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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** SB 965                      **Hearing Date:** March 12, 2024  
**Author:** Min  
**Version:** January 24, 2024  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** JD

**Subject:** *Firearms*

## HISTORY

**Source:** Brady United Against Gun Violence

**Prior Legislation:** AB 1420 (Berman, Ch. 225, Stats. of 2023)  
AB 228 (Rodriguez, Ch. 138, Stats. of 2022)  
SB 452 (Blakespear, Ch. 253, Stats. of 2023)

**Support:** Brady California; Everytown for Gun Safety Action Fund; Moms Demand Action for Gun Sense in America; Students Demand Action for Gun Sense in America; San Diegans for Gun Violence Prevention

**Opposition:** None known

## PURPOSE

***The purpose of this bill is to require the Department of Justice (DOJ) to submit an annual report to the Legislature beginning no later than August 15, 2025 containing information related to firearm dealer and ammunition vendor inspections conducted by the department.***

*Existing law* requires a person to hold a firearm dealer's license in order to sell, lease, or transfer a firearm. (Penal Code, § 26500.)

*Existing law* provides that the duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting licensees to sell firearms at retail within the city, county, or city and county. (Penal Code, § 26705, (a).)

*Existing law* requires a firearms dealer or licensee to meet all the following requirements:

- Have a valid federal firearms license;
- Have any regulatory or business license, or licenses, required by local government;
- Have a valid seller's permit issued by the State Board of Equalization;
- Have a certificate of eligibility issued by the DOJ, as specified;
- Have a license issued in a specified format granted by the local licensing authority; and,
- Be recorded in the DOJ's centralized list of licensees. (Penal Code, § 26700.)

*Existing law* requires DOJ to keep a centralized list of all persons licensed to sell, lease or transfer firearms at retail. (Penal Code § 26715.)

*Existing law* provides that a license to sell firearms is subject to forfeiture for any violation of a number of specified prohibitions and requirements, with limited exceptions. (Penal Code §26800(a).)

*Existing law* provides that the DOJ may assess specified civil fines against a licensee for any breach of a prohibition or requirement that subjects the licensee to forfeiture of their license to sell firearms. (Penal Code § 26800(b).)

*Existing law* requires firearms dealers to secure their inventory in a secure facility on the business premises with trigger locks, or within a locked, fireproof safe or vault when the licensee is not open for business. (Penal Code, § 26890.)

*Existing law* requires licensed dealers to maintain and make available to law enforcement or the DOJ a firearm transaction record, as specified. (Pen. Code, §§ 26900, 28100.)

*Existing law* authorizes the DOJ to inspect firearms dealers every three years, as specified, in order to ensure compliance with only specified statutes. (Penal Code, § 26720, (a).)

*Existing law* requires the DOJ to maintain and make available upon request the number of inspections conducted and the amount of fees collected, as specified, exempted jurisdictions, number of dealers removed from the centralized list of licensees, and the number of dealers found to have violated specified provisions of law with knowledge or with gross negligence. (Penal Code, § 26725.)

*Existing law* provides that the DOJ shall prescribe the form of the register and the record of electronic transfer of firearms (also known as the Dealer's Record of Sale, or DROS). (Penal Code, § 28155.)

*Existing law* requires the DROS 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. (Penal Code, § 28160.)

*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. (Penal 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 DROS forms. (Penal Code, § 28250, (a).)

*Existing law* prohibits selling, leasing, or transferring firearms without a certificate of eligibility issued by the DOJ. (Penal Code §26710)

*Existing Law* requires DOJ to maintain a roster of handguns determined not to be unsafe by a certified testing laboratory to be eligible for sale in California. The roster must include, for each firearm, the manufacturer, model number, and model name. (Penal Code § 32015)

*Existing law* provides that a person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends an unsafe handgun shall be guilty of a misdemeanor. (Penal Code § 32000 (a)(1).)

*Existing law* provides that the failure to report to the DOJ the sale or transfer of an unsafe handgun, as specified, may be subject to a civil penalty, and that in addition to any criminal penalty, the unlawful sale or transfer of an unsafe handgun obtained pursuant to specified provisions of existing law may be subject to a civil penalty, as specified. (Penal Code § 32000(a)(2), (3).)

*Existing law* allows DOJ to inspect ammunition vendors and to ensure compliance with applicable federal and state law (Penal Code § 30345)

Existing law requires the DOJ to submit a report to the legislature that includes information relating to firearms recovered in the state (Penal Code § 11108.3 (f))

*This bill* requires the DOJ to submit a report no later than August 15, 2025, containing departmental data relating to firearm dealer and ammunition vendor inspections, DOJ inspection staffing levels, and the Handguns Certified for Sale roster from January 1, 2020, to December 31, 2024.

*This bill* requires subsequent reports be made annually by August 15<sup>th</sup> of each year.

*This bill* requires DOJ to include in their report data relating to:

- DOJ staffing levels for conducting firearm dealer and ammunition vendor inspections, including both allocated and filled positions;
- The total number of firearm dealer inspections conducted and specified information gathered during those inspections;
- Total number of ammunition vendor inspections conduction and specified information gathered during those inspections;
- Specified information regarding the DOJ's not unsafe handgun roster.

## COMMENTS

### 1. Need for This Bill

According to the author of this bill:

Nearly all gun violence in this country stems from guns that were originally purchased from legal outlets. Gun dealers play an essential role in preventing gun violence, but without inspections, authorities cannot enforce compliance with regulations and potentially prevent illegal sales. California has worked to develop a strong system of gun dealer standards and oversight. However, there is little to no information about the inspections conducted by the State. This measure will close the information gap and provide transparency about the process to better understand the frequency, outcome, and implications of these critical inspections.

### 2. Firearm Dealer Licensing and Inspection

Federal law requires firearms dealers to obtain a license (also known as a “federal firearms license,” or “FFL”) through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). According to the ATF, as of December 2021, there were 1,907 FFLs issued for firearms dealers and pawnbrokers in California, and a total of 9,167 FFLs in the state.<sup>1</sup> An FFL is necessary but not sufficient for obtaining a firearms dealer license in California. Additional requirements include any business license required by local government, a seller's permit issued by the California Department of Tax and Fee Administration, a seller's license issued by the local licensing authority of a local government, a certificate of eligibility (COE) issued by the DOJ (verifying that a background check has taken place), and being recorded on the DOJ's centralized list of firearms dealers.<sup>2</sup> In California, only individuals that have obtained a valid license through the DOJ may lawfully sell, lease or transfer firearms within the state, subject to limited exceptions.<sup>3</sup>

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<sup>1</sup> “Report of Active Firearms Licenses – License Type by State Statistics.” Bureau of Alcohol, Tobacco, Firearms and Explosives. Posted 10 December 2021. <https://www.atf.gov/firearms/docs/undefined/ffltypebystate12-10-2021pdf/download>

<sup>2</sup> Penal Code §26700

<sup>3</sup> Penal Code §26500; see Penal Code §§27850 et. seq. for exceptions related to private party transfer.

Firearm dealers in California are subject to numerous state and federal laws that they must abide by in order to remain in operation. Such laws specify the manner in which firearm dealers must keep their records, deliver a firearm, secure and store their inventory, obtain security measures, and impose numerous other requirements. Firearm dealers who do not comply with such laws have been linked to a greater likelihood that firearms from their inventory will be recovered in a crime. A recent report from Brady United Against Gun Violence cites data from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) highlighting that when ATF inspected the 1% of gun dealers that supplied almost 60% of crime guns nationwide, it found that 75% of these dealers had violated federal law, including significant recordkeeping violations and participation in sales to potential gun traffickers and prohibited persons. In comparison, when ATF inspected a random sample of dealers, the number that were found to be noncompliant dropped to 37%.<sup>4</sup>

Licensed firearms dealers in California are subject to inspections by both the state and federal government. FFLs are subject to random inspections by ATF officials to ensure compliance with federal, state and local laws and regulations, educate licensees on specific requirements associated with those laws, and review records that FFLs are required to maintain. In addition, federal inspectors conduct a complete physical inventory of a licensee's firearms and evaluate the licensee's internal controls and security measures. In 2023, the latest year for which there is comprehensive data was compiled by ATF, that agency conducted 9,047 inspections nationwide.<sup>5</sup>

Existing California law requires the DOJ to conduct inspections of licensed firearms dealers every three years to ensure compliance with applicable state law related to firearm dealers. Data collected in these inspections is currently used within the department for compliance efforts. This bill would take the internal data collected in these inspections and make it public by submitting it in a report to the Legislature.

### **3. California's Unsafe Handgun Law**

In 1999, the Legislature passed SB 15 (Polanco, Ch. 248, Stats. of 1999), also known as the Unsafe Handgun Act (UHA), which made it a misdemeanor for any person in California to manufacture, import for sale, offer for sale, give, or lend any unsafe handgun, with certain specific exceptions. SB 15 defined an "unsafe handgun" as a handgun that (1) does not meet a specified "drop safety" test, (2) does not meet specified firing tests, and (3) does not have a requisite safety device.<sup>6</sup> The law also required DOJ to compile and publish a roster listing all of the handguns and concealable firearms that they

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<sup>4</sup> 4 Brady United Against Gun Violence. A California Case Study: Government Agencies Should Screen Firearms Vendors.

<sup>5</sup> "Firearms Compliance Inspections." Bureau of Alcohol Tobacco, Firearms and Explosives. <https://www.atf.gov/firearms/compliance-inspections> ; "Firearm Compliance Inspection Results." Bureau of Alcohol Tobacco, Firearms and Explosives. <https://www.atf.gov/firearms/firearms-compliance-inspection-results>

<sup>6</sup> Penal Code §§ 31900, 31905, 31910

deem “not unsafe” and which are certified for sale in the state.<sup>7</sup>A subsequent reform, enacted in 2003, added new design safety requirements for semiautomatic pistols.<sup>8</sup>

In 2023, SB 452 (Blakespear) created a separate and distinct restriction on the sale or transfer of any semiautomatic pistol by a licensed gun dealer unless the pistol has been verified as a “microstamping-enabled pistol”, divorcing the microstamping requirement from the not unsafe handgun roster process. As of March 5, 2024, 18 new handguns have been added to the DOJ’s list and seven have been removed in 2024 alone. The 18 newly added handguns now may be sold, manufactured, etc., within California unless such sale, manufacture, etc., is otherwise prohibited under California law.<sup>9</sup>

This bill requires the DOJ to include information regarding the number of handguns on the roster, number of handguns added and removed during the specified time period, and how many handguns were denied approval to the roster. Because microstamping requirements were recently removed from the roster process, the author may benefit from adding information regarding the updated microstamping requirements to this bill’s annual report.

#### **4. DOJ Report Pursuant to AB 1191 (McCarty, Ch. 683, Stats. of 2021)**

In 2021, the passage of AB 1191 required the DOJ to submit an annual report to the Legislature beginning in 2023 relating to firearms recovered in California. Within the required information is a data point relating to the number of firearms recovered by law enforcement, disaggregated by the firearms dealer where the most recent sale or transfer of the firearm occurred (Penal Code § 11108.3 (f)(2)(C)).

This bill requires the DOJ to submit an annual report including a similar data point regarding the total number of firearms used in crimes that were traced back to the dealer during the one-year period prior to the inspection. This could lead to duplicative reporting within separate reports provided by the same entity. The Author may wish to consider combining the report required by this bill with the existing report already required by Penal Code § 11108.3 (f).

#### **5. Argument in Support**

According to Brady United Against Gun Violence:

[...] This bill will strengthen oversight of firearms and ammunition dealers by requiring (not merely authorizing) the California Department of Justice to inspect ammunition dealers and requiring annual reports to the Legislature regarding the Department’s inspections of both firearm dealers and ammunition dealers. Federally licensed firearms dealers (FFLs) play a critical role in preventing the proliferation of illegal guns across the nation, yet they operate with minimal federal oversight. California has stepped in to fill

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<sup>7</sup> Penal Code §32015

<sup>8</sup> SB 489 (Scott, Ch. 500, Stats. of 2003) requires that for a new semiautomatic center-fire pistol firearm to be added to the roster it has to be equipped with a chamber load indicator and a magazine disconnect (if it has a detachable magazine).

<sup>9</sup> [Handguns Certified for Sale](#)

some gaps regarding oversight, including by requiring that the Department of Justice inspect FFLs and authorizing inspections of ammunition dealers.

[...] This bill will complement this framework by requiring the Department of Justice to provide annual reports concerning its inspections, which two will provide transparency about the inspections to the public and communities and allow the Legislature and state to assess their effectiveness as well as the Department's resources to conduct them. Almost all guns enter circulation through the legal market: built by licensed manufacturers and sold by FFLs. Illegal guns begin as legal firearms, initially sold by FFLs, that are subsequently funneled into an illegal market. Gun dealers play the critical role of gatekeepers, including by using the Brady Background Check System to confirm the eligibility of potential gun purchasers, and their conduct has a direct bearing on whether guns are diverted to the illegal market or made available to individuals who would harm themselves or others.

The harmful consequences of negligent, irresponsible, or illegal conduct by gun dealers are immense, especially for communities of color that bear the heaviest burdens of gun violence. [...] Appropriate conduct by gun dealers and their employees is critical to keeping guns out of disproportionately impacted communities.

[...] Inspections are a key way to identify where these actions, inactions, or other failures are occurring, and to ensure FFLs are held responsible for remedying their issues, held to account, or where necessary because of egregious violation, their licenses are revoked. [...] However, we have little to no information about the inspections conducted by the State. This bill will close that information gap and provide crucial transparency on the inspections to better understand the frequency, outcome, and implications of the inspections.

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