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MEMORANDUM OF LAW

Re: Transfer of Firearms to Law Enforcement Agencies in California

Date: September 25, 2013

A dealer may sell a firearm "to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed." Pen. Code, § 27050(a) and (b).

This transaction is exempt from the requirements set forth Articles 1 and 2 of Chapter 2 Division 6 of the Penal Code relating to Firearm Sales, Lease, or Transfer. In other words, the sections concerning license to sell, lease, or transfer firearms at retail (not really relevant here as you already have a license). But also the exemptions for Article 2 which are a bit more substantive. These include requirements like: the 10 day wait (PC 26815(a)); safe handling demonstration (PC 26850-26859); and possession of a handgun safety certificate 26840.

Most importantly the exemption also applies to the DROS requirements. The exemption for representatives of law enforcement agencies includes Penal Code section 26830. This section requires a dealer to comply with certain other code sections cross referenced throughout the dangerous weapons part of the Penal Code. As a result of the exemption for law enforcement agencies, a dealer is exempt from these other cross referenced requirements. The sections discussed in 26830, include sections 27500-27535 (relating to sales to prohibited persons), section 27555 (the CFLC requirement), section 28100 (retention of DROS records), sections 28150-28180 (DROS records and information), sections 28200-28250 (submitting DROS information and fees), and section 30300 (relating to sales to an underage person

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The lack of DROS requirement make sense, as subsection (c) of 27050 requires the law enforcement agency to register a handgun (and after January 1, 2014) all firearms in AFS through CLETS as an institutional weapon.

Keep in mind that this is California requirements, or an exception to a California requirements. Federal law and requirements still apply. Under federal law a law enforcement agency may acquire firearms as well. This information is covered in the ATF best practices guide located at: <http://www.atf.gov/files/publications/download/p/atf-p-5300-15.pdf> Or see below:

Sales of Firearms to Law Enforcement Officers

Section 925(a)(1) of the GCA generally exempts law enforcement agencies from the transportation, shipment, receipt, possession, or importation controls of the GCA when firearms or ammunition are to be used for official agency business.

In this regard, law enforcement officers purchasing firearms for official duty need to provide certain documentation. If a law enforcement officer is issued a certification letter on official agency letterhead signed by a person in authority within the agency (other than the person purchasing the firearm) stating that the officer will use the firearm in official duties and that a records check reveals that the purchasing officer has not been convicted of a misdemeanor crime of domestic violence, then the officer may purchase the firearm for official use. There are no restrictions as to the purchasing officer's State of residence or agency location. You are not required to prepare a Form 4473 for the transaction or to conduct a NICS Check; however, the disposition to the officer must be entered into your A&D records, and the certification letter from the officer must be retained as part of your required records.

ATF considers the following as persons having authority to certify the eligibility of law enforcement officers:

1. In a city or county police department, the director of public safety or the chief or commissioner of police.
2. In a sheriff's office, the sheriff.
3. In 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.
4. In Federal law enforcement offices, the supervisor in charge of the office to which the Federal officer or employee is assigned.

Certification letters may be signed by persons other than those listed above, provided there is a proper delegation of authority. Because individual circumstances vary, FFLs with any questions are encouraged to check with their local ATF field office before accepting certifications letters from other officials.

For Further Assistance:

For links to free information on firearms laws, the Legal Resources section of our www.calgunlaws.com website has subsections on various firearms law topics. Check it out!

To stay updated on firearm law issues please subscribe to our firearms law newsletters, Facebook pages, and Twitter feed. CalGunLaws.com, CalGunLaws.com's e-Bulletins, the [Self-Defense Defense](#), [Right to Keep and Bear Arms](#), [MichellLawyers](#), and [Shooting Range Lawyers](#) informational Facebook pages, and the [@MichellLawyers](#) Twitter feed are produced as a *pro bono* public service by [Michel & Associates, P.C.](#).

Michel & Associates, P.C. has the largest and most experienced firearms law practice in California, but it is also a full service law firm. We appreciate *all* of your legal business inquires and client referrals for all types of legal work. This business helps support the many *pro bono* public services Michel & Associates, P.C. provides on behalf of your right to keep and bear arms.

Request a free case evaluation <http://michellawyers.com/free-case-evaluation/>. If you have questions or concerns regarding your legal obligations, we offer a free consultation. Contact us at gunlawquestions@michellawyers.com.

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