4685, or 4686 of Title 10, United States Code, or (d) any other device which the Secretary of the Treasury or his delegate finds is not likely to be used as a weapon or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

(B) UNSERVICEABLE--The term "unserviceable" means a firearm as defined above, which has been altered in such manner as to be incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

6. Penalty and Immunity.--Section 5861 of the National Firearms Act of 1968 makes it unlawful to receive or possess an unregistered firearm of the type defined herein. Violations are punishable by fine of up to \$10,000, imprisonment of up to 10 years, or both. The statute requiring you to register your firearm provides that information or evidence required to be submitted or retained by you (if a natural person) in registering your firearm during the special grace period shall not be used against you directly or indirectly in any criminal proceeding with respect to a prior or concurrent violation of law. However, the statute does not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

7. Serial Number.--If the firearm being registered does not bear a serial number, contact the nearest Alcohol and Tobacco Tax Division, Internal Revenue Service, office to have a serial number or other identification assigned and placed on the firearm by the registrant.

8. Chapter 44, of Title 18, U.S.C., as amended specifies: It shall be unlawful for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machine gun (as defined in Section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary.