

## CONCURRENCE IN SENATE AMENDMENTS

AB 2362 (Muratsuchi)

As Amended August 20, 2020

Majority vote

**SUMMARY:**

Authorizes, commencing July 1, 2021, the Department of Justice (DOJ) to impose civil fines on firearms dealers for breaches of regulations or prohibitions related to their firearms dealers license.

**The Senate Amendments:**

Require that any fines collected by the DOJ be deposited in the Dealers Record of Sale Special Account (DROSS), for expenditure by the department to offset the cost of firearms related regulatory or enforcement activity.

**COMMENTS:****According to the Author:**

"AB 2362 would improve public safety and bring increased accountability, transparency, and security to gun sales in California by authorizing DOJ to fine irresponsible dealers who break the law."

**Arguments in Support:**

According to the *California Department of Justice*, "In order to operate in California, firearms dealers and license holders must have 1) a Federal Firearms License, 2) a license issued by a county or other local agency, and 3) a Certificate of Eligibility issued by the DOJ. If they have all of these items, they are included on the DOJ-maintained centralized list that allows them to operate their business. The DOJ conducts spontaneous on-site inspections of dealers and license holders to ensure they are complying with transfer requirements, dealer record and record retention requirements, facility maintenance and security requirements, and waiting period requirements.

"If a dealer or license holder is out of compliance, the DOJ sends written notification requesting corrective action. Follow up inspections may be performed to ensure corrective action has been taken. Not every instance of non-compliance warrants revocation of a certificate or removal from the centralized list; however, DOJ lacks authority to impose progressive disciplinary actions. For example, dealers and license holders are required to update the safety signage on their business premises with the correct font and text size as specified by statute. Repeated violation for incorrect font size would warrant some level of penalty that is short of removal from the centralized list.

"Revocation and removal from the centralized list ultimately results in a person's ability to operate and is a heavy-handed consequence when an infraction is minor. This bill grants DOJ the ability to impose aggressive discipline policies that will hold dealers and license holders accountable without irreparably penalizing them for minor mistakes or oversight. For example, a monetary fine could be imposed against a dealer or license holder that fails to take corrective action after receiving a warning for a minor offense."

**Arguments in Opposition:**

According to the *California Rifle and Pistol Association*, "Commencing July 1, 2022, AB 2362 would authorize DOJ to impose a civil fine on licensed firearms dealers not exceeding \$1,000 for paper work violations, and a civil fine not exceeding \$3,000 for a violation when the licensee had received written notification from the DOJ regarding the violation and fails to take corrective action and fails to take corrective action, as specified, or the DOJ determines the licensee committed the violation knowingly or with gross negligence.

The decision to bestow additional authority to the Department could lead to needless, punitive measures against firearms dealers who may have made an insignificant mistake stemming from lack of responsiveness from the DOJ. Existing law already regulates licensed firearms dealers and provides that a license is subject to forfeiture for breach of specified prohibitions of law. In other words the DOJ already has the authority to terminate noncompliant firearms dealers!"

**FISCAL COMMENTS:**

According to the Senate Appropriations Committee, this measure would have short-term costs in the low hundreds of thousands of dollars annually for three years to promulgate regulations, process an increase in citation assessments and forfeiture hearings for licensed dealers, update information technology infrastructure, and for licensing costs. It would pose an ongoing cost of \$175,000 annually for 1.0 Associate Governmental Program Analyst to, initially, work on the regulations and then track ongoing violations for approximately 1,800 firearms dealers. Costs would be offset, in part, by revenue generated from the fine. (General Fund, special funds\*)

\*Legal Services Revolving Fund & Dealers' Record of Sale (DROS) Special Account – structurally imbalanced

**VOTES:****ASM PUBLIC SAFETY: 6-2-0**

**YES:** Jones-Sawyer, Bauer-Kahan, Kamlager, Carrillo, Santiago, Wicks

**NO:** Lackey, Diep

**ASM APPROPRIATIONS: 13-5-0**

**YES:** Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas

**NO:** Bigelow, Megan Dahle, Diep, Fong, Voepel

**ASSEMBLY FLOOR: 55-20-4**

**YES:** Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooper, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

**NO:** Bigelow, Brough, Chen, Choi, Cooley, Cunningham, Megan Dahle, Diep, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Obernolte, Patterson, Salas, Voepel, Waldron

**ABS, ABST OR NV:** Frazier, Gray, Kamlager, Quirk

**SENATE FLOOR: 26-11-3**

**YES:** Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Hertzberg, Hill, Hueso, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Umberg, Wieckowski, Wiener

**NO:** Bates, Borgeas, Chang, Dahle, Grove, Hurtado, Melendez, Moorlach, Morrell, Nielsen, Wilk

**ABS, ABST OR NV:** Jones, Roth, Stern

**UPDATED:**

VERSION: August 20, 2020

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