

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

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

A private party sale of a firearm must be conducted through a licensed firearms dealer. Existing law requires a firearms dealer who is unable to process the sale, transfer, or loan of a firearm to return the firearm to the person making the sale, transfer, or loan. However, the dealer is prohibited from returning the firearm if that person is prohibited from possessing a firearm. In those cases, the dealer is required to transfer the firearm to a law enforcement agency. (Pen. Code, § 28050, subd. (e).)

Effective January 1, 2022, a dealer who delivers possession of a firearm to a law enforcement agency is required to notify the Department within 72 hours after the delivery of the firearm, in a manner and format prescribed by the Department. (Pen. Code, § 28050, subd. (g).)

BENEFITS ANTICIPATED FROM REGULATORY ACTION

The proposed regulation prescribes the procedure for a dealer to notify the Department that a firearm has been delivered to a law enforcement agency. The Report of Dealer Relinquishment, forms BOF 1401A and 1401B, have been developed for this purpose. Starting July 1, 2024, the dealer will report this information electronically, via the Dealer Record of Sale Entry System (DES). The DES will generate a form for the dealer and law enforcement officer to sign.

This regulation protects public safety by implementing a statutory requirement that the Department be notified of each transfer of a firearm. This is particularly important when the original firearm possessor has been determined to be prohibited from possessing a firearm.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

§ 4025. Notification of Relinquishment After A Failed Private Party Transfer.

(a) This subdivision provides seven categories of information that must be reported to the Department.

(1) This subdivision requires the firearms dealer to report information about the dealer. This is necessary so that the Department can identify the dealer who transferred the firearm to law enforcement.

(2) This subdivision requires the dealer to report a description of the firearm. This is necessary so that the Department can identify the firearm. Keeping accurate records of firearms is a core public safety function of the Department's Bureau of Firearms. (Pen. Code, § 11106.)

(3) This subdivision requires the dealer to report the date they were notified they could not legally return the firearm to the transferor, seller, or person loaning the firearm. This is necessary so the Department can identify the attempted transaction that resulted in the firearm being delivered to law enforcement.

(4) This subdivision requires the dealer to report information about the seller, transferor, or person loaning the firearm to whom the dealer could not legally return the firearm. This is necessary so the Department can identify the person who originally had possession of the firearm. Keeping track of persons who are prohibited by state or federal law from possessing a firearm is a core public safety function of the Department's Bureau of Firearms. (Pen. Code, § 30000.)

(5) This subdivision requires the dealer to report information about the law enforcement agency and officer that takes possession of the firearm. This is necessary so that the Department has an accurate record of which entity received possession of the firearm.

(6) This subdivision requires the dealer to report the name and Certificate of Eligibility (COE) number of the dealer representative who transferred the firearm to the law enforcement agency. This is necessary so that the Department can identify the dealer representative who transferred the firearm to law enforcement.

(7) This subdivision requires the dealer to report the date that the firearm was transferred to law enforcement. This is necessary so that the Department can verify that the report was made within 72 hours, as required by statute. Providing the date also allows the Department to accurately update its records regarding possession of that firearm.

(b) This subdivision requires the dealer to report the delivery of a firearm to law enforcement on a form prescribed by the Department. The Report of Dealer Relinquishment, form BOF 1401A, and supplemental form 1401B, have been developed for current reporting while the Department updates the DES to accept these notifications, a function that will be made available on July 1, 2024. This subdivision requires the dealer and law enforcement representative to sign and date the form. This is necessary to confirm that the information reported to the Department is accurate and verifiable. The form can be sent to the Department via email or postal mail. This is necessary to provide an efficient and inexpensive procedure for the dealer to report the required information. If sent by mail, the form shall be postmarked within 72 hours of the delivery of the firearm to law enforcement. This is necessary to clarify that the statutory deadline is determined by reference to the postmark.

(c) This subdivision requires the dealer to report the delivery of a firearm to law enforcement through the DES starting July 1, 2024. The DES will generate a form for the dealer and law enforcement representative to sign and date. This is necessary to confirm that the information reported to the Department is accurate and verifiable. The form can be sent to the Department

via email or postal mail. This is necessary to provide an efficient and inexpensive procedure for the dealer to report the required information. Dealers are already familiar with using the DES to report transactions to the Department. (See Cal. Code Regs., tit. 11, § 4200 et seq.)

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department concludes:

(1) It is unlikely that the proposal would create or eliminate jobs within the state because the proposed regulation prescribes the procedure for existing firearm dealers to notify the Department that a firearm has been delivered to a law enforcement agency.

(2) It is unlikely that the proposal would create new businesses or eliminate existing businesses within the state because the proposed regulation prescribes the procedure for existing firearm dealers to notify the Department that a firearm has been delivered to a law enforcement agency.

(3) It is unlikely that the proposal would result in the expansion of businesses currently doing business within the state because the proposed regulation prescribes the procedure for existing firearm dealers to notify the Department that a firearm has been delivered to a law enforcement agency.

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents by creating a procedure for a dealer to report to the Department that a firearm has been delivered to a law enforcement agency because the owner is not eligible to own or possess that firearm. This regulation protects public safety by implementing a statutory requirement that keeps firearms out of the hands of persons who are prohibited from owning or possessing a firearm.

(2) The proposal would not benefit worker safety because it does not regulate worker safety standards.

(3) The proposal would not benefit the state's environment because it does not change any applicable environmental standards.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR SIMILAR DOCUMENTS RELIED UPON

The Department did not rely on any technical, theoretical, or empirical studies, reports or similar documents in proposing these regulations.

EVIDENCE SUPPORTING DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the proposed action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulation prescribes the procedure for a dealer to notify the Department that a firearm has been delivered to a law enforcement agency. The proposed regulation requires the dealer to report the delivery of a firearm to law enforcement on a form prescribed by the Department. Starting July 1, 2024, the dealer will report this information electronically via the DES. The DES will generate a form for the dealer and law enforcement officer to sign.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Department finds that no reasonable alternatives were presented to, or considered by, the Department that would lessen any adverse impact on small business. Requiring the dealer to notify the Department via the prescribed form is the easiest way to make sure that the dealer provides all required information. Once the DES is updated, the dealer will make the report electronically via the DES. The DES will also generate a form for the dealer and law enforcement officer to sign. Dealers are already familiar with using the DES to report transactions to the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND THE AGENCY'S REASON FOR REJECTING THOSE ALTERNATIVES

The Department finds that no alternatives were presented to, or considered by, the Department that would be more effective in carrying out the purpose of these proposed regulations or would be as effective and less burdensome to affected private persons than these proposed regulations.

Performance Standard as Alternative:

Penal Code section 28050 requires a dealer who delivers possession of a firearm to a law enforcement agency to notify the Department within 72 hours after the delivery of the firearm in a manner and format prescribed by the Department.

The proposed regulation requires the dealer to transmit information about the transaction to the Department on a prescribed form. Requiring the dealer to notify the Department via the prescribed form is the easiest way to make sure that the dealer provides all required information. Once the DES is updated, the dealer will make the report electronically via the DES. The DES will also generate a form for the dealer and law enforcement officer to sign. Dealers are already familiar with using the DES to report transactions to the Department.