

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 5. FIREARMS REGULATIONS
CHAPTER 12. CALIFORNIA FIREARMS APPLICATION REPORTING SYSTEM
INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

Assembly Bill (AB) 2699 (stats. 2020, ch. 289) expanded exemptions to the prohibition against the sale, use, purchase, or transfer of unsafe handguns to additional law enforcement and government entities, as well as to sworn members of those entities.

Penal Code section 32000, subdivisions (b)(4), (b)(6), and (b)(7) specify which entities are exempt from the prohibition against the sale, use, purchase, or transfer of unsafe handguns, and details the requirements sworn members of these entities must meet to qualify for the exemptions.

AB 2699 also requires an eligible entity or sworn member to notify the Department within 72 hours of the sale or transfer of an unsafe handgun. (Pen. Code, § 32000, subd. (e)(2).) The Department must prescribe the manner and format by which eligible sworn members and entities can satisfy this reporting requirement.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

This proposed regulation protects public safety by implementing a statutory requirement that the Department be notified of an unsafe handgun transfer or sale. This reporting requirement helps ensure unsafe handguns cannot be purchased or sold by members of the general public.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

§ 4341. Definitions.

This section defines the terms that will be used throughout the Chapter. It is necessary for these terms to be defined because some lend themselves to different interpretations within different contexts. Definitions help establish appropriate scope and applicability.

Subdivision (a) defines “CFARS” to mean the California Firearms Application Reporting System. This definition is necessary to specify the web-based application where individuals can report the sale or transfer of unsafe handguns.

Subdivision (b) defines “Department” to mean the Department of Justice of the State of California. This definition is necessary to specify the State agency that is issuing these regulations.

Subdivision (c) defines “Firearms dealer” or “dealer” to mean an individual listed on the Centralized List of Firearms Dealers pursuant to Penal Code section 26700. This definition is necessary for ease of reference.

Subdivision (d) defines “Unsafe handgun” to have the meaning set forth in Penal Code section 31910. This definition is necessary for ease of reference.

Subdivision (e) defines “eligible entity” to mean entities authorized to purchase unsafe handguns under Penal Code section 32000, subdivisions (b)(4), (b)(6), and (b)(7). Including this statutory definition in the regulations is necessary for ease of reference.

Subdivision (f) defines “Transferee” to mean an individual accepting the sale or transfer of an unsafe handgun. Creating an abbreviation for this term makes the regulations easier to read.

Subdivision (g) defines “Transferor” to mean a sworn member of one of the entities listed in Penal Code section 32000, subdivisions (b)(4) or (b)(6). Creating an abbreviation for this term makes the regulations easier to read.

§ 4342. Online Reporting with CFARS.

Subdivision (a) requires a transferor to report the sale or transfer of an unsafe handgun within 72 hours through CFARS, unless the transaction was processed through a licensed firearms dealer. This subdivision is necessary to specify the method by which transferors can report to the Department the sale or transfer of an unsafe handgun. Penal Code section 32000, subdivision (e)(2) also specifies that the reporting requirement shall be deemed satisfied if the sale or transfer is processed through a licensed firearms dealer pursuant to Penal Code section 27545.

Subdivision (b) clarifies that eligible entities may satisfy the reporting requirements mandated by Penal Code section 32000, subdivision (e)(2) by reporting the sale or transfer of an unsafe handgun to an eligible entity or individual through the Automated Firearms System (AFS), pursuant to Penal Code section 26600, subdivision (c). This subdivision is necessary because CFARS is not configured to collect entity-level information at this stage. Eligible entities reporting through AFS will still allow the Department to obtain required information about the sale or transfer of an unsafe handgun.

Subdivision (c) specifies that a transferor shall create a CFARS account as prescribed by California Code of Regulations, Title 11, section 4340 before electronically reporting the sale or transfer of an unsafe handgun. This section is necessary to specify where transferors can find information on creating the necessary CFARS account to report the required information to the Department.

§ 4343. Reporting Requirements.

Subdivision (a) specifies where on the CFARS application transferors can find the correct link to report the sale or transfer of an unsafe handgun. This subdivision is necessary for clarity purposes.

Subdivision (b) identifies the Department's Privacy Notice and requires that the transferor agree to its terms. This subdivision is necessary because it informs the transferor that the transferor shall permit the Department to release the transferor's personal information to its representatives or any other person designated by the Attorney General as needed. If the transferor does not agree to the terms, the report of a sale or transfer of an unsafe handgun may not be processed. This subdivision also clarifies that transferors may review records maintained by the Department that contain the transferor's personal information by contacting the Department by mail, email, or telephone.

Subdivision (c) identifies the mandatory information that a transferor shall add to the "transferor information" section of the CFARS form. This subdivision is necessary so that the Department can identify the individual who transferred or sold an unsafe handgun to another eligible entity or individual.

Subdivision (c)(1) identifies optional information a transferor may add to complete the form. This subdivision allows a transferor to provide more information about themselves so that the Department can identify them.

Subdivision (d) requires a transferor to respond to the question, "Was this handgun obtained pursuant to paragraph (4), (6), or (7) of Penal Code section 32000, subdivision (b)?" in the "firearm information" section of the form. This subdivision is necessary because unless a transferor obtained an unsafe handgun pursuant to the identified Penal Code section, they should not be reporting the sale or transfer of a firearm through the CFARS form.

Subdivision (e) requires a transferor to include a description of the unsafe handgun. This subdivision 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.)

Subdivision (f) requires the transferor to report information about the transferee. This is necessary so that the Department can identify the transferee who received the unsafe handgun.

Subdivision (f)(1) requires the transferor to indicate who the unsafe handgun is being transferred to. This subdivision is necessary so that the Department has an accurate record of the entity or individual who is now in possession of the unsafe handgun.

Subdivision (f)(2) requires the transferor to not only include the mandatory information outlined in subdivision (f) if they select "out-of-state private party transfer," but also a CFARS bill of sale and a form of identification for the transferee. This subdivision is necessary so that the Department can identify the transferee who received the unsafe handgun and disassociate the transferor from the firearm.

Subdivision (f)(3) requires the transferor, if they select "out-of-state firearms dealer" or "manufacturer/gunsmith," to provide the transferee's business name and business address and phone, along with the date of firearm transfer. If the transferor selects "out-of-state firearms dealer," then a bill of sale must also be provided along with the other mandatory information.

This subdivision is necessary so that the Department can identify the entity who received the unsafe handgun and disassociate the transferor from the firearm.

Subdivision (f)(4) identifies optional information a transferor may provide about the transferee. This subdivision allows a transferor to provide more information about the transferee so that the Department can identify them.

Subdivision (g) requires a transferor to certify under penalty of perjury that the information provided on the form is true and correct. The necessity for a certification under penalty of perjury is to impress upon transferors the seriousness and importance of submitting accurate information on the form, to attest to the accuracy and completeness of the information submitted, and to deter misrepresentations and submission of false information.

§ 4344. Notice of Incomplete Report.

Subdivision (a) specifies that the Department will notify the transferor via CFARS if the submitted form is deemed incomplete or incorrect by the Department. The Department's notice shall specify the grounds on which the Department's determination is based and may request any corrected information be provided within 30 calendar days of the transferor being notified. This subdivision is necessary to provide information to the transferor regarding the deficiencies in their report and provides a timeline for the transferor to provide information the Department requires to deem the form complete.

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 only prescribes the procedure for eligible entities and sworn officers to notify the Department that an unsafe handgun has been sold or transferred.

(2) It is unlikely that the proposal would create new businesses or eliminate existing businesses within the state because the proposed regulation only prescribes the procedure for eligible entities and sworn officers to notify the Department that an unsafe handgun has been sold or transferred.

(3) It is unlikely that the proposal would result in the expansion of businesses currently doing business within the state because the proposed regulation only prescribes the procedure for eligible entities and sworn officers to notify the Department that an unsafe handgun has been sold or transferred.

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents by creating a procedure for a sworn member of an eligible entity to notify the Department of the sale or transfer of an unsafe handgun. Eligible sworn members will report the required information to

the Department using CFARS. This regulation protects public safety by implementing a statutory requirement that ensures unsafe handguns cannot be sold or transferred to unauthorized persons.

(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 an individual to notify the Department that an unsafe handgun has been sold or transferred. The proposed regulation requires the individual to report the sale or transfer via CFARS.

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

The Department determines that these proposed regulations do not affect small businesses.

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 32000, subdivision (e)(2) requires a person or entity to notify the Department within 72 hours of the sale or transfer of an unsafe handgun in a manner and format prescribed by the Department.

The proposed regulation requires a person or entity to transmit information about the transfer or sale to the Department on a prescribed form. Requiring the individual to notify the

Department via the prescribed form is the easiest way to make sure the individual provides all required information.