



LAW ENFORCEMENT INFORMATION BULLETIN:

EXEMPT LAW ENFORCEMENT FIREARM AND AMMUNITION SALES

What Law Enforcement Agencies, Officers, and Licensed Firearm Dealers Need to Know

NOVEMBER 3, 2020

Both California and federal firearm laws provide a means for law enforcement officers and California licensed firearm dealers to engage in certain sales that would otherwise be prohibited. These exceptions can be for types of firearms and firearm-related equipment, such as handguns not listed on the California Department of Justice's ("DOJ") roster of handguns certified for sale, so-called "assault weapons," and "large-capacity" magazines. Other exceptions also provided for specific transaction requirements, such as the background check, 10-day waiting period, and one handgun per 30-day restrictions.

Each of these exceptions have specific requirements and procedures that must be satisfied to be considered valid. The following information has been prepared to better assist California law enforcement and licensed firearm dealers in processing such transactions and has been updated to reflect the changes made following the adoption of Assembly Bill No. 2699 as applied to California's handgun roster.

I. STATE AND FEDERAL BACKGROUND CHECKS

Both state and federal law generally require individuals purchasing a firearm to undergo a background check prior to taking delivery of the firearm from a licensed dealer.¹ To satisfy this requirement under Federal law, a prospective purchaser must complete a "Firearm Transaction Record," more commonly known as the "4473 form."² Unlike most states, however, California is a "point of contact" state, meaning the California Department of Justice is required to process all firearm background checks on behalf of California licensed firearm dealers.³ Thus, although a prospective purchaser must still complete the 4473 form, the contents of this form are not used to conduct the required background check.

¹ 27 C.F.R. § 478.102 (prohibiting licensed dealer from selling, delivering, or transferring a firearm to an unlicensed individual without completing a background check); Pen. Code § 28220 (requiring DOJ to conduct background check of prospective firearm purchaser and notify California licensed dealer of outcome).

² See *ATF E-Form 4473 (5300.9): Firearms Transaction Record*, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/file/61446/download> (Oct. 2016).

³ See *Permanent Brady State Lists*, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/rules-and-regulations/permanent-brady-state-lists> (last visited Mar. 10, 2020).

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Instead, DOJ processes background checks for prospective firearm purchasers beginning with the Dealer Record of Sale (“DROS”) Entry System (“DES”).⁴ Using this system, California licensed firearm dealers collect a prospective purchaser’s information which it then submits electronically to DOJ. Upon submission, DOJ is required to then examine State and federal records to determine if the purchaser is prohibited from owning or possessing firearms.⁵ DOJ will then notify the California licensed firearm dealer of the result.⁶

A. Federal Background Check Exceptions for Law Enforcement

For purposes of transactions with law enforcement agencies, firearms sold or shipped to the United States or any department or agency thereof, or any State or any department, agency, or political subdivision thereof, are exempt from the requirements of the federal Gun Control Act.⁷ In other words, licensed firearm dealers need not complete a 4473 form when transferring any firearm to a law enforcement agency.⁸ As applied to transactions with law enforcement officers in their individual capacity, no 4473 form or federal background check is needed, provided certain requirements are met.⁹

For an individual law enforcement officer to meet the exception, they must be purchasing the firearm “for official use” and provide a certification on agency letterhead, signed by a person in authority within the agency (other than the officer themselves), stating the firearm will be used “in official duties and that a records check reveals that the purchasing officer has no convictions for misdemeanor crimes of domestic violence.”¹⁰ In connection with this requirement, the following individuals are considered to have sufficient authority:

- For a city or county police department, the director of public safety or the chief or commission of police;
- For a sheriff’s office, the sheriff;
- For a State police or highway patrol department, the superintendent or the supervisor in charge of the office to which the State officer or employee is assigned; and,
- For federal law enforcement officers, the supervisor in charge of the office to which the Federal officer or employee is assigned.¹¹

⁴ See, generally, Cal. Code Regs. tit. 11, §§ 4200-4240; See also Pen. Code § 28205.

⁵ Pen. Code § 28220.

⁶ *Id.*

⁷ 18 U.S.C. § 925(a)(1); See also 27 C.F.R. § 478.141.

⁸ Licensed firearm dealers will still need to maintain appropriate records of any acquisitions and dispositions of firearms for such transactions. And as discussed below, firearms regulated under the National Firearms Act are subject to additional federal requirements.

⁹ 27 C.F.R. § 478.134 (exempting law enforcement officers from completing 4473 form); See also Pen. Code §§ 27600-27620 (general law enforcement exemptions to California’s firearm transfer requirements).

¹⁰ 27 C.F.R. § 478.134(a).

¹¹ 27 C.F.R. § 478.134(b)(1)(i-iv). It should also be noted that for the purposes of the person in authority, federal law allows an individual to sign on behalf of that person provided there is a proper delegation of authority. 27 C.F.R. § 478.134(b)(2). This allows larger departments to delegate the necessary authority instead of requiring the top agency official to sign the required letter for every sworn member of their department wishing to purchase a firearm pursuant to the exception.

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If the above requirements are satisfied, the law enforcement officer will not be required to complete the 4473 form or undergo a federal background check.¹² However, the licensed dealer will still need to enter the disposition of the firearm into their official records and maintain the certification letter in their files.¹³

B. California Background Check Exceptions for Law Enforcement

Unlike federal law, California law does not provide an exception to the DROS background check requirements for sales to individual law enforcement officers by California licensed firearm dealers. Instead California law only exempts the sale, delivery or transfer of a firearm to “an authorized law enforcement representative” for the exclusive use by the agency which they represent.¹⁴ In other words, the representative is acquiring the guns for the agency itself—not in a personal capacity. To meet the exception, the representative must present “written authorization from the head of the agency authorizing the transaction.”¹⁵ This “written authorization” is defined as “verifiable written certification from the head of the agency by which the purchaser or transferee is employed” that:

- Identifies the employee as an individual authorized to conduct the transaction; and,
- Authorizes the transaction for the exclusive use of the agency by which that person is employed.¹⁶

Within 10 days of receiving the firearms, the agency must then enter them into DOJ’s Automated Firearms System (“AFS”) as “institutional weapons” via the California Law Enforcement Telecommunications System (“CLETS”).¹⁷

Although California licensed firearm dealers cannot sell or transfer a firearm to a law enforcement officer in an individual capacity without processing a DROS, California law does allow the law enforcement agencies themselves to sell, deliver, or transfer a firearm to a “peace officer” employed by the State of California pursuant to Section 10334 of the Public Contract Code.¹⁸ But such sales are generally limited to officers who are retiring, when the employing agency is changing its state-issued service weapon, or for sales to the spouse or domestic partner of an officer who died in the line of duty.¹⁹ Otherwise, California law only

¹² This is reiterated on ATF’s own website. See <https://www.atf.gov/firearms/qa/may-licensee-sell-firearms-law-enforcement-agencies-and-individual-officers> (last visited Mar. 11, 2020).

¹³ 27 C.F.R. § 478.134(c).

¹⁴ Pen. Code § 27600(a).

¹⁵ *Id.*

¹⁶ Pen. Code § 27600(b).

¹⁷ Pen. Code § 37600(c). In the event the agency lacks access to AFS, it must arrange with the sheriff of the county in which the agency is located to input this information into the system. *Id.* What’s more, should the agency subsequently destroy the weapon, it must report the destruction in AFS within 10 days in the same manner. Pen. Code § 26700(d).

¹⁸ Pen. Code § 27610(a). While not expressly stated, the term “peace officer” is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

¹⁹ Pub. Con. Code § 10334(b-d). What’s more, this code section only contemplates officers “employed by the State of California,” meaning officers employed by cities or counties (or other political subdivisions) may be subject to additional local laws or policies regarding transfers by the agency to its employee.

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allows agencies to “loan” a firearm to its officers “for the carrying and use of that firearm by that peace officer in the course and scope of the officer’s duties.”²⁰

In sum, law enforcement officers wishing to purchase a firearm in their individual capacity must still complete a DROS when purchasing the firearm at a California licensed firearms dealer. But if the officer has written certification on agency letterhead that satisfies all the requirements under federal law, the officer will not be required to complete a 4473 form in connection with the DROS transaction.

a. “Head of Agency”

As applied to California’s DROS exception for law enforcement and other California-specific exceptions requiring authorization from the officer’s “head of agency,” DOJ has provided conflicting guidance to firearm dealers depending on the agency in question. In most cases, obtaining this authorization is not an issue for relatively small agencies such as a local police department. But for larger agencies such as the California Highway Patrol, DOJ has suggested it may be appropriate for the officer to obtain written authorization from an appropriate designee of the head of the agency. Before accepting any written authorizations from someone other than the head of the agency, however, it is advised dealers consult their DOJ Field Representative for written instruction.

II. CALIFORNIA’S 10-DAY WAITING PERIOD RESTRICTION

California licensed firearm dealers are generally prohibited from delivering a firearm to any person within 10 days of the DROS transaction being submitted to DOJ.²¹ But the law provides an exception for the sale, delivery, or transfer of a firearm to any person who satisfies both of the following requirements:

- The person is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; and,
- The officer’s employer has authorized the officer to carry firearms while in the performance of their duties.²²

To meet the proper identification requirements of this exception, the officer must present “verifiable written certification from the head of the agency” employing the officer that:

- Identifies the purchaser as a peace officer who is authorized to carry firearms while in the performance of their duties; and,
- Authorizes the purchase or transfer.²³

Note that California licensed firearm dealers must still submit a DROS for the firearm and keep the certification with the DROS and any other required records for the transaction.²⁴

²⁰ Pen. Code § 27605.

²¹ Pen. Code § 27540(a).

²² Pen. Code § 27650(a)(1-2).

²³ Pen. Code § 27650(b)(1-2). These same requirements are restated on DOJ’s website. See <https://oag.ca.gov/firearms/exemptpo>.

²⁴ Pen. Code § 27650(b)(3-4).

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III. CALIFORNIA’S 30-DAY RESTRICTION

Until July 1, 2021, California licensed firearm dealers are also prohibited from delivering a handgun to any person whenever the dealer is notified by DOJ that the person made a prior application to purchase a handgun within the preceding 30-day period.²⁵ Beginning July 1, 2021, this same restriction will also apply to semiautomatic centerfire rifles.²⁶ What’s more, California law also places this same restriction on individuals themselves who attempt to purchase more than one handgun (and beginning July 1, 2021, semiautomatic centerfire rifles).²⁷

An exemption to the restriction on dealers is provided for the delivery of a firearm to “any of the entities or circumstances specified in subdivision (b) of Section 27535.”²⁸ This includes “[a]ny law enforcement agency” as well as “[a]ny person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.”²⁹ Notably absent from these requirements is any “verifiable written certification” from the officer’s employing agency, as is required for the exemption to California’s 10-day waiting period restriction. This fact is further illustrated in DOJ’s DES User Guide, which states that dealers need only click on the 30-day restriction exemption check box “if the purchaser has provided proof of having a valid exemption from the one handgun purchase per 30 days restriction.”³⁰

As a result, officers seeking an exemption to California’s 30-day restriction need only provide proof of their status as a full-time paid peace officer authorized to carry a firearm. What’s more, should the officer provide the required verifiable written certification to meet the exemption for California’s 10-day waiting period, that same certification should satisfy the requirements here.

IV. CALIFORNIA “DANGEROUS WEAPONS” AND NFA REGULATED ITEMS

California law generally prohibits the sale, transfer, importation, and possession of so-called “assault weapons,” .50 BMG rifles, machineguns, short-barreled rifles, short-barreled shotguns, and silencers.³¹ With the exception of silencers, these firearms are sometimes referred to as “dangerous weapons” in California, the

²⁵ Pen. Code § 27540(f).

²⁶ Pen. Code § 27540(g).

²⁷ Pen. Code § 27535.

²⁸ Pen. Code § 27540(f-g).

²⁹ Pen. Code §§ 27535(b)(1), 27535(b)(5).

³⁰ See *DROS Entry System (DES) Firearms Dealership User Guide* p. 40, California Department of Justice, Bureau of Firearms, https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/dros_entry_guide.pdf (Dec. 29, 2017, Rev. 3).

³¹ See, generally, Pen. Code §§ 30500-31115 (“assault weapon” and .50 BMG restrictions), 32610-32750 (machinegun restrictions), 33210-33320 (short-barreled rifle and short-barreled shotgun restrictions), 33410-33415 (silencer restrictions).

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lawful sale or transfer of which requires an appropriate Dangerous Weapons License/Permit (“DWP”) issued by DOJ.³²

It is estimated there are between 250-300 active DWP holders in the entire state of California, and DOJ generally refuses to release a list of current DWP holders citing “public safety” concerns. In any event, not all DWP holders can engage in sales or transfers, and among those that are able, not all can engage in transactions involving *all* types of so-called “dangerous weapons.”

In addition to California’s DWP requirements, the sale or transfer of firearms regulated under the National Firearms Act (“NFA”) requires that the dealer to pay a special occupational tax (“SOT”) in accordance with federal law.³³ NFA regulated items include shotguns with a barrel of less than 18 inches or an overall length of less than 26 inches, rifles with a barrel length of less than 16 inches or overall length of less than 26 inches, machineguns, silencers, and “any other weapon” as defined under federal law.³⁴ The transfer of any such items regulated by the NFA generally requires the completion of the appropriate ATF form and payment of a \$200 transfer tax for each item that is to be paid by the transferor.³⁵

A. Exceptions Applicable to Law Enforcement³⁶

Federal law generally exempts the transfer of an NFA regulated item to “any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations” from the \$200 transfer tax requirement.³⁷ But such transfers must first be approved by the ATF in order to qualify for the exception.³⁸ This generally requires the completion and submission of an “Application for Tax Exempt Transfer and Registration of Firearm” to ATF, more commonly known as “Form 5.”³⁹ There is, however, no Federal exception for the transfer of an NFA regulated item to an

³² See Pen. Code §§ 3100-31005, 33300-33305, 32650-32655, 32700-32715; Cal. Code Regs. tit. 11, §§ 4124-4153; See also *BOF 030 (Rev. 05/2019): Dangerous Weapons License/Permit(s) Application*, California Department of Justice, Bureau of Firearms, <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/FD030DWapp.pdf> (May 2019).

³³ See, generally, 26 U.S.C. §§ 5801-5872; 27 C.F.R. §§ 479.1-479.193; See also *ATF E-Form 5630.7: Special Tax Registration and Return National Firearms Act (NFA)*, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/firearms/docs/form/special-tax-registration-and-return-national-firearms-act-nfa-atf-form-56307/download> (Revised Nov. 2018).

³⁴ 26 U.S.C. § 2845(a); See also 26 U.S.C. §§ 5845(b) (defining “machinegun”), 5845(c) (defining “rifle”), 5845(d) (defining “shotgun”), 5845(e) (defining “any other weapon”).

³⁵ 26 U.S.C. § 5811.

³⁶ Note that “Dangerous Weapons” are not all NFA regulated items and should be examined on a case by case basis.

³⁷ 26 U.S.C. § 5853(a).

³⁸ See 26 U.S.C. § 5853(c).

³⁹ *ATF Form 5 (5320.5): Application for Tax Exempt Transfer and Registration of Firearm*, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/firearms/docs/form/form-5-application-tax-exempt-transfer-and-registration-firearm-atf-form-53205/download> (Revised Sept. 2019).

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individual officer. As a result, law enforcement officers wishing to acquire NFA regulated items will generally be required to pay the \$200 transfer tax and complete the required “Application for Tax Paid Transfer and Registration of Firearm” form, more commonly known as “Form 4.”⁴⁰ Regardless, California law imposes specific requirements on the transfer of so-called “dangerous weapons” that must be considered as discussed below.

i. “Assault Weapons” and .50 BMG Rifles

Neither so-called “assault weapons” or .50 BMG rifles are regulated under the NFA, meaning the transfers of such firearms do not require the payment of a \$200 tax or the completion of a special federal form.

But, as illustrated above, California licensed firearm dealers are still required to obtain a DWP issued by DOJ in order to lawfully transfer such firearms. That said, California allows the sale or transfer of an “assault weapon” or .50 BMG rifle to the following agencies:

- DOJ;
- Police Departments;
- Sheriffs’ Offices;
- Marshals’ Offices;
- Department of Corrections and Rehabilitation;
- Department of the California Highway Patrol;
- District Attorney’s Offices;
- Department of Fish and Wildlife;
- Department of Parks and Recreation;
- Military or Naval Forces of California or the United States; or,
- Any Federal Law Enforcement Agency.⁴¹

California law also allows the sale or transfer of an “assault weapon” or .50 BMG rifle to a “sworn peace officer member” of any of the agencies listed above, provided the peace officer is authorized by their employer to possess or receive the firearm.⁴² Proper “authorization” is defined as “verifiable written certification from the head of the agency, identifying the recipient or possessor of the [firearm] as a peace officer and authorizing that person to receive or possess the specific [firearm].”⁴³

⁴⁰ *ATF Form 4 (5320.4): Application for Tax Paid Transfer and Registration of Firearm*, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/firearms/docs/form/form-4-application-tax-paid-transfer-and-registration-firearm-atf-form-53204/download> (Revised Sept. 2019).

⁴¹ Pen. Code § 30625. Note that this also requires the firearms to be “for use in the discharge of their official duties.” *Id.* As applied to federal law enforcement, Penal Code section 30630 also states that California law does not limit or prohibit the sale, delivery, or transfer, or the possession of an “assault weapon” or .50 BMG rifle by a member of a federal law enforcement agency, provided that person is “authorized by the employing agency to possess the assault weapon or .50 BMG rifle.” Pen. Code § 30630(c).

⁴² Pen. Code § 30630(b)(1)

⁴³ *Id.* Note that the language used in the Penal Code for the required authorization only uses the word “assault weapon,” which does not necessarily include .50 BMG rifles. But because the exception expressly contemplates

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But the requirements do not end there. All law enforcement officers who acquire an “assault weapon” or .50 BMG rifle pursuant to this exception must register the firearm with DOJ in accordance with the specified procedures set forth in Penal Code sections 30900 through 30965 within 90 days of acquisition.⁴⁴ These same Penal Codes were amended in 2016 following the adoption of Senate Bill No. 880 and Assembly Bill No. 1135, both of which redefined California’s definition of an “assault weapon” and mandated any registrations for such firearms “be submitted electronically via the internet utilizing a public-facing application made available by [DOJ].”⁴⁵ This suggests law enforcement officers must also submit “assault weapon” and .50 BMG rifle registrations through the same electronic system, but DOJ does not appear to have any such system in place at this time.⁴⁶

Assuming a law enforcement officer is somehow able to register the firearm with DOJ, the registration must include a copy of the “authorization” required by the exception.⁴⁷

ii. Short-Barreled Rifles and Short-Barreled Shotguns

Except for shotguns like the Taurus Judge and other “handgun type” shotguns, short-barreled rifles and short-barreled shotguns are regulated under both the NFA and California’s “dangerous weapon” restrictions. As a result, the transfer of any such firearm requires the submission of the appropriate NFA form in addition to satisfying an exception under California law.

Under California law, the sale to, purchase by, or possession of short-barreled rifles or short-barreled shotguns (as those terms are defined under California law) by the following entities is exempt from California’s restrictions on such firearms:

- Police Departments;
- Sheriff’s Offices;
- Marshal’s Offices;
- California Highway Patrol;
- DOJ;
- Department of Corrections and Rehabilitation; or,
- Military or Naval Forces of California or the United States.⁴⁸

.50 BMG rifles, it is presumed this was merely an oversight by California’s legislature when drafting the exception’s language.

⁴⁴ Pen. Code § 30630(b)(2).

⁴⁵ Pen. Code § 30900(b)(1).

⁴⁶ A now outdated “Information Bulletin” from DOJ states law enforcement officers registering their firearm with DOJ must use a “Department of Justice Assault Weapon Registration Application (FD023).” See *Information Bulletin No. 2001 FD-05: Assault Weapon Acquisition and Registration By Sworn Peace Officers*, California Department of Justice, Firearms Division, <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/infobuls/0105.pdf> (Dec. 10, 2001). But this form does not appear to be available on DOJ’s website, nor is it clear if any similar form currently exists elsewhere.

⁴⁷ Pen. Code § 30630(b)(3).

⁴⁸ Pen. Code § 33220(a).

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As you can see, the list of exempt entities is limited compared to California’s “assault weapon” and .50 BMG rifle exception. Not expressly mentioned are any federal law enforcement agencies.⁴⁹ Regarding the application of the law to officers in their individual capacity, California law only exempts the *possession* of short-barreled rifles and short-barreled shotguns by “peace officer members” of the above listed entities when:

- On duty;
- The use is authorized by the agency and is within the course and scope of their duties; and,
- The officer has completed a training course in the use of short-barreled rifles and/or short-barreled shotguns certified by the Commission on Peace Officer Standards and Training.⁵⁰

Because the exception only allows the possession, California licensed firearm dealers with the appropriate DWP cannot lawfully sell or transfer such firearms to officers in their individual capacity. Instead, dealers may only sell or transfer short-barreled rifles and/or short-barreled shotguns to the agencies themselves, who can then presumably supply their individual officers with those firearms in accordance with the above requirements.

iii. Machineguns

Like short-barreled rifles and short-barreled shotguns, machineguns are regulated under both the NFA and California’s “dangerous weapon” restrictions, which also means any transfer of a machinegun will require the submission of the appropriate NFA form in addition to satisfying any applicable California exception. That said, California exempts the sale to, purchase by, or possession of a machinegun by the following agencies:

- Police Departments;
- Sheriff’s Offices;
- Marshal’s Offices;
- District Attorney’s Offices;
- California Highway Patrol;
- DOJ;
- Department of Corrections for use by their “Special Emergency Response Teams” and “Law Enforcement Liaison/Investigations Unit”; or,
- Military or Naval Forces of California or the United States.⁵¹

Once again, the list of exempt entities is different compared to other types of “dangerous weapons,” and in the case of the Department of Corrections is further restricted to its specialized units. And like the exception for short-barreled rifles and short-barreled shotguns, there is no mention of federal law enforcement agencies.

⁴⁹ It is presumed federal law enforcement officers acting in the course and scope of their duties are exempt from California’s restrictions for reasons of federal supremacy. See U.S. Const. art. VI, cl. 2. But the lack of any exception for individual federal law enforcement officers suggests they will be unable to lawfully acquire such items in their individual capacity in California despite their status as federal law enforcement officers.

⁵⁰ Pen. Code § 33220.

⁵¹ Pen. Code § 32610(a). The exception also notes that the sale, purchase, or possession must be “for use in the discharge of their official duties, provided however, that any sale to these entities be transacted by a person who” has the appropriate DWP.

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As for law enforcement officers in their individual capacity, California law only allows the possession of machineguns “by regular, salaried, full-time peace officer members” of the above listed entities “when on duty and if the use is within the scope of their duties.”⁵² Which means dealers may only sell or transfer machineguns to the above listed agencies directly and not to individual law enforcement officers. But the agencies themselves can presumably supply their individual officers with machineguns in the course and scope of their duties.

iv. Silencers

As noted above, silencers are governed under the provisions of the NFA, thereby requiring a California licensed firearms dealer wishing to sell or transfer silencers to pay the required SOT under federal law. But unlike firearms classified as “dangerous weapons,” there is no state issued permit for the sale or transfer of silencers in California.⁵³ Instead, California law simply prohibits their “possession” subject to the following exceptions:

- The sale to, purchase by, or possession by agencies listed in Penal Code section 830.1, or the military or naval forces of California or the United States, for use in the discharge of their official duties;
- The possession by regular, salaried, full-time peace officers who are employed by an agency listed in Penal Code section 830.1, or by the military or naval forces of California or the United States, when on duty and the use is authorized by the agency and is within the course and scope of their duties; or,
- The manufacture, possession, transportation, or sale or other transfer to agencies listed in Penal Code section 830.1, or the military or naval forces of California or the United States, by dealers or manufacturers who have paid the required SOT under federal law.⁵⁴

These exceptions effectively prohibit California licensed firearm dealers who have paid the required SOT under federal law from selling or transferring silencers to law enforcement officers in their individual capacity. So as with short-barreled rifles, short-barreled shotguns, and machineguns, dealers may only sell or transfer silencers to the agencies themselves, who can then presumably supply their individual officers with those silencers in accordance with the above requirements.⁵⁵

⁵² Pen. Code § 32610(b).

⁵³ See Pen. Code §§ 33410-33415; See also Pen. Code § 17210 (defining the term “silencer”).

⁵⁴ Pen. Code § 33415.

⁵⁵ Note that the California exceptions have no impact on federal transfer requirements, meaning the dealer will still be required to submit ATF Form 5 when transferring a silencer to a law enforcement agency.

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V. “LARGE-CAPACITY” MAGAZINES

California law generally prohibits the manufacture, importation, sale, gift, loan, purchase, and receipt of any “large-capacity” magazine.⁵⁶ Exempt from this restriction are sales, gifts, loans, importation for purchase, or purchase by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, if the “large-capacity” magazine is:

- For use by that agencies’ employees in the discharge of their official duties, whether on or off duty; and,
- Where the use is authorized by the agency and is within the course and scope of their duties.⁵⁷

As applied to California licensed firearm dealers, a DWP is not required to lawfully engage in the sale or transfer of so-called “large-capacity” magazines. However, a special permit is required for “possession, transportation, or sale” to “an out-of-state client.”⁵⁸ And while generally limited for purposes of sales or transfers outside of California, DOJ has taken the position that this permit is required for sales or transfers that occur within California. As a result, a California licensed firearms dealer wishing to engage sales or transfers to these agencies will need to obtain a “Large-Capacity Magazine Permit” issued by DOJ.

The sale, lending, transfer, purchase by, receipt, and importation of a “large-capacity” magazine by a “sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of that officer’s duties” is also exempt. This allows individual law enforcement officers to acquire “large-capacity” magazines in their individual capacity provided they satisfy the above criteria. What’s more, officers are also free to acquire “large-capacity” magazines from sources outside of California as they are exempt from the importation restriction. No specific authorization from the officer’s agency is required.⁵⁹

A. *Duncan v. Becerra*

With the enactment of both Proposition 63 and Senate Bill No. 1446 in 2016, California enacted a restriction on mere possession of so-called “large-capacity” magazines. But before the new restriction could take effect, CRPA filed a lawsuit and was successful in obtaining at first a preliminary injunction and, more

⁵⁶ Pen. Code §§ 32310(a), 16740 (definition of “large-capacity” magazine). Note that subdivision (c) of Penal Code section 32310 also prohibits *possession* of any “large-capacity” magazine, but this restriction is currently subject to a federal injunction and is otherwise unenforceable. See *Duncan v. Becerra*, 366 F.Supp.3d 1131 (S.D. Cal. 2019). As a result, individuals who currently possess “large-capacity” magazines cannot be charged with a violation of subdivision (c), regardless of they are law enforcement or not.

⁵⁷ Pen. Code § 32400.

⁵⁸ Pen. Code § 32315; Cal. Code Regs. tit. 11, §§ 5480-5484; See also *BOF 050 (Rev. 01/2012): Large-Capacity Magazine Permit Application*, California Department of Justice, Bureau of Firearms, <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/CLIcmpapp.pdf> (Jan. 2012).

⁵⁹ DOJ regulations require California licensed firearm dealers who possess a “Large-Capacity Magazine Permit” to maintain acquisition and disposition transaction records of the importation and exportation of “large-capacity” magazines. Cal. Code regs. tit. 11, § 5483. These records must be maintained for a period of at least three years. *Id.* But as with the permit itself, DOJ appears to have taken a policy position unsupported by any law or regulation expanding this requirement to sales or transfers occurring in the state of California.

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recently, a permanent injunction prohibiting California from enforcing the new restriction. This lawsuit, titled *Duncan v. Becerra*, is currently pending a decision by the Ninth Circuit on whether to rehear the case by a larger “en banc” panel.⁶⁰

VI. HANDGUNS NOT LISTED ON DOJ’S ROSTER OF HANDGUNS CERTIFIED FOR SALE

California generally prohibits licensed firearm dealers from selling or transferring what California refers to as “unsafe handguns.”⁶¹ In general, only those handguns listed on DOJ’s “Roster of Handguns Certified for Sale” may be sold or transferred by a licensed dealer.⁶² But there are many different exceptions to this restriction, including exemptions for the following agencies:

- DOJ;
- Police Departments;
- County Sheriffs;
- Marshal’s Office;
- Department of Corrections and Rehabilitation;
- Department of the California Highway Patrol;
- Any District Attorney’s Office
- Any Federal Law Enforcement Agency; or,
- Military or Naval Forces of California or the United States.⁶³

This same exception states that California’s “unsafe handgun” restriction “does not prohibit the sale to, or purchase by, sworn members” of the above listed agencies.⁶⁴ This means any sworn member of any of these agencies may lawfully purchase a handgun not listed on DOJ’s “Roster of Handguns Certified for Sale.”

Until January 1, 2021, California law also exempts the below listed specified state agencies and their “sworn members” who have satisfactorily completed a firearms training course prescribed by the Commission on Peace Officer Standards and Training:

- Department of Parks and Recreation;
- Department of Alcoholic Beverage Control;
- Division of Investigation of the Department of Consumer Affairs;
- Department of Motor Vehicles;
- Fraud Division of the Department of Insurance;
- State Department of State Hospitals;

⁶⁰ All of the case filings, including the permanent injunction, can be viewed online at <http://michellawyers.com/duncan-v-becerra/>. For more information about the “en banc” process and frequently asked questions regarding the status of *Duncan*, visit <https://crpa.org/news/blogs/update-faq-and-legal-analysis-on-duncan-ruling/>.

⁶¹ Pen. Code § 32000.

⁶² See Pen. Code § 32015; See also <https://oag.ca.gov/firearms/certified-handguns/search>.

⁶³ Pen. Code § 32000(b)(4). The exemption requires the sale or purchase by these agencies to be “for use in the discharge of their official duties.” *Id.*

⁶⁴ *Id.*

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- Department of Fish and Wildlife;
- State Department of Developmental Services;
- Department of Forestry and Fire Protection;
- County Probation Departments;
- Los Angeles World Airports (as defined in Penal Code section 830.15);
- K-12 Public School Districts for use by a school police officer (as described in Penal Code section 830.32);
- Municipal Water District for use by a park ranger (as described in Penal Code section 830.34);
- A County for use by a welfare fraud investigator or inspector (as described in Penal Code section 830.35);
- A County for use by the coroner or the deputy coroner (as described in Penal Code section 830.35);
- The Supreme Court and the courts of appeal for use by marshals and bailiffs of those courts, and coordinators of security for the judicial branch (as described in Penal Code section 830.36);
- A fire department or fire protection agency of a county, city, city and county, district, or the state for use by either a member of an arson-investigating unit that is regularly paid and employed in that capacity (pursuant to Penal Code section 830.37) or a member other than a member of an arson-investigating unit that is regularly paid and employed in that capacity (pursuant to Penal Code section 830.37);
- The University of California Police Department or the California State University Police Departments (as described in Penal Code section 830.2);
- A California Community College police department (as described in Penal Code section 830.32); or,
- A harbor or port district or other entity employing peace officers described in subdivision (b) of Penal Code section 830.33, the San Diego Unified Port District Harbor Police, and the Harbor Department of the City of Los Angeles; and,
- (*Beginning January 1, 2021*) Local agencies employing park rangers described in subdivision (b) of Penal Code section 830.31.⁶⁵

With the passage of Assembly Bill No. 2699 in 2020, several new limitations for this exception as applied to “sworn members” of the above listed agencies are set to take effect on January 1, 2021.⁶⁶ As of that date, “sworn members” of these specified agencies will only be exempt if the handgun is “for use as a service weapon,” meaning it cannot be solely for personal use.⁶⁷ But even if the handgun is intended for use as a service weapon, “sworn members” of these specified agencies must also complete a POST basic course and a live-fire qualification at least once every six months as a condition of carrying the handgun.⁶⁸

⁶⁵ Pen. Code § 32000(b)(6)(A-T). It should also be noted that California licensed firearm dealers are prohibited from selling or transferring handguns that were acquired pursuant to this subdivision to a person who is not otherwise exempt.

⁶⁶ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB2699.

⁶⁷ Pen. Code § 32000(b)(6) (effective Jan. 1, 2021).

⁶⁸ *Id.*

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At this time, DOJ has yet to provide any express guidance for dealers on how to process transactions pursuant to these changes, including what documentation—if any—must be presented to the dealer by the purchaser.⁶⁹ Any such guidance is likely to come in the form of a DES bulletin at some point in the future.

Assembly Bill No. 2699 also lists additional state agencies as exempt from California’s handgun roster. But unlike the above listed agencies, sworn members of these newly listed agencies are not exempt in an individual capacity.⁷⁰ This means dealers may only sell off-roster handguns to these newly listed agencies directly. The newly listed agencies include:

- The California Horse Racing Board;
- The State Department of Health Care Services;
- The State Department of Public Health;
- The State Department of Social Services;
- The Department of Toxic Substances Control;
- The Office of Statewide Health Planning and Development;
- The Public Employees’ Retirement System;
- The Department of Housing and Community Development;
- Investigators of the Department of Business Oversight;
- The Law Enforcement Branch of the Office of Emergency Services;
- The California State Lottery; and,
- The Franchise Tax Board.⁷¹

DOJ has created a “Transfer Worksheet” for the express purpose of assisting dealers in processing transfers of handguns pursuant to the above exceptions.⁷² Licensed dealers should understand, however, that the use of this worksheet is not a requirement, and instead DOJ merely “encourages firearms dealers to utilize” the form when processing such transactions.⁷³ What’s more, this worksheet has not yet been updated to reflect the changes made by Assembly Bill No. 2699.

California licensed firearm dealers processing a sale or transfer pursuant to any of the above exemptions have two options when submitting the transaction through DES. If the purchaser is a “peace officer” who also meets the exemption to California’s 10-day waiting period, the dealer should select “Peace Officer Non-Roster

⁶⁹ Assembly Bill No. 2699 also enhances the enforcement of these restrictions by requiring DOJ to maintain a database of handguns sold pursuant to these exceptions. Although

⁷⁰ Pen. Code § 32000(b)(7)(B) (effective Jan. 1, 2021).

⁷¹ Pen. Code § 32000(b)(7)(A) (effective Jan. 1, 2021).

⁷² *BOF 1009 (Rev. 1/2019): Assembly Bill (AB) 2165/AB 1872 Transfer Worksheet*, California Department of Justice, Bureau of Firearms (Jan. 2019), available online at <https://michellawyers.com/wp-content/uploads/2020/05/AB-1872.pdf>. This form can also be found in the Dealer Record of Sale Entry System (“DES”) under the “Forms” tab.

⁷³ *Important Notice to California Firearm Dealers Regarding Assembly Bill (AB) 1872*, available online at <https://michellawyers.com/wp-content/uploads/2020/05/AB-1872.pdf>.

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Handgun Sale” when processing the transaction in DES.⁷⁴ But if the officer does not otherwise meet the 10-day waiting period exemption, the dealer should instead process the transaction as an “Exempt Handgun Sale.”⁷⁵

VII. AMMUNITION PURCHASES

Since January 1, 2018, all ammunition sales must generally be processed by or through a “licensed ammunition vendor,” and the sale of more than 500 rounds of ammunition in any 30-day period now requires a license.⁷⁶ California residents are also generally prohibited from bringing or transporting ammunition that was acquired outside California without first delivering the ammunition to a licensed ammunition vendor.⁷⁷ And as of July 1, 2019, all ammunition sales in the state of California generally require electronic DOJ approval prior to the purchaser or transferee taking possession of the ammunition.⁷⁸

While there are exceptions applicable to law enforcement, their specific requirements differ depending on the situation. However, there is no applicable law enforcement exception to the license requirement when selling more than 500 rounds in a 30-day period.⁷⁹ But because the restriction only applies to *sales*, the act of gifting or loaning ammunition does not trigger the restriction.⁸⁰ Similarly, the requirement that ammunition sales be processed by or through a licensed ammunition vendor only applies to sales.⁸¹

As applied to bringing or transporting ammunition into California that was acquired in another state, “sworn peace officer[s]” as defined in Chapter 4.5 (commencing with section 830) of Title 3 of Part 2 of the Penal Code, as well as “sworn federal law enforcement officers,” are exempt from the restriction provided they are “authorized to carry a firearm in the course and scope of the officer’s duties.”⁸² This means law enforcement officers satisfying the criteria are legally allowed to acquire ammunition while traveling outside California and bring it back with them.

⁷⁴ See *DROS Entry System (DES) Firearms Dealership User Guide* p. 43, California Department of Justice, Bureau of Firearms, https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/dros_entry_guide.pdf (Dec. 29, 2017, Rev. 3).

⁷⁵ See *id.* at p. 44.

⁷⁶ Pen. Code §§ 30312(a), 30342. California licensed firearm dealers are automatically considered licensed ammunition vendors for purposes of these requirements. Pen. Code § 16151(b). It should also be noted that as of the date of publication, a lawsuit has been filed that challenges California’s new ammunition sale restrictions, with a motion for a preliminary injunction currently pending. See *Rhode v. Becerra*, Case No. 18-00802 (S.D. Cal.). A decision regarding the pending injunction is expected in the coming weeks.

⁷⁷ Pen. Code § 30314.

⁷⁸ Pen. Code § 30370(a).

⁷⁹ This applies equally to law enforcement agencies, as the restriction applies to “any person, firm, corporation, or other business enterprise.” Pen. Code § 30342.

⁸⁰ *Id.*

⁸¹ Pen. Code § 30312(a).

⁸² Pen. Code § 30314(b)(2).

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As applied to the requirement that all sales of ammunition be conducted by or processed through a licensed ammunition vendor, sales to “an authorized law enforcement representative of a city, county, city and county, or state or federal government” are exempt if the following requirements are satisfied:

- The ammunition is for exclusive use by that government agency;
- Written authorization from the head of the agency employing the purchaser is obtained by the vendor that both:
 - Identifies the employee as an individual authorized to conduct the transaction; and,
 - The written authorization authorizes the transaction for the exclusive use of the agency employing the individual.⁸³

Individual sworn peace officers and sworn federal law enforcement officers are also exempt from the requirement provided they are authorized to carry a firearm in the course and scope of their duties.⁸⁴ But not all sellers of ammunition are willing to engage in exempt sales. This is especially true of ammunition vendors located outside of California, many of which have adopted policies requiring all ammunition sales to still be processed through a licensed vendor despite any applicable exception. What’s more, if the seller happens to be a licensed ammunition vendor, an applicable exception to the requirement that DOJ issue electronic approval must also be met.⁸⁵

Statutorily, there are no exceptions to the requirement that DOJ electronically approve all ammunition transactions prior to the purchaser taking delivery of the ammunition. But DOJ has nevertheless adopted regulations exempting law enforcement agencies and individual officers. For purposes of sales to law enforcement agencies, the exception is the same as above. But for purposes of sales to law enforcement officers in their individual capacity, the requirements are slightly more complicated. To be exempt, state and local law enforcement officers must be a “properly identified sworn peace officer . . . authorized to carry a firearm in the course and scope” of their duties, and present both:

- A sworn state or local peace officer’s credential; and,
- Verifiable written certification from the head of the agency issued within the past 30 days that identifies the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of their duties.⁸⁶

Properly identified sworn federal law enforcement officers are also exempt provided they are authorized to carry a firearm in the course and scope of their duties and present both:

- A sworn federal law enforcement officer’s credential; and,

⁸³ Pen. Code § 30312(c)(1).

⁸⁴ Pen. Code § 30312(c)(2).

⁸⁵ This is because California licensed ammunition vendors are still required to obtain electronic DOJ-approval for all transactions they engage in. See Pen. Code § 30370(a) (stating DOJ “shall electronically approve the purchase or transfer of ammunition *through a vendor* . . . except as otherwise specified” (emphasis added)).

⁸⁶ Cal. Code Regs. tit. 11, § 4306(a)(9).

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- Verifiable written certification from the head of the agency issued within the past 30 days that identifies the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of their duties.⁸⁷

Regardless if the officer is a state, local, or federal law enforcement officer, the licensed ammunition vendor must keep a photocopy of the front and back of the credential and an “identification document” that satisfies the requirements of California’s “bona fide evidence of identity.”⁸⁸ Vendors must also keep a copy of the verifiable written certification.⁸⁹ But if the law enforcement agency does not allow photocopies to be made of the credential, the vendor shall instead be required to keep a business card after personally viewing the officer’s credentials.⁹⁰

A. *Rhode v. Becerra*

Like California’s attempt at prohibiting mere possession of so-called “large-capacity” magazines, California’s ammunition sales restrictions have also been challenged in court by CRPA. That case, titled *Rhode v. Becerra*, recently resulted in a preliminary injunction against the background check and transfer requirements as applied to ammunition transactions.⁹¹ But the effects of the injunction were short lived, with the California Attorney General appealing the injunction and obtaining a stay on its effects. The case now goes to the Ninth Circuit, where another three-judge panel will decide whether to allow the injunction to stand.

VIII. ADDITIONAL CONSIDERATIONS

The above information represents current laws and regulations regarding the sale and transfer of firearms, ammunition, and firearm-related equipment to law enforcement. That said, many licensed firearm dealers have been instructed differently by DOJ, in some cases directing the dealer to require additional documentation and/or materials in excess of what is required under the law for such transactions. This is likely a result of inadequate training by DOJ of its field representatives, who are tasked with conducting inspections of California licensed firearm dealers. These field representatives may sometimes issue citations against dealers, mistakenly believing a particular transaction did not satisfy federal and/or state requirements. But instead of contesting the citation, many dealers simply choose not to contest them.

It is the hope of CRPA that the above information will better serve to educate law enforcement agencies, their individual officers, and dealers on what the law requires for exempt law enforcement transactions. That said, agencies and individual officers should be aware that some licensed firearm dealers may require additional documentation and/or criteria to be satisfied before processing an exempt transfer due to ongoing issues with DOJ’s lack of comprehension of both state and federal firearm laws.

⁸⁷ Cal. Code Regs. tit. 11, § 4306(a)(10).

⁸⁸ Cal. Code Regs. tit. 11, §§ 4306(b), 4306(c); See also Pen. Code § 16300. While many law enforcement officer credentials likely satisfy both requirements, this is not always the case.

⁸⁹ Cal. Code Regs. tit. 11, § 4306(b).

⁹⁰ Cal. Code Regs. tit. 11, § 4306(b)(1).

⁹¹ All of the case filings, including the permanent injunction, can be viewed online at <https://michellawyers.com/rhode-v-becerra/>.

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Sample Written Authorization Exempting BOTH 4473 and California-Specific Restrictions⁹²

(Letter is on official agency letterhead)

(Agency Name)

(Agency Mailing Address)

(Date)

(Name of Firearm Dealer / Ammunition Vendor)

(Mailing Address)

Re: Written Authorization for (Firearm/Ammunition) Purchase by Officer (Name)

To *(Name of Dealer/Vendor)*,

As *(Chief of Police / Sheriff)* of *(jurisdiction/agency)*, I hereby give authorization for *(Officer Rank)* *(Officer Name)*, a sworn member of *(jurisdiction/agency)*, to purchase the following *(Firearm(s) / Ammunition)* for official use in their official duties as a law enforcement officer:

- *(List any firearm(s) and/or ammunition)*

Be advised that I have conducted a record check revealing *(Officer Rank)* *(Officer Name)* has no convictions for misdemeanor crimes of domestic violence, and that *(he/she)* is authorized to carry firearms while in the performance of their duties as a full-time paid *(peace officer / federal law enforcement officer)*.

Sincerely,

(Chief of Police / Sheriff)
(jurisdiction/agency)

⁹² This sample letter should exempt the individual officer from the federal background check (4473 form) requirement, California's 10-day wait restriction, California's "assault weapon" restriction (if the firearm being purchased is an "assault weapon"), and California's ammunition sales restrictions (if the transaction also involved ammunition). Note the person signing must have proper authority under federal law to meet 4473 exception, but under California law must be "head of the agency" (not just designee). See 27 C.F.R. § 478.134(b)(1)(i-iv); see also Pen. Code § 30630(b)(1). What's more, this letter must generally have been issued within the past 30 days and per DOJ's DES User Guide must have a "wet signature" (i.e., not photocopied).

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Sample Written Authorization Exempting California-Specific Restrictions ONLY⁹³

(Letter is on official agency letterhead)

(Agency Name)
(Agency Mailing Address)

(Date)

(Name of Firearm Dealer / Ammunition Vendor)
(Mailing Address)

Re: Written Authorization for (Firearm/Ammunition) Purchase by Officer (Name)

To *(Name of Dealer/Vendor)*,

As *(Chief of Police / Sheriff)* of *(jurisdiction/agency)*, I hereby give authorization for *(Officer Rank)* *(Officer Name)*, a sworn member of *(jurisdiction/agency)*, to purchase the following *(Firearm(s) / Ammunition)*:

- *(List any firearm(s) and/or ammunition)*

Sincerely,

(Chief of Police / Sheriff)
(jurisdiction/agency)

⁹³ This sample letter should exempt the individual officer from California’s 10-day wait restriction, California’s “assault weapon” restriction (if the firearm being purchased is an “assault weapon”), and California’s ammunition sales restrictions (if the transaction also involved ammunition). Note the person signing must be the “head of the agency” (not just designee). See 27 C.F.R. § 478.134(b)(1)(i-iv); see also Pen. Code § 30630(b)(1). What’s more, this letter must generally have been issued within the past 30 days and per DOJ’s DES User Guide must have a “wet signature” (i.e., not photocopied).

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Sample Written Authorization for Sale to Law Enforcement Agency⁹⁴

(Letter is on official agency letterhead)

(Agency Name)
(Agency Mailing Address)

(Date)

(Name of Firearm Dealer / Ammunition Vendor)
(Mailing Address)

Re: Written Authorization for (Firearm/Ammunition) Purchase by (Employee) on Behalf of (jurisdiction/agency)

To *(Name of Dealer/Vendor)*,

As *(Chief of Police / Sheriff)* of *(jurisdiction/agency)*, I hereby give authorization for *(Employee)* to purchase the following *(Firearm(s) / Ammunition)* that will be used exclusively by *(jurisdiction/agency)* in the performance of its duties:

- *(List any firearm(s) and/or ammunition)*

Sincerely,

(Chief of Police / Sheriff)
(jurisdiction/agency)

⁹⁴ This sample letter should exempt the transaction from both the federal background check (4473 form) and the DROS process where the employee is purchasing the firearms on behalf of the agency. Note, however, that if the transaction involves items regulated by the NFA, the dealer will still be required to complete the appropriate ATF form prior to conducting the transfer. What's more, certain firearms can only be sold to specified agencies under California law as discussed above.

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Checklist for Dealers Processing Exempt Law Enforcement Transfers

ATF FORM 4473 REQUIREMENT

Option 1 (Transfers to an officer in their individual capacity) – Requires the officer to present Certification on agency letterhead that meets ALL the following criteria:

- Signed by person of authority within agency (i.e. Chief of Police or Sheriff);
- States firearm will be used “in official duties”; and,
- States that a “records check reveals that the purchasing officer has no convictions for misdemeanor crimes of domestic violence.”

Option 2 (Transfers to Specified Agency) – Exceptions for any of the following:

- The United States or any department or agency thereof;
- Any State agency; or,
- Any department, agency, or political subdivision of a State.

DROS REQUIREMENT

Must be an “authorized law enforcement representative” employed by the agency who presents “written authorization” that meets ALL the following criteria:

- Be from the head of the agency; and,
- Identifies the employee as an individual authorized to conduct the transaction.

CALIFORNIA’S 10-DAY WAITING PERIOD

Purchaser must:

- Be a properly identified “full-time paid peace officer”;
- Be authorized to carry firearms while in the performance of their duties;
- Present “verifiable written certification” that meets ALL the following criteria:
 - Be from the head of the officer’s agency;
 - Identifies the purchaser as a peace officer who is authorized to carry firearms; and,
 - Authorizes the purchase or transfer.

CALIFORNIA’S ONE PER 30-DAY RESTRICTION

Purchaser must be both:

- A Properly identified “full-time paid peace officer”; and,
- Authorized to and does carry a firearm during the course and scope of employment.

CALIFORNIA’S “LARGE-CAPACITY” MAGAZINE RESTRICTION⁹⁵

Purchaser must be both:

- A sworn peace officer or sworn federal law enforcement officer; and
- Be authorized to carry a firearm in the course and scope of their duties.

⁹⁵ Note also that the dealer must possess a “Large-Capacity Magazine Permit” if wishing to engage in transfers to out-of-state individuals. *See* Pen. Code § 332315; Cal. Code Regs. tit. 11, §§ 5480-5484.

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CALIFORNIA'S HANDGUN ROSTER RESTRICTION

Option 1 – Sales any of the following agencies or their “sworn members”:

- CA DOJ;
- Police Departments;
- County Sheriffs;
- Marshal’s Office;
- Department of Corrections and Rehabilitation;
- Department of the California Highway Patrol;
- Any District Attorney’s Office;
- Any Federal Law Enforcement Agency; or,
- Military or Naval Forces of California or the United States.

Option 2 – Sales to any of the specified agencies listed in subdivision (b)(6) or (b)(7) of Penal Code sections 32000, or any “sworn members” of the agencies listed in subdivision (b)(6).⁹⁶

CALIFORNIA'S AMMUNITION BACKGROUND CHECK REQUIREMENTS

Option 1 (Transfers to a Law Enforcement Agency) – Purchaser must be an “authorized law enforcement representative,” and all the following criteria must be satisfied:

- The ammunition is for exclusive use by the government agency;
- The purchaser presents “written authorization” from their agency that both:
 - Identifies the employee as an individual authorized to conduct the transaction; and,
 - Authorizes the transaction for the exclusive use of the agency.

Option 2 (Transfers to “Sworn Peace Officer”) – Officer must:

- Be properly identified as a sworn peace officer;
- Present both:
 - A sworn state or local peace officer’s credential; and,
 - Verifiable written certification from the head of the agency that:
 - Was issued in the past 30 days;
 - Identifies the purchaser as a full-time paid peace officer authorized to carry a firearm in the course and scope of their duties.

Option 3 (Transfers to “Sworn Federal Law Enforcement Officer”) – Officer must:

- Be properly identified as a sworn federal law enforcement officer;
- Present both:
 - A sworn federal law enforcement officer’s credential; and,
 - Verifiable written certification from the head of the agency that:
 - Was issued in the past 30 days;
 - Identifies the purchaser as a full-time paid peace officer authorized to carry a firearm in the course and scope of their duties.

⁹⁶ See above for complete list and additional requirements. Note that dealers are prohibited from later transferring handguns acquired pursuant to this exception to another person who is not themselves exempt from California’s Roster restriction.

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Checklist for Dealers Processing NFA and “Dangerous Weapon” Transfers to Law Enforcement⁹⁷

“ASSAULT WEAPONS” AND .50 BMG RIFLES

Option 1 (Transfers to Law Enforcement Agency) – Exceptions for any of the following agencies:

- CA DOJ
- Police Department
- Sheriffs’ Offices;
- Marshals’ Offices;
- Department of Corrections and Rehabilitation;
- Department of the California Highway Patrol;
- District Attorney’s Offices;
- Department of Fish and Wildlife;
- Department of Parks and Recreation;
- Military or Naval Forces of California or the United States; or,
- Any Federal Law Enforcement Agency.

Option 2 (Transfers to an officer in their individual capacity) – Officer must be a “sworn peace officer member” of the above listed agencies in Option 1 and present verifiable written certification that meets all the following criteria:

- Is from the head of the agency;
- Identifies the purchaser as a peace officer; and,
- Authorizes the officer to purchase the specific firearm.

SHORT-BARRELED RIFLES AND SHORT-BARRELED SHOTGUNS⁹⁸

May transfer to the following agencies **ONLY** (transfers by dealer to individuals prohibited):

- Police Departments;
- Sheriff’s Offices;
- Marshal’s Offices;
- California Highway Patrol;
- CA DOJ;
- Department of Corrections and Rehabilitation; or,
- Military or Naval Forces of California or the United States.

⁹⁷ In general, the dealer must possess both a Dangerous Weapons Permit (“DWP”) issued by DOJ and the appropriate Special Occupational Taxpayer (“SOT”) issued by ATF to lawfully engage in the sale or transfer of such firearms.

⁹⁸ Except for specified shotguns like the Taurus Judge and other “handgun type” shotguns, all transfers will require appropriate NFA paperwork.

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MACHINEGUNS⁹⁹

May transfer to the following agencies **ONLY** (transfers by dealer to individuals prohibited):

- Police Departments;
- Sheriff's Offices;
- Marshal's Offices;
- District Attorney's Offices
- California Highway Patrol;
- CA DOJ;
- Department of Corrections and Rehabilitation for use by their "Special Emergency Response Teams" and "Law Enforcement Liaison/Investigations Unit"; or,
- Military or Naval Forces of California or the United States.

SILENCERS¹⁰⁰

May transfer to the following agencies **ONLY** (transfers by dealer to individuals prohibited):

- Any agency listed in California Penal Code section 830.1; or
- Military or Naval forces of California or the United States.

⁹⁹ All transfers require appropriate NFA paperwork.

¹⁰⁰ All transfers require appropriate NFA paperwork.

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