

California Department of Justice
 DIVISION OF CRIMINAL JUSTICE INFORMATION
 Nick L. Dedier, Director

INFORMATION BULLETIN

Subject:
 Brady Act Permanent Provisions
 Pawn or Consignment Redemption of Firearms

No.: 98-25-BCIA *For further information contact:*
 Firearms Program
 Date: 11/16/98 [(916) 227-3703

ALL CALIFORNIA FIREARMS DEALERS/PAWNBROKERS

Beginning **November 30, 1998**, the permanent provisions of the Brady Act will become effective. While the Brady Act temporary provisions had exempted the return of a firearm from pawn or consignment from the federal five-day waiting period and background check requirements, this exemption will no longer be applicable under the Act's permanent provisions and the associated implementation of the National Instant Background Check System (NICS).

With these changes, the redemption of a pawned firearm, even when it is returned to the same person who pawned it, will be subject to federal NICS requirements and the California Dealer's Record of Sale (DROS) process beginning November 30, 1998. This will also include curio and relic long guns previously exempt from the DROS requirements. These new provisions will require all pawnbrokers and secondhand dealers to be fully licensed firearms dealers as defined under California law in order to utilize the DROS process for transactions involving the return of all pawned firearms (handguns and long guns) or firearms returned from consignment. Additionally, as a result of changes in state law made by Assembly Bill 2011 (Chapter 911, Statutes of 1998), curio and relic long guns will no longer be exempt from the DROS process beginning November 30, 1998. This will include the 10-day waiting period and \$14 DROS fee.

A. Point of Contact for Transacting Firearms Sales, Transfers and Pawn or Consignment Returns

The Department of Justice DROS Entry System (DES) will continue to be your point of contact for transacting all sales or transfers of firearms including curio and relic long guns as well as all pawn or consignment returns. Additionally, California's 10-day waiting period and \$14 DROS fee will still be required. No independent contact or additional fee is required to meet federal NICS requirements. The DROS process will be the sole method acceptable for complying with all applicable state and federal firearms transaction eligibility requirements.

B. Return of Pawned or Consigned Firearms

Effective November 30, 1998, it will be a violation of federal and state law to release a firearm that was pawned, traded, or returned from consignment without first complying with the DROS process. The \$14 DROS fee and the 10-day waiting period will apply to all pawn redemptions and returns from consignment. While dealers may voluntarily conduct a "pre-pawn" DROS eligibility check with the attendant fee and waiting period, another eligibility check **must** also be conducted at the time an individual attempts to redeem and take delivery of his pawned firearm.

C. Changes to Completing the DROS Worksheet and/or PSD DROS Entry Screen

Both the DROS worksheet and Point-of-Sale Device (PSD) DROS entry screen have been revised to add **“Pawn Return”** as an option in the “transaction type” field. Upon processing the pawn or consignment return of a firearm, you must select the “Pawn Return” option and not the “dealer sale,” “private party transfer,” or “loan” options listed on the DROS worksheet. If you are using a PSD to complete the DROS, you will make this selection from the main menu screen.

This Information Bulletin contains a copy of the revised DROS worksheet for your use. You may also download a copy of this worksheet from our web-site at <http://caag.state.ca.us/firearms> or contact the Firearms Program at (916) 227-3703 to request a copy be faxed to you. In light of this revised worksheet, dealers should destroy inventories of the old DROS worksheets and only use the new updated form attached. You are welcome to make copies of this revised worksheet as needed.

D. Related Questions and Answers

Recognizing that implementation of this new law may be somewhat confusing, we have developed the following questions and answers concerning pawn transactions in an effort to assist you in properly processing this new category of DROS-related transfers:

1. What state licensing requirements must I meet to handle pawned firearms or firearms returned from consignment?

To carry out firearms transactions in California, you must be licensed pursuant to Penal Code section 12071 which requires the possession of a valid Federal Firearms License (FFL), a valid local business license (pursuant to Penal Code section 12071), a valid State Board of Equalization seller’s permit, and a valid Certificate of Eligibility (COE) issued by the Department of Justice (DOJ). Additionally, you must be listed on the DOJ Centralized List of Fully Licensed Firearms Dealers.

2. In light of the existing 10-day waiting period, will I be in violation of Section 21203 of the Financial Code, which requires the “immediate” return of pawned property upon repayment of the loan?

No. The 10-day waiting period for firearms does not conflict with your obligation to immediately return pawned property. Because California Penal Code sections 12071 and 12072 expressly state “no firearm shall be delivered within 10-days of the DROS,” the term “immediate” as stated in section 21203 of the California Financial Code shall be interpreted to mean “10-days” whenever firearms are involved in a pawn transaction.

3. **When must the DROS process be initiated on pawned firearms?**

While the federal Bureau of Alcohol, Tobacco, and Firearms has recently authorized dealers to carry out a pre-pawn eligibility check if they desire, a DROS eligibility check **must** be conducted at the time an individual attempts to redeem and take delivery of his/her pawned firearm. A pre-pawn check does not preempt the requirement to carry out a separate new eligibility check at the time of the delivery of the firearm. When you initiate the DROS process at the time of redemption/delivery, all loan fees should have been repaid so that the pawnbroker no longer has any collateral interest in the firearm. This removes any potential conflict should the owner of the firearm be found to be prohibited and the firearm has to be turned over to law enforcement. The 10-day waiting period begins on the date of the submission of DROS information to DOJ.

4. **Does the new eligibility check requirement apply to both long guns and handguns?**

Yes. NICS and DROS requirements apply to both long guns and handguns, including curio and relic long guns.

5. **How are lay-a-way sales affected by the 30-day firearms delivery deadline?**

DOJ has always advised dealers not to initiate the DROS check until full payment has been received for the firearm. In light of the new 30-day firearms delivery deadline, we are advising dealers once again not to initiate the DROS until full payment has been received.

6. **If the person redeeming the firearm is prohibited, what action must a pawnbroker take?**

Once the DROS process has been initiated and if the person redeeming the pawn ticket is determined to be prohibited from owning or possessing a firearm, the dealer shall **not** return the firearm to the pawn ticket holder, but shall instead promptly deliver the firearm to the Sheriff of the county or the Chief of Police of any city or county who shall then dispose of the firearm. No other option is available to the pawnbroker in such cases. The dealer **cannot** take ownership of the firearm in such cases.

7. **If the pawn ticket holder is found to be prohibited, can the pawnbroker buy the firearm from the prohibited person?**

No. Pawnbrokers cannot purchase the firearm from the prohibited person, but must instead turn the firearm over to local law enforcement for disposal. As previously indicated, the DROS process must be initiated after the satisfaction of all loan requirements, thereby removing the pawnbroker from having any collateral interest in the firearm.

8. **Once the redemption and DROS processes have been initiated, may the pawn ticket holder transfer his ownership in the firearm to another individual in order to redeem the pawn ticket?**

No. Once the redemption and DROS processes have been initiated, no other transfer of the firearm may take place prior to the completion of the DROS review process. Should the DROS review indicate that an individual is prohibited from owning or possessing a firearm, the firearm must be immediately turned over to local law enforcement for their disposal. If the individual is found not to be prohibited and the 10-day waiting period has elapsed, the owner of the firearm may initiate a private party transfer of the firearm to another individual using the services of a fully licensed firearms dealer and complying with the DROS eligibility review process.

9. **In situations where an individual repeatedly pawns and redeems his/her firearm, must the owner of the firearm comply with the DROS review process each time he/she redeems their firearm?**

Yes. Each individual pawn transaction represents an individual transfer even though the firearm is redeemed repeatedly by the same individual. Each redemption of the pawn ticket represents a transfer and must undergo the DROS process including the \$14 fee and 10-day waiting period.

10. **Can firearms pawned in California by a person residing in another State be redeemed by that individual?**

No. California law requires possession of a valid California Department of Motor Vehicle (DMV) issued Driver's License or DMV Identification Card to complete the DROS process. Military personnel who present their military identification card accompanied by a copy of his/her duty station orders indicating that the person has been permanently stationed in California are also eligible to purchase/redeem firearms within California.

11. **Do the Basic Firearms Safety Certificate (BFSC) provisions apply to transfers involving the redemption of a pawned handgun?**

Yes. Because California's BFSC provisions specifically apply to all "transfers" and sales of handguns, individuals attempting to redeem their handguns from pawn or consignment will also need to comply with all BFSC provisions in addition to the DROS process.


12. **Do valid carry concealed weapon (CCW) permits or DOJ Dangerous Weapons licenses/permits exempt an individual from complying with California's DROS requirements in redeeming a pawned firearm?**

No. Despite such a federal exemption existing under NICS, California law mandates compliance with the DROS eligibility review process.

We hope this information is helpful in providing you with the guidance and support necessary to adhere to these new requirements. If we can be of any assistance to you concerning these new procedures, please call the Firearms Program at (916) 227-3703.

Sincerely,

DANIEL E. LUNGREN
Attorney General


DOUG SMITH, Chief
Bureau of Criminal Information
and Analysis

Attachment

DEALER'S RECORD OF SALE OF FIREARM WORKSHEET

CFD NUMBER:	_____
DROS NO. ASSIGNED:	_____

TRANSACTION INFORMATION

TRANSMISSION DATE: _____	TIME: _____	FIREARM TYPE: <input type="checkbox"/> HANDGUN <input type="checkbox"/> LONG GUN(S)
IF RIFLES OR SHOTGUNS, ENTER NUMBER OF FIREARMS IN TRANSACTION _____	TRANSACTION TYPE: <input type="checkbox"/> DEALER SALE <input type="checkbox"/> PRIVATE PARTY TRANSFER <input type="checkbox"/> LOAN <input type="checkbox"/> PAWN RETURN	GUN SHOW TRANSACTION? <input type="radio"/> YES <input type="radio"/> NO

WAITING PERIOD EXEMPTIONS

PURCHASER CLAIMS THE FOLLOWING WAITING PERIOD EXEMPTION PURSUANT TO 12078 PC (if applicable):

<input type="checkbox"/> PEACE OFFICER STATUS	<input type="checkbox"/> FIREARM DELIVERED AT NONPROFIT EVENT (Valid for Rifles and Shotguns Only)	<input type="checkbox"/> COLLECTOR STATUS (Valid for Curio/Relics Only)
<input type="checkbox"/> DEALER STATUS Enter CFD number: _____	<input type="checkbox"/> SPECIAL WEAPONS PERMIT Enter type of permit and number: _____	

REVOLVER/PISTOL INFORMATION

MAKE (As Stamped on Handgun) (Colt, S&W, etc)	MODEL (647, Redhawk, etc)	CALIBER(S)
SERIAL NUMBER	OTHER NUMBER (If Different from Serial Number)	HANDGUN TYPE: <input type="checkbox"/> REVOLVER <input type="checkbox"/> SEMI-AUTO <input type="checkbox"/> DERRINGER
HANDGUN COLOR: <input type="checkbox"/> BLUE STEEL <input type="checkbox"/> SILVER/NICKEL/STAINLESS <input type="checkbox"/> OTHER _____		<input type="checkbox"/> SINGLESHOT <input type="checkbox"/> OTHER _____
FRAME ONLY? <input type="radio"/> YES <input type="radio"/> NO	NEW HANDGUN? <input type="radio"/> YES <input type="radio"/> NO	BARREL LENGTH
COMMENTS		HANDGUN ORIGIN (USA, Italy, etc)

PURCHASER INFORMATION

FIRST NAME	MIDDLE NAME	LAST NAME	SUFFIX
ALIAS FIRST NAME	ALIAS MIDDLE NAME	ALIAS LAST NAME	ALIAS SUFFIX
STREET ADDRESS			ZIP CODE
<i>One of the following forms of identification is required to legally purchase firearms in California: California Driver's License (CDL), California ID (CID) card issued by the DMV, Military ID (MIL) for active duty military accompanied by permanent duty station orders indicating that the purchaser is stationed in California, or a Diplomatic Passport with a letter from the embassy or consulate.</i>			
ID TYPE (Circle One) CDL <input type="radio"/> CID <input type="radio"/> MIL <input type="radio"/> Diplomatic Passport <input type="radio"/>	ID NUMBER	ID SOURCE (State or Country)	
TELEPHONE NUMBER ()	DATE OF BIRTH MO DAY YR	PLACE OF BIRTH	RACE
SEX	EYES	HAIR	HEIGHT
			WEIGHT
BFSC NUMBER OR EXEMPTION CODE (Handguns Only)			

Answer the following questions by checking "YES" or "NO"

<input type="radio"/> YES <input type="radio"/> NO	HAS PURCHASER EVER BEEN CONVICTED OF A FELONY OR OF AN OFFENSE SPECIFIED IN PENAL CODE SECTION 12021.1, 12021(c)(1), OR 12001.6?
<input type="radio"/> YES <input type="radio"/> NO	IS PURCHASER A MENTAL PATIENT OR ON LEAVE OF ABSENCE FROM A MENTAL HOSPITAL AS DESCRIBED IN WELFARE AND INSTITUTIONS CODE SECTION 8100?
<input type="radio"/> YES <input type="radio"/> NO	HAS PURCHASER EVER BEEN ADJUDICATED BY A COURT TO BE A DANGER TO OTHERS, FOUND NOT GUILTY BY REASON OF INSANITY, FOUND INCOMPETENT TO STAND TRIAL, OR PLACED UNDER A CONSERVATORSHIP, PURSUANT TO WELFARE AND INSTITUTIONS CODE SECTION 8103?
<input type="radio"/> YES <input type="radio"/> NO	IS PURCHASER CURRENTLY THE SUBJECT OF ANY RESTRAINING ORDER PURSUANT TO FAMILY CODE SECTION 6380?

IN ADDITION, I HAVE READ THE LIST OF PROHIBITED OFFENSES, AND NOTHING WOULD PRECLUDE ME FROM POSSESSING A FIREARM.	SIGNATURE OF PURCHASER
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PRIVATE PARTY TRANSFER (SELLER INFORMATION)

FIRST NAME	MIDDLE NAME	LAST NAME	SUFFIX
STREET ADDRESS			ZIP CODE
ID TYPE	ID NUMBER	ID SOURCE (State or Country)	TELEPHONE NUMBER ()
DATE OF BIRTH MO DAY YR	RACE	SEX	SIGNATURE OF SELLER

DEALER INFORMATION

COMMENTS	
DEALER TELEPHONE NUMBER ()	SIGNATURE OF SALESPERSON