

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 5. FIREARMS REGULATIONS

CHAPTER 6. CERTIFIED FIREARM SAFETY DEVICE LABORATORIES, FIREARM SAFETY DEVICE STANDARDS AND TESTING AND STANDARDS FOR GUN SAFES

TEXT OF PROPOSED REGULATIONS

The original text published in the California Code of Regulations has no underline. Changes are illustrated by black underline for proposed insertions and ~~black strikethrough~~ for proposed deletions.

Article 2. Definition of Key Terms

§ 4082. Definition of Key Terms.

(a) “ATF” means the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.

(b) “Certified FSD Laboratory” means a laboratory that has been granted FSD Laboratory Certification by the DOJ.

(c) “COE” means a Certificate of Eligibility issued by the DOJ pursuant to Penal Code section 26710, subdivision (a) through (c) and the regulations issued thereunder after a check of state and federal files has determined that at the time the check was performed, and based upon available information, the applicant was not a person who was prohibited from possessing firearms pursuant to state and federal laws.

(d) “Common household tools” means screwdrivers (8 to 10 inches in length, flathead or ~~p~~Phillips, flathead sizes up to $\frac{5}{8}$ inches), pipe wrenches (9 $\frac{1}{2}$ to 10 inches in length), vice grip pliers (9 $\frac{1}{2}$ to 10 inches in length), other pliers (9 $\frac{1}{2}$ to 10 inches arch joint, 6 to 6 $\frac{1}{2}$ -inch slip joint, 6 to 6 $\frac{1}{2}$ -inch long nose), hacksaws (12-inch standard carbon steel blade), crowbars (16-inch), electric/cordless drills ($\frac{1}{3}$ horsepower corded/9.6 volt cordless), hammers (16-ounce), chisels ($\frac{1}{4}$ -inch to 1-inch blade width wood chisels), and crescent wrenches (10-inch).

(e) “Completed application” means a completed Application for Firearm Safety Device Laboratory Certification, Form BOF 019A (Rev. 01/2012), including application copies of any applicable licenses and/or certificates; any additional sheets of paper used to provide full and complete answers to questions on the application; and copies of the laboratory's written procedures relating to security and prohibited persons.

- (f) "Corporation" means any entity organized under Corporations Code section 102, subdivision (a) or similar statute if not a California corporation.
- (g) "Day" means a calendar day unless otherwise specified in these regulations.
- (h) "Disabled" means defeating the FSD thereby rendering the firearm capable of firing (expelling a projectile by the force of an explosion or other form of combustion).
- (i) "DOJ" means the California Department of Justice.
- (j) "DOJ-approved FSD" means an FSD that ~~has been tested by a Certified FSD Laboratory, the~~ DOJ has been determined to meet the standards for FSDs; and may be sold in California pursuant to Penal Code sections 23655 or 23658-23650.
- (k) "Firearms manufacturer/importer" means either a licensed manufacturer of domestically produced firearms or, if one exists, a legal successor-in-interest or other person with the consent of the manufacturer; and/or a federally licensed importer of foreign manufactured firearms.
- (l) "FSD" means a device that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of a firearm, or prevent access to the firearm.
- (m) "Firearms Safety Device Compliance Test Report" means a report completed by a Certified FSD Laboratory after an FSD has met the requirements of Penal Code section 23650 and these regulations.
- (n) "FSD manufacturer or dealer" means either a manufacturer of FSDs or a dealer of FSDs.
- (o) "Firing chamber" means the chamber that is lined up with the firing pin or striker.
- (p) "Firm" means a business unit, enterprise, or partnership of two or more persons, that is not recognized as a legal person distinct from the members comprising the entity.
- (q) "FSD Laboratory Certification" means the DOJ certificate issued as evidence of compliance with the DOJ laboratory certification requirements as set forth in these regulations.
- (r) "Keyway" means the opening in a locked cylinder that is shaped to accept a key bit or blade of a proper configuration.
- (s) "Local license" means any regulatory and/or business license issued by a city, county, or other local government agency.
- (t) "Model" means the manufacturer's designation which uniquely identifies a specific design of FSD.

(u) “Plug” means the part of a cylinder which contains the keyway, with tumbler chambers usually corresponding to those within the cylinder shell.

(v) “Properly installed” means the FSD is installed according to the instructions provided by the FSD manufacturer or dealer.

(w) “Reasonable access” means that areas and/or items to be inspected by an authorized DOJ employee are free from physical obstruction and/or other impediments that would make access difficult and/or unsafe.

(x) “Roster of Approved Firearm Safety Devices” or “Roster” means a DOJ list of all DOJ-approved FSDs. The ~~R~~Roster shall list, for each DOJ-approved FSD, the manufacturer, model number, model name, and other information deemed necessary by the DOJ to facilitate identifying that FSD.

(y) “Lock box” means an FSD that fully contains and encloses the firearm(s).

(z) “Permanently affixed,” as used in Penal Code section 23655, subdivision (f)(2), means the name of the manufacturer, the model number, and the model name are stamped, etched, molded, casted, silkscreened, indelibly printed, or otherwise marked in a way that cannot be removed or erased on a permanently attached part of the device or on a nameplate of metal, plastic, or other material fastened to the equipment by welding, riveting, or a permanent adhesive. The name of the manufacturer, the model number, and the model name permanently affixed to the device must be designed to last the expected lifetime of the equipment in the environments in which the equipment is reasonably expected to be operated and must not be readily detachable.

Note: Authority Cited: Sections 23650, ~~and~~ 23655, and 23658, Penal Code. Reference: Sections 23650, ~~and~~ 23655, and 23658, Penal Code.

Article 4. Operational Requirements, Firearm Safety Device Standards, Gun Safe Standards, Proof of Purchase or Ownership of a Gun Safe, Affixation of Required Warning

§ 4102. Lock Box -- Proof of Ownership of an Acceptable “Lock Box” Type Firearm Safety Device.

(a) The firearms purchaser or transferee may establish proof of ownership of an acceptable lock box that is listed on the Roster of Approved Firearm Safety Devices by providing the firearms dealer with both of the following:

(1) A receipt for purchase of the lock box.

(2) An affidavit stating that the lock box is listed on the Roster of Approved Firearm Safety Devices and will accommodate the firearm(s) that is being taken into possession. The affidavit must state the ~~make and model of the lock box~~ name of the manufacturer, the model number, and the model name and state that the lock box is capable of accommodating the firearm(s) being purchased. The affidavit must contain the statement “I declare under penalty of perjury that all statements made in this affidavit are true and complete.” This statement shall be signed and dated by the firearms purchaser or transferee.

(b) The firearms dealer shall maintain the ~~statement(s)~~ documentation and affidavit provided by the purchaser or transferee ~~provided~~ pursuant to subdivision (a) of this section for three years with the Dealer Record of Sale (“DROS”) for the firearm.

(c) The process described in this section may also be used for a lock box that is no longer listed on the Roster of Approved Firearm Safety Devices only because it was removed from the Roster because the manufacturer failed to timely request renewal pursuant to section 4110 of these regulations.

Note: Authority cited: Sections 23635, 23650 and 23655, Penal Code. Reference: Sections 23650 and 23655, Penal Code.

Article 8. Roster of Approved Firearm Safety Devices, Appeal Process

§ 4108. Roster of Approved Firearm Safety Devices.

(a) Within ten (10) days of the DOJ’s receipt of the Firearm Safety Device Compliance Test Report Form BOF 021A (Rev. 01/2012); and one prototype of the FSD; from the Certified FSD Laboratory; the DOJ will determine whether the FSD may be placed on California's Roster of Approved Firearm Safety Devices. After ~~the determination by the DOJ~~ determines that the FSD may be listed on the Roster, the DOJ will add the FSD to the ~~R~~Roster of Approved Firearm Safety Devices.

(b) Within ten (10) days of the receipt of the request from an FSD manufacturer ~~or dealer~~ to add an FSD to the Roster of Approved Firearm Safety Devices, the DOJ will determine whether the FSD may be listed without testing. If the DOJ finds that the FSD may be listed, the DOJ will add the FSD to the ~~R~~Roster.

(c) An FSD may be excluded from the Roster of Approved Firearm Safety Devices for any of the following reasons:

(1) If it is determined that the FSDs submitted for testing were modified in any way from those that were sold after certification was granted.

(2) If it is determined that the FSD does not meet established standards based upon further testing.

(3) If the FSD manufacturer ~~or dealer~~ requests that the FSD be removed from the ~~R~~Roster.

(d) An FSD manufacturer or party of interest may submit a written request to list an FSD that was voluntarily discontinued. The written request must state that no modifications have been made to the model and be submitted to the DOJ.

(e) If the DOJ determines that an FSD submitted pursuant to Penal Code sections 23655 or 23658 meets all of the requirements to be listed on the Roster of Approved Firearm Safety Devices except for the requirement in Penal Code section 23655, subdivision (f)(2), then the DOJ may, at its discretion, require that the FSD manufacturer do either of the following before the DOJ reevaluates the FSD for listing on the Roster of Approved Firearm Safety Devices:

(1) Redesign the FSD for which listing on the Roster of Approved Firearm Safety Devices is sought so that it complies with the requirement in Penal Code section 23655, subdivision (f)(2), and provide the DOJ a prototype of the redesigned FSD.

(2) Redesign the FSD for which listing on the Roster of Approved Firearm Safety Devices is sought so that it complies with the requirement at Penal Code section 23655, subdivision (f)(2), and follow the process described in subdivision (b) of section 4093 of these regulations.

Note: Authority cited: Sections 23650, ~~and~~ 23655 and 23658, Penal Code. Reference: Sections 23650, ~~and~~ 23655 and 23658, Penal Code.

Article 9. Annual Listing Renewal Certification

§ 4110. Annual Listing Renewal Certification.

(a) No later than the first business day of each calendar year, the FSD manufacturer must request to renew the listing of their FSD model on the Roster. To request renewal, the FSD manufacturer must report:

(1) if the FSD model has been modified in any way from the version of the model that was added to the Roster after Certified FSD Laboratory testing (under Penal Code section 23655) or the version that was added to the Roster without laboratory testing (under Penal Code section 23658 or California Code of Regulations, title 11, section 4093); and

(2) a description of any modifications to the FSD, if applicable.

(b) The annual listing renewal certification must be signed under penalty of perjury.

(c) If the DOJ does not receive the annual listing renewal certification by February 28 of the calendar year, the DOJ will remove the device from the Roster and may destroy any prototypes of the device in the DOJ's possession.

(d) If, after a device has been removed from the Roster pursuant to subdivision (c) of this section, the FSD manufacturer wishes to list the device on the Roster, the FSD manufacturer must seek the DOJ's approval for listing on the Roster in accordance with Penal Code section 23655 or 23658.

Note: Authority cited: Section 23655, Penal Code. Reference: Sections 23655 and 23658, Penal Code.