
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 1009 **Hearing Date:** June 25, 2019
Author: Gabriel
Version: June 14, 2019
Urgency: No **Fiscal:** Yes
Consultant: JK

Subject: *Firearms: Reports to the Department of Justice*

HISTORY

Source: California Department of Justice

Prior Legislation: SB 746 (Portantino), Ch. 780, Stats. 2018
SB 880 (Hall), Ch. 48, Stats. 2016
AB 1135 (Levine), Ch. 40, Stats. 2016
AB 1609 (Alejo), Ch. 878, Stats. 2014
SB 683 (Block), Ch. 761, Stats. 2013

Support: Brady California United Against Gun Violence; Mayor of Los Angeles
Eric Garcetti; Ventura County Board of Supervisors

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to allow specified firearms transactions that are not required to be processed through a licensed firearms dealer to be reported to the Department of Justice (DOJ) via the web based California Firearms Application Reporting System (CFARS) and mail, and allow the DOJ to charge the person making the report a surcharge for the reasonable cost of receiving and processing the report.

Existing law requires the parties to a firearm transfer where neither party to the transaction holds a dealer's license as specified to complete the sale, loan, or transfer of that firearm through a licensed firearms dealer. (Pen. Code § 27545.)

Existing law requires a resident of this state who is importing into this state, bringing into this state, or transporting into this state, any firearm that he or she purchased or otherwise obtained from outside of this state, to have the firearm delivered to a licensed dealer in this state for redelivery to the resident, as specified. (Pen. Code, § 27585 (a).)

Existing law exempts various persons Exempts various persons from the prohibition against importing, bringing in, or transporting a firearm into this state without going through a licensed dealer, including licensed dealers, licensed collectors, and personal firearm importers, as specified. (Pen. Code, § 27585 (b).)

Existing law exempts the infrequent sale, loan, or transfer of a non-handgun firearm that is a curio or relic, as specified, from the requirement of conducting the sale, loan, or transfer through a licensed firearm dealer. (Pen. Code, § 27966.)

Existing law exempts the transfer of a firearm by gift, bequest, intestate succession, or other means of infrequent transfer from one individual to another, as specified, from the requirement of conducting the transfer through a licensed firearm dealer whether the firearm was acquired in this state or in another. (Pen. Code, § 27875.)

Existing law exempts the taking of a firearm by operation of law, as specified, from the requirement of conducting the transfer through a licensed firearm dealer whether the firearm was acquired in this state or in another, if the person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. (Pen. Code, § 27920 (a) and (b).)

Existing law requires that, within 60 days of bringing a handgun, and commencing January 1, 2014, any firearm, into this state, a personal firearm importer shall do one of the following:

- 1) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question;
- 2) Sell or transfer the firearm, as specified;
- 3) Sell or transfer the firearm to a licensed dealer, as specified; or
- 4) Sell or transfer the firearm to a sheriff or police department. (Pen. Code, § 27560 (a).)

Existing law requires DOJ to conduct a public education and notification program regarding this section to ensure a high degree of publicity of the provisions pertaining to reporting a firearm that has been brought into this state. (Pen. Code, § 27560 (d).)

Existing law requires a licensed collector who acquires a firearm curio or relic to, within five days of transporting the firearm into this state, as specified, to report the acquisition of that firearm to DOJ. (Pen. Code, § 27565.)

Existing law allows a person who is not required to conduct a firearm transfer through a licensed dealer, or is otherwise not required by law to report acquisition, ownership, destruction, or disposal of a firearm, or who moves out of this state with the person's firearm, to report that information to DOJ. (Pen. Code, § 28000.)

Existing law states that under federal law, it shall be unlawful for any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph:

- 1) Shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State;

- 2) Shall not apply to the transportation or receipt of a firearm obtained in conformity as specified; and,
- 3) Shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter (effective Dec. 16, 1968). (18 U.S.C. 922(a)(3).)

Existing law states that under federal law, it shall be unlawful for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to:

- 1) The transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence; and
- 2) The loan or rental of a firearm to any person for temporary use for lawful sporting purposes. (18 U.S.C. 922(a)(5).)

Existing law states that under federal law it shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance. (18 U.S.C. 922(b)(2).)

Existing law defines firearm curios or relics as firearms which are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons, as specified. (27 C.F.R. § 478.11.)

This bill requires that a personal firearm importer shall forward by prepaid mail to the DOJ or submit via the California Firearms Application Reporting System (CFARS), a report prescribed by the department including information concerning that individual and a description of the firearm in question.

This bill establishes that if a report is submitted by mail the department may charge the person making the report a surcharge, not to exceed \$20.

This bill requires a person who is receiving a firearm, including a firearm that is imported into the state, from a member of the same immediate family by gift, bequest, intestate succession, or other means from one individual to another, and is therefore required to report the firearm to DOJ.

This bill requires a person who acquires ownership of the firearm by bequest or intestate succession as a surviving spouse or as the surviving registered domestic partner of the decedent who owned that firearm, and is therefore required to report the firearm to DOJ.

This bill requires a member of the United States Armed Forces who is, or recently has been on active duty outside of the United States and who is bringing a firearm into the United States as a war souvenir, and is therefore required to report the firearm to DOJ.

This bill requires a licensed collector who is receiving a curio or relic firearm that is not a handgun, as the result of an infrequent sale, loan, or transfer, and is therefore required to report the firearm to DOJ.

This bill allows a person who is exempt from reporting to the DOJ may report that information to the DOJ in a manner and format prescribed by the department.

This bill updates provisions of existing law pertaining to educating and notifying the public about how to properly report firearms that are being brought into the state to be consistent with the provisions of this bill.

COMMENTS

1. Need for This Bill

According to the author:

Mail-in forms are more expensive and take twice as long for the DOJ to process. For example, handwritten forms are not always legible and require DOJ employees to translate the writing or write back to the individual for a legible version. This takes up significant government time and resources that could be better used processing other registrations and ensuring our gun registration records are up to date.

Each mail-in application takes on average twice as long as applications submitted online. In 2018 this resulted in almost 10,000 hours spent processing paper applications versus the less than 1500 hours spent processing online applications.

2. CFARS Reporting System

CFARS is a web-based application that allows a person to report his or her firearm to DOJ using state reporting forms. The website is accessible at <https://cfars.doj.ca.gov/login.do>. According to DOJ, there are numerous benefits to using the CFARS system for both DOJ and registration applicants.

Applicants benefit from using CFARS because they can do so from the comfort of a home computer, without having to mail in an application or show up in person. CFARS allows applicants to pay with a variety of major credit cards. In addition, once a person establishes a CFARS account, he or she can review past applications, and save personal information in an encrypted format to save time on future applications.

DOJ benefits from the CFARS system by saving time and resources on the processing of applications. According to the author, DOJ has found that an overwhelming majority of firearm registrations have been submitted via mail. Of the total registrations submitted, for all types of transactions affected by this bill, almost 80% were via mail. Mail-in forms are apparently more

expensive and take twice as long for the DOJ to process.

DOJ provided the following statistics for mail-in versus online applications, stating that in 2018 they spent nearly ten thousand (10,000) hours processing mail-in applications and less than one thousand five hundred (1,500) hours processing the applications that were submitted via CFARS:

FORM TYPE	MAIL IN	ONLINE	TOTAL
(1) Firearm Ownership Report	5570	2897	8467
(2) New Resident Report	3236	418	3654
(3) Curio and (4) Relic Firearm Reports	417	273	690
(5) Operation of Law and (6) Intra-Familial Transfer Reports	8289	1040	9329
TOTAL	17512	4628	22140

3. AB 1009 Amendments

In the bill's previous form, this bill required all firearm transactions to be registered online through CFARS by 2025. However, this was limiting for Californians who still currently do not have access to the web. According to a pair of lawsuits filed by individuals and gun groups, "[t]ens of thousands of gun owners were prevented from registering their bullet-button assault weapons before July 1 through no fault of their own."¹ As a result, a lawsuit was filed against the Attorney General of the State of California and the DOJ in state court on July 11, 2018² and a federal lawsuit was filed on September 21, 2018.³ Both lawsuits allege that the online system was virtually inaccessible in the days leading up to the deadline because it continuously crashed and would not allow persons who were attempting to comply with the law to register their firearms. The lawsuits appear to still be pending. In the bill's current form, now firearms transactions can be registered online or by mail. However, the by mail registration will garner a larger fee than online to account for the extra labor and time.

This bill also includes new registration requirements for firearm transactions that previously did not require registration.

4. Argument in Support

According to Brady United Against Gun Violence:

Under existing law, firearm transactions that are exempt from being processed through a licensed dealer are generally required to be reported to Cal DOJ by mail or in person in a format prescribed by the Department. These transactions include firearm ownership voluntary reports, new resident reports by persons from out-of-state bringing their firearms into California, intra-familial transfer reports, and curio or relic firearm reports. AB 1009 will allow these reports to be made via the California Firearms Application Reporting System (CFARS) and will require the

¹ <https://www.sacbee.com/news/politics-government/capitol-alert/article214798695.html>

² <https://d3n8a8pro7vhm.cloudfront.net/firearmspolicycoalition/pages/4636/attachments/original/1531345286/Sharp-Complaint-Filed-2018-7-11.pdf?1531345286>

³ <https://d3n8a8pro7vhm.cloudfront.net/firearmspolicycoalition/pages/4636/attachments/original/1537567240/sharp-v-becerra-sac-2018-9-21.pdf?1537567240>

reports to be made via CFARS after January 1, 2025. The bill will allow Cal DOJ to charge a fee not to exceed \$20 for the cost of receiving and processing a report submitted by mail or in person.

Cal DOJ has found that a large majority (80%) of firearm registration reports are submitted via mail, some of which are illegible. Mail-in forms are much more expensive for Cal DOJ and take longer to process. The significant staff time and resources required for mail-in submissions could be better used for processing

AB 1009 moves the firearm registration process into the 21st century, saves time and resources, and ensures law enforcement has access to accurate and reliable data. For these reasons, Brady California stands in support of AB 1009.

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