

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 5. FIREARMS REGULATIONS
CHAPTER 2. CENTRALIZED LIST OF FIREARMS DEALERS

ECONOMIC AND FISCAL IMPACT STATEMENT (STD 399) ATTACHMENT

ECONOMIC IMPACT STATEMENT

A. Estimated Private Sector Cost Impacts:

4. Enter the number of businesses that will be **created:** ZERO (0) **eliminated:** ZERO (0)

Explain: No businesses are expected to be created or eliminated. However, a small possibility exists that these regulations could have an impact on firearm dealers who are found with an egregious violation(s) of the law. Fines up to \$3,000 can have an immediate fiscal impact on small firearm dealers, potentially resulting in job lay-offs or closure of the business. However, the Department of Justice (Department) has determined that this scenario is unlikely, considering the extremely low number of egregious violations committed in previous years.

B. Estimated Costs:

5. Are there comparable Federal regulations? **YES**

Explain the need for State regulation given the existence or absence of Federal regulations:

These state regulations are mandated pursuant to Penal Code section 26800. There are two separate Federal regulations that are comparable to these proposed regulations:

27 CFR § 478.73 Notice of revocation, suspension, or imposition of civil fine.

(a) Basis for action. Whenever the Director has reason to believe that a licensee has willfully violated any provision of the Act or this part, a notice of revocation of the license, ATF Form 4500, may be issued. In addition, a notice of revocation of the license, on ATF Form 4500, may be issued whenever the Director has reason to believe that a licensee fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee). In addition, pursuant to [18 U.S.C. 922\(t\)\(5\)](#) and [18 U.S.C. 924\(p\)](#), a notice of revocation, suspension, or imposition of a civil fine may be issued on ATF Form 4500 whenever the Director has reason to believe that a licensee has knowingly transferred a firearm to an unlicensed person and knowingly failed to comply with the requirements of [18 U.S.C. 922\(t\)\(1\)](#) with respect to the

transfer and, at the time that the transferee most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that transfer to the transferee or their receipt of a firearm would violate [18 U.S.C. 922\(d\)](#), [922\(g\)](#), or [922\(n\)](#) (as applicable), or State, local, or Tribal law; or that a licensee has violated [18 U.S.C. 922\(z\)\(1\)](#) by selling, delivering, or transferring any handgun to any person other than a licensee, unless the transferee was provided with a secure gun storage or safety device for that handgun.

(b) Issuance of notice. The notice shall set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The Director shall afford the licensee 15 days from the date of receipt of the notice in which to request a hearing prior to suspension or revocation of the license, or imposition of a civil fine. If the licensee does not file a timely request for a hearing, the Director shall issue a final notice of suspension or revocation and/or imposition of a civil fine on ATF Form 5300.13, as provided in [§ 478.74](#).

The proposed regulations would offer a specific, structured approach for the Department to inspect California firearm dealers, note violations, and assess civil fines based on the severity of a violation. This differs significantly from 27 CFR section 478.73, which deals specifically with license forfeiture, suspension, and imposition of civil fines for illegal firearms transfers, sales, and deliveries. The proposed regulations would assess civil fines for a much broader scope of violations – ranging from less-severe violations, which are minor and minimal in number (e.g., sign violation), to most-severe and egregious violations, which are committed with gross negligence (e.g., fraudulent Certificate of Eligibility).

27 CFR § 478.74 Request for hearing after notice of suspension, revocation, or imposition of civil fine. – *If a licensee desires a hearing after receipt of a notice of suspension or revocation of a license, or imposition of a civil fine, the licensee shall file a request, in duplicate, with the Director of Industry Operations within 15 days after receipt of the notice of suspension or revocation of a license, or imposition of a civil fine. On receipt of such request, the Director of Industry Operations shall, as expeditiously as possible, make necessary arrangements for the hearing and advise the licensee of the date, time, location and the name of the officer before whom the hearing will be held. Such notification shall be made no less than 10 days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all the relevant presentations made by the licensee or the licensee's representative, the Director shall render a decision and shall prepare a brief summary of the findings and conclusions on which the decision is based. If the decision is that the license should be revoked, or, in actions under 18 USC 922(t)(5) or 924(p), that the license should be revoked or suspended, or that a civil fine should be imposed, a certified copy of the summary shall be furnished to the licensee with the final notice of revocation, suspension, or imposition of a civil fine on ATF Form 5300.13. If the decision is that the license should not be revoked, or in actions under 18 USC 922(t)(5) or 924(p), that the license should not be revoked or suspended, and a civil fine should not be imposed, the licensee shall be notified in writing. During the hearing the licensee will have the*

opportunity to submit facts and arguments for review and consideration; offers of settlement will not be entertained at the hearing but may be made before or after the hearing.

The proposed regulations offer a process for licensees who wish to file an appeal for civil fines imposed by the Department. This process would require the licensee to submit a form to the Department within 30 days from the date the citation was issued. All appeals will be conducted in accordance with the Administrative Procedures Act (Government Code section 11500 et. seq.). This is similar to 27 CFR section 478.74, which states that if a licensee desires to appeal a suspension, revocation, or a civil fine, a hearing is required to be coordinated and held at a location given to the licensee.

C. Estimated Benefits:

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the state's environment:

These regulations make specific all aspects regarding the process for imposing civil fines on firearm dealers – including definitions, inspections, the assessment and collection of fines, collections process, appeals process, and the various considerations that determine the severity of a violation. These regulations will increase compliance from firearm dealers. Having well-regulated firearm dealers directly protects the health and welfare of California. Ensuring that firearms are being sold and transferred safely and legally in California is essential for protecting the public from the potential dangers of firearms.

D. Alternatives to the Regulation

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? YES

The Department has considered other performance standards. These proposed regulations implement civil fines requirements for licensee non-compliance and, therefore, impose specific requirements. The Department must impose specific requirements to make clear all aspects regarding dealer inspections, notification of inspection findings, appeals, and collections of civil fines. The Department has determined that the Dealer Record of Sale Entry System (DES) is the most efficient way to collect money and information from firearm dealers. Currently, the Department is working on a larger firearms IT project, which will include the funding required to upgrade the DES and implement a method by which the Department can collect civil fines and information from firearm dealers. Therefore, the Department has concluded that, at this time, a manual process of tracking and collecting money and information regarding civil fines is the only available method.

E. Major Regulations

5. The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency:

These proposed regulations would allow the Department to enforce the provisions, prohibitions, and requirements set forth in Penal Code section 26800.

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FISCAL IMPACT STATEMENT

B. Fiscal Effect on State Government

1. Additional Expenditures in the current State Fiscal Year. (Approximate)

The Bureau of Firearms needs one permanent Associate Governmental Program Analyst for the Training, Information and Compliance Section to track violations and fines issued, follow up on corrective actions with Field Representatives, and distribute notices to the industry. The cost is \$139,000 annually.

4. Other.

Cost or savings to any state agency: The Department will assess a civil fine if a dealer is found in violation of any applicable law. Therefore, any money the Department collects due to assessing civil fines on firearm dealers will be new revenue.

The estimated impact is difficult to predict because the assumption underlying the impact is that firearm dealers will take additional steps to comply with state law to avoid paying penalties. Based on past audits and investigations, the Department estimates the impact will be minimal as most firearm dealers comply with most state law requirements.