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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 574                      **Hearing Date:** July 11, 2023  
**Author:** Jones-Sawyer  
**Version:** March 9, 2023  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** AB

**Subject:** *Firearms: dealer records of sale*

## HISTORY

**Source:** Author

**Prior Legislation:** AB 1621 (Gipson, Ch. 76, Stats. of 2021)  
AB 2222 (Quirk, Ch. 864, Stats. of 2018)  
AB 1060 (Liu, Ch. 715, Stats. of 2005)

**Support:** Everytown for Gun Safety Action Fund; Initiate Justice

**Opposition:** Gun Owners of California, Inc.; Peace Officers Research Association of California (PORAC)

**Assembly Floor Vote:** 58 - 13

## PURPOSE

***The purpose of this bill is to require firearm purchasers to verify on the dealer record of sale whether they have, within the past 30 days, checked and confirmed possession of all firearms they currently own or possess.***

*Existing law* requires every person to report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost. (Pen. Code, §25250, subd. (a).)

*Existing law* provides that every person who has reported a firearm lost or stolen pursuant to the above shall notify local law enforcement within 5 days if the firearm is subsequently recovered. (Pen. Code, §25250, subd. (b).)

*Existing law* specifies that a person is not required to report the loss of an antique firearm, as defined. (Pen. Code, §25250, subd. (c).)

*Existing law* exempts peace officers acting within the course and scope of their duties from reporting the theft or loss of a firearm if they reported it to their employing agency. Also exempts members of the U.S. Armed Forces, and other specified persons, if they lost the firearm while engage in their official duties, as well as firearms lost or stolen prior to July 1, 2017. (Pen. Code,

§ 25255.)

*Existing law* requires law enforcement officials to submit a description of the reported lost or stolen firearm into the DOJ Automated Firearms System. (Pen. Code, § 25260.)

*Existing law* punishes the failure to report a lost or stolen firearm as an infraction with a fine up to \$100 for a first offense and up to \$1,000 for a second offense, and as a misdemeanor for any subsequent offense. (Pen. Code, § 25265.)

*Existing law* provides that every person reporting a lost or stolen firearm shall report the make, model and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report. (Pen. Code, § 25270.)

*Existing law* makes it an infraction to report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false, and punishes a first violation by a fine not exceeding \$250 and by a fine not exceeding \$1,000 for any second or subsequent offense. (Pen. Code, § 25275.)

*Existing law* requires licensed firearms dealers to post a sign in a conspicuous place that informs persons of the requirement to report a lost or stolen firearm to law enforcement within 5 days of knowing or when they reasonably should have known. (Pen. Code, § 26835, subd. (a)(9).)

*Existing law* prohibits the sale, lease, or transfer of firearms unless the firearm dealer has been issued a license by the DOJ, and establishes various exceptions to this prohibition. (Pen. Code, §§ 26500-26625.)

*Existing law* requires firearms dealers to keep a register or record of electronic or telephonic transfer of firearms, unless certain specified circumstances apply. Makes a failure to comply a misdemeanor. (Pen. Code, § 28100.)

*Existing law* provides that the register required above shall be prepared by and obtained from the State Printer, and that DOJ shall prescribe the form of the register and the record of electronic transfer. (Pen. Code, §§28105, 28155.)

*Existing law* provides that the DOJ may conduct onsite inspections of firearm dealer locations to determine compliance with firearms laws, including the keeping of registers or records of electronic or telephonic firearms transfers, and authorizes the DOJ to remove a firearm dealer's license for noncompliance of such recordkeeping requirements. (Pen. Code, §§ 26700; 26715, subd. (b)(1); 26720; 16575, subd. (a)(20).)

*Existing law* requires the register or record of electronic transfer to include the following information, among other things:

- Date and time of sale;
- Make of firearm;
- Serial number or any assigned identification number or mark;

- Caliber;
- Type of firearm;
- Barrel length;
- Full name, date of birth, and purchaser's address;
- Purchaser's phone number;
- Purchaser's gender;
- All of the purchaser's legal names or aliases;
- Yes or no answer to questions inquiring whether the purchaser is prohibited from possessing a firearm;
- Signature of purchaser;
- Right thumbprint of the purchaser; and,
- A statement of the penalties for signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register. (Pen. Code, § 28160.)

*Existing law* provides that on or after January 1, 2003, all firearm purchaser information shall be made exclusively by electronic transfer, subject to limitations. (Pen. Code, § 28205.)

*Existing law* provides that the dealer or salesperson must ensure all required information has been obtained and be informed that incomplete information will delay sales. (Pen. Code, § 28175.)

*Existing law* makes it a misdemeanor for a person to furnish a fictitious name or address, or knowingly furnish incorrect information, or knowingly omit any information on the register or electronic transfer forms. (Pen. Code, § 28250, subd. (a).)

*Existing law* makes it a felony for a prohibited person to knowingly furnish a fictitious name, address, incorrect information, or to omit any information on the register or electronic transfer forms. (Pen. Code, § 28250, subd. (b).)

*This bill* requires the register or record of electronic transfer to include the acknowledgement by the purchaser or transferee that they have, within the past 30 days, confirmed possession of every firearm they own or possess.

## COMMENTS

### 1. Need for This Bill

According to the Author:

Our nation's recent history is riddled with examples of the dangers that can arise when firearms fall into the wrong hands. Therefore, it is vital that measures are put in place to ensure accountability and safety for those who exercise their right to bear arms. AB 574 aims to promote responsible firearm ownership by mandating a process that requires gun owners to know the whereabouts of their firearms before purchasing any new ones.

### 2. Tracing Lost or Stolen Firearms – “Crime Guns”

According to the US Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF):

Lost and stolen firearms pose a substantial threat to public safety and to law enforcement. Those that steal firearms commit violent crimes with stolen guns, transfer stolen firearms to others who commit crimes, and create an unregulated secondary market for firearms, including a market for those who are prohibited by law from possessing a gun. Moreover, thieves and illicit traffickers often obliterate the serial numbers of stolen firearms so that if a stolen firearm is later recovered by law enforcement, it cannot be identified as stolen or traced to the original purchaser. Lost firearms pose a similar threat. Like stolen firearms, they are most often bought and sold in an unregulated secondary market where law enforcement is unable to trace transactions. As a result, when a lost or stolen gun is later recovered from a crime scene, tracing (which only identifies the original manufacturer, the licensed dealer who sold the firearm, and the original purchaser) will not provide a direct link to the perpetrator of the crime.<sup>1</sup>

Lost or stolen firearms may become “crime guns,” which are defined by ATF as “any firearm used in a crime or suspected to have been used in a crime, which may include firearms abandoned or otherwise taken into law enforcement custody that are either suspected to have been used in a crime or whose proper disposition can be facilitated through a firearms trace.”<sup>2</sup> When a crime gun is recovered, standard practice dictates that law enforcement officials trace the firearm, beginning with its importation into, or manufacture in, the United States through the distribution chain of Federal firearms licensees to the point of its first retail sale. Neither ATF nor any other federal agency maintains a national database of ownership for firearms, but federal law requires federal firearms licensees to maintain business records of their transactions and provide information from these records to law enforcement upon request.<sup>3</sup>

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<sup>1</sup> US Bureau of Alcohol, Tobacco, Firearms and Explosives, (2013). *2012 Summary: Firearms Reported Lost and Stolen*. <<https://www.atf.gov/resource-center/docs/2012-firearms-reported-lost-and-stolenpdf-1/download>

<sup>2</sup> “ATF Firearms Tracing Guide,” p.5. [download \(atf.gov\)](#)

<sup>3</sup> *Ibid.*

From 2017 to 2021, law enforcement agencies submitted 1,922,577 crime guns to the ATF for tracing purposes. The ATF was able to trace 77% of the firearms to a purchaser. (*Id.* at 2.) Of the firearms that were successfully traced back to a purchaser, 58% of them were possessed by someone other than the purchaser, 29% were recovered without a known possessor, and only 12% had the same purchaser and possessor.<sup>4</sup>

At the federal level, there is no requirement for private citizens or law enforcement agencies to report lost or stolen firearms, though federal firearm licensees are required to report lost or stolen firearms within 48 hours.<sup>5</sup> California law, however, requires gun owners to report a lost or stolen firearm within five days of the time they knew or reasonably should have known that the firearm had been lost or stolen, and makes failure to do so an infraction until the third or subsequent violation, at which point violations become misdemeanors.<sup>6</sup> According to one study, crime guns originating in states with lost or stolen reporting requirements were 30% less likely to end up in another state, indicating that such reporting requirements help reduce interstate gun trafficking.<sup>7</sup>

### 3. Procedures for Purchasing a Firearm in California

California has some of the strictest firearm purchasing policies in the nation. Subject to narrow exceptions, existing law generally requires all firearm sales or transfers to be completed through a licensed dealer. When both parties to a sale or transfer are not licensed, licensed dealers act as intermediaries, who must conduct the required background checks and deliver the firearm to the transferee.<sup>8</sup> Only certain gun sales and transfers are exempt from participation by a licensed dealer, including infrequent transfers between immediate family members, certain government-sponsored transfers, transfers to historical societies, museums or institutional collections, and transfers to licensed firearms manufacturers and importers, among a few others.<sup>9</sup> Existing law includes several grounds for the forfeiture of a license to sell firearms if the various procedures prescribed by law are not followed.<sup>10</sup>

Background checks are a central component of firearm sales and transfers in California. Federal law requires federally licensed firearms dealers (known as “FFLs”) to initiate a background check on purchasers prior to a sale. Federal law also provides states with the option of serving as a “point of contact” and conducting their own background checks or having checks performed by the FBI. California’s Proposition 63, effective July 1, 2017, required the DOJ to serve as the point of contact for firearm purchaser background checks. Thus, dealers must initiate the background check required by federal law by contacting the DOJ, and must furnish the DOJ with various information about the purchaser.<sup>11</sup> Collectively, this information is known as the

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<sup>4</sup> “National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns – Volume Two. Part III: Crime Guns Recovered and Traced Within the United States and Its Territories.” ATF. [PART III: Crime Guns Recovered and Traced Within the United States and Its Territories \(atf.gov\)](#)

<sup>5</sup> 27 C.F.R. § 478.39a (a) (1)

<sup>6</sup> Penal Code §§25250, 25265.

<sup>7</sup> Bloomberg et al. “Preventing the Diversion of Guns to Criminals Through Effective Firearm Sales Laws,” in *Reducing Gun Violence in America: Informing Policy with Evidence and Analysis* (2013) [https://muse.jhu.edu/pub/1/oa\\_monograph/chapter/757454](https://muse.jhu.edu/pub/1/oa_monograph/chapter/757454), at p. 117; Giffords. *Reporting Lost & Stolen Guns*. [https://giffords.org/lawcenter/gun-laws/policy-areas/owner-responsibilities/reporting-lost-stolen-guns/#footnote\\_8\\_5611](https://giffords.org/lawcenter/gun-laws/policy-areas/owner-responsibilities/reporting-lost-stolen-guns/#footnote_8_5611)

<sup>8</sup> Penal Code §27545

<sup>9</sup> Penal Code §27850 et. seq.

<sup>10</sup> Penal Code §26800 et. seq.

<sup>11</sup> Penal Code §§28160, 28205

Dealer's Record of Sale, or DROS, and includes 40 distinct pieces of information about the purchaser pursuant to Penal Code §28160.<sup>12</sup> Among these data points are four yes/no questions requiring the purchaser to certify under penalty of perjury whether they are a prohibited person under existing law, including whether they have been convicted of a felony or specified misdemeanor, whether they are prohibited due to a mental illness, and whether they are prohibited due to being subject to a restraining order or condition of probation, as specified.

This bill adds an additional question to this list of required yes/no questions that the purchaser must answer and which the dealer must provide to DOJ. Specifically, this bill requires that the information that the dealer collects from the purchaser or transferee of a firearm to include the acknowledgement by the purchaser or transferee that they have, within the past 30 days, confirmed possession of every firearm that they own or possess. Existing law requires that this acknowledgment be made under penalty of perjury: a felony for a prohibited person and a misdemeanor for any other purchaser or transferee.<sup>13</sup>

#### **4. Argument in Support**

According to Everytown for Gun Safety Action Fund:

AB 574 promotes gun safety by requiring gun owners to confirm that all of their registered firearms are in their possession at the time of a new gun purchase. California law requires gun owners to report lost or stolen firearms within five days of when they knew or reasonably should have known of the loss or theft. Laws requiring that lost and stolen guns be reported to law enforcement are associated with significant reductions in gun trafficking. One study found that these laws were associated with a 30 percent lower risk that guns would be purchased in that state and recovered after a crime in another state. The majority of the 23,000 stolen firearms recovered by police between 2010 and 2016 were recovered in connection with crimes, including more than 1,500 violent acts.

AB 574 builds on California's existing law by requiring a person purchasing a new firearm to proactively affirm that they have had all of their firearms in their possession within the past 30 days. In doing so, it incorporates a tenet of responsible gun ownership into the process of firearm purchase, as it specifically requires firearm owners to maintain awareness of any firearms they own to ensure prompt reporting of any theft or loss.

#### **5. Argument in Opposition**

According to the Peace Officers Research Association of California (PORAC):

Current law requires each firearm dealer to keep a register or record of each firearm transaction and requires that register or record to include certain specified information, including information about the purchaser, information about the firearm, and the answers to certain questions by the purchaser or transferee relating to

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<sup>12</sup> Here is the DROS Worksheet that must be submitted to DOJ: [BOF 929 Dealer's Record of Sale \(DROS\) Worksheet \(ca.gov\)](#)

<sup>13</sup> See Penal Code §28250.

their eligibility to own or possess a firearm. This bill would additionally require the register or record to include the acknowledgment by the purchaser or transferee that they have, within the past 30 days, confirmed possession of every firearm that they own or possess. AB 574 is yet another bill that adds hoops that responsible gun owners must go through. This bill will not lead to increased public safety.

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