

California Department of Justice
FIREARMS DIVISION
Randy Rossi, Director

INFORMATION BULLETIN

Subject:

Personal Firearms Eligibility Check Program and
Employee Certificate of Eligibility

No.:

2003 FD-04

Date: 12/17/03

For further information contact:

Firearms Division
(916) 263-4887

TO: ALL CALIFORNIA FIREARMS DEALERS

INTRODUCTION

Two new law sections have been added to the California Penal Code (PC) effective January 1, 2004, one allowing individuals to check their firearms eligibility status and one authorizing firearms dealers to require their employees to possess a Certificate of Eligibility (COE).

PERSONAL FIREARMS ELIGIBILITY CHECK (PFEC) PROGRAM

Penal Code section 12077.5 (Senate Bill 255, Chapter 298, Statutes 2003), provides a method for individuals to check their firearms eligibility status prior to attempting to purchase firearms. This new program is called the Personal Firearms Eligibility Check (PFEC).

The PFEC application form is available on the Firearms Division web site at www.ag.ca.gov/firearms. A copy of the application form and its instructions are enclosed for your convenience. As a service to customers, dealers are welcome and encouraged to make this application available to the public. PFEC applications must be submitted directly to DOJ for processing. Applicants will be notified via U.S. Mail of their PFEC results.

The PFEC application fee is \$20. The applicant must complete the application form, affix a thumb print, attach a copy of a California Driver License or California Identification Card, and have the application form notarized. If the applicant is not a United States citizen, the applicant must also include a copy of his/her U.S. Immigration and Naturalization Service Alien Registration Card, Form I-551, or Arrival/Departure Record, Form I-94. This completed application package and fee must be mailed by the applicant to: Department of Justice, Firearms Division - PFEC, P.O. Box 820200, Sacramento, CA 94203-0200.

PFEC results are for the applicant's information only and do not constitute a clearance for any dealer to immediately sell or transfer firearms. The statutes continue to require all dealers to complete and submit the Dealer Record of Sale (DROS) to DOJ for all sales/transfers and, unless exempted by statute, observe the 10-day waiting period prior to delivery of a firearm.

Penal Code section 12077.5 also prohibits any person or agency from requiring any individual to obtain a PFEC. A violation of this subdivision is a misdemeanor. Please note that Penal Code section 12071(b)(20), discussed below, authorizes firearms dealers to require employees to possess a Certificate of Eligibility to ensure employees are not prohibited from possessing firearms.

EMPLOYEE CERTIFICATE OF ELIGIBILITY (COE)

Penal Code section 12071(b)(20) (Senate Bill 824, Chapter 502, Statutes 2003), provides licensed firearms dealers the option to require any employee who handles, sells, or delivers

firearms to obtain a Certificate of Eligibility (COE) issued by the Department of Justice (DOJ). This type of COE will be referred to as an "Employee COE."

The Employee COE application package and instructions may be requested from DOJ either by telephone at (916) 227-3694 or in writing to: Department of Justice, Firearms Division - Employee COE, P.O. Box 820200, Sacramento, CA 94203-0200.

The Employee COE application package includes a COE application (FD 4008 Rev. 10/03), two (2) completed fingerprint cards (BID-7) and requires an initial fee of \$73. If the firearms eligibility check determines the applicant is not prohibited from possessing firearms, an Employee COE is issued. If the eligibility check determines the applicant is prohibited from possessing firearms, no COE is issued and both the applicant and the firearms dealer are notified of the denial. Once issued, the employee is required to provide a copy to the licensed firearms dealer. The Employee COE is renewable annually at a cost of \$17.

If, during the term of the COE or upon renewal, DOJ determines the COE holder is found to be lawfully prohibited from possessing firearms, DOJ will revoke the Employee COE and both the employee and the licensee certified on the application will be notified of the revocation. Although the licensee will be noticed that the employee is prohibited, the licensee will not receive information relative to the reason for the prohibition. The revocation of an Employee COE does not require that the employee be terminated from employment. However, licensees must prevent any prohibited employee from possessing, handling or having in their custody or control any firearm.

If you choose to participate in this program and already have an employee with a COE, please photocopy the enclosed Report of Employment (FD117) form and have your employee(s) complete the form. Completed Report of Employment forms can be faxed to (916) 227-3700 or mailed to Department of Justice, Firearms Division - Employee COE, P.O. Box 820200, Sacramento, CA 94203-0200. Additional Report of Employment forms are available on DOJ's website at www.ag.ca.gov/firearms. This form may also be used by new employees who already possess a COE.

Attached for your information are answers to frequently asked questions regarding the Personal Firearms Eligibility Check Program and Employee COEs. If you have any questions, please do not hesitate to contact the Firearms Division at (916) 263-4887.

Sincerely,



RANDY ROSSI, Director
Firearms Division

For BILL LOCKYER
Attorney General

Enclosures

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
FIREARMS DIVISION

PERSONAL FIREARMS ELIGIBILITY CHECK
Frequently Asked Questions/Answers

General Question

I'm not sure whether I can legally possess and/or purchase firearms. Is there a way to find out before I attempt to purchase one?

Yes. You may request the Department of Justice to conduct a firearms eligibility background check by submitting a Personal Firearms Eligibility Check (PFEC) application to the Department of Justice. For more information about how to request a PFEC, please visit our PFEC FAQ section of our web site at www.ag.ca.gov/firearms. Applications are also available through your local firearms dealer.

Penal Code (PC) section 12077.5(a)

PFEC FAQ Section

1. What information is required for a Personal Firearms Eligibility Check (PFEC)?

You must submit a completed PFEC application, a copy of your California Driver's License or Identification Card, and fees in the amount of \$20. The application must be signed and notarized, and include an impression of your right thumbprint. If you are a non-U.S. citizen, you must also submit a copy of your Alien Registration or I-94 Card.

2. How much does the PFEC cost?

The fee for the PFEC is \$20, payable to the Department of Justice by check or money order. DO NOT SEND CASH.

PC section 12077.5(b)

3. How do I find a Notary Public?

Many web sites provide area searches for notaries public. Notaries public can also be found in the yellow pages of your local telephone directory.

4. How long will it take to get the results of my PFEC?

The results will be sent via U.S. Mail. The Department of Justice makes every effort to process requests for PFECs within 30 days of receipt. However, due to budget constraints, please allow 90 - 120 days for the results.

5. What records are checked to determine the results of my PFEC?

The Department of Justice will check all relevant state and federal databases to determine whether you are lawfully permitted to possess/purchase firearms.

6. Under what conditions is someone considered ineligible to possess and/or purchase firearms?

Any person who has been convicted of a felony, certain misdemeanors, certain firearms offenses, who is addicted to narcotics, who is the subject of a domestic violence restraining order, or has been committed to a mental institution pursuant to Welfare and Institutions Code section 8100, may not possess or have under his or her control any firearm. Certain federal statutes impose lifetime and other more restrictive prohibitions on firearm possession. Additionally, certain statutory conditions exist that allow for the possession of firearms but preclude the acquisition or purchase of additional firearms, such as the subjects of certain restraining orders and those under state or federal indictment. For a list of California prohibiting categories, please see our web site at www.ag.ca.gov/firearms.

7. Will the PFEC results include information about my criminal history?

No. The Firearms Eligibility Notice will indicate you are either: 1) eligible to both possess and purchase firearms as of the date the check was conducted; 2) ineligible to either possess or purchase firearms as of the date the check was conducted; 3) Eligible to possess, but ineligible to purchase firearms as of the date the check was conducted; or 4) as of the date the check was conducted a definitive firearms possession eligibility determination could not be made. A determination cannot be made if, for instance, a person has a firearms-prohibiting arrest in his or her record, but there is not a corresponding disposition.

8. If I receive an eligible to possess response, what factors could change my status to ineligible?

Your status would change to ineligible to possess if you become lawfully prohibited from possessing firearms. For a list of California prohibiting categories, please see our web site at www.ag.ca.gov/firearms.

9. The results of my PFEC indicated that I am eligible to possess firearms but not eligible to purchase firearms. What does that mean?

Certain statutory conditions exist that allow for the possession of firearms but preclude the acquisition or purchase of additional firearms, such as persons who are subjects of certain restraining orders and those under state or federal indictment. Therefore, persons falling into this category may retain possession of firearms they currently own, but may not apply to purchase additional firearms. Additionally, because a valid California Driver's License or Identification Card is required to purchase a firearm, someone with a suspended or expired driver's license is not prohibited from possessing firearms but is unable to purchase a firearm without a valid driver's license or identification card.

10. I currently own firearms and want to know if I can purchase another firearm. If the results of my PFEC indicate I am eligible to possess, but ineligible to purchase firearms, can I keep the firearms I own?

Yes. If you are found to be eligible to possess but ineligible to purchase firearms, you may keep the firearms you currently own, but cannot purchase additional firearms as of the date of the check.

- 11. I currently own firearms and want to know if I can purchase another firearm. If the results of my PFEC indicate I am ineligible to either possess or purchase firearms, can I keep the firearms I own?**

No. If you are found to be ineligible to either possess or purchase firearms as a result of the PFEC, you must relinquish any firearms you may have in your possession to a law enforcement agency or designate a power of attorney to take control and possession of them for you. Furthermore, firearms may not stay in the constructive possession of a prohibited person (e.g. you may not transfer possession to a person sharing the same household). The Power of Attorney form can be downloaded from the Firearms Division web site at www.ag.ca.gov/firearms.

- 12. The results of my PFEC indicate I am ineligible to either possess or purchase firearms and one of the firearms I own is a registered assault weapon. Can I transfer possession of the assault weapon to another person?**

No. California law prohibits the transfer of registered assault weapons between 2 parties. You may either sell the assault weapon to a licensed firearms dealer who holds an assault weapon permit, or relinquish the assault weapon to your local law enforcement agency. Be sure to contact the agency prior to delivering the weapon.

- 13. The results of my PFEC indicated that a determination of my eligibility to possess firearms could not be made. What does that mean?**

A determination cannot be made if, for instance, a person has a firearms-prohibiting arrest in his or her record, but there is not a corresponding disposition. You may request a summary of your California criminal history record by telephoning (916) 227-4715. It is important to understand that your criminal history record will not reveal certain other firearms prohibition categories, such as mental health, restraining orders, wanted persons and applicable federal prohibitions.

- 14. I am not a U.S. citizen. Can I have a PFEC conducted?**

Non-U.S. citizens that are in the country legally can have a PFEC conducted. You must include your Alien Registration or I-94 number on the PFEC application, and include a copy of your Alien Registration or I-94 card with your application package. A valid Alien Registration or I-94 card is required at the time of purchase of any firearm. Non-U.S. citizen applicants must also meet certain federal requirements to purchase a firearm, unrelated to the firearms eligibility background check.

- 15. Does the PFEC satisfy the requirement for a background check when I go to a firearms dealer to purchase a firearm?**

No. Another background check and the 10-day waiting period will apply.

PC section 12077.5(h)

- 16. Is a temporary driver's license or invalid license acceptable for the purpose of obtaining a PFEC?**

A temporary or invalid driver's license is acceptable for the purposes of conducting a PFEC. However, a **valid** California Driver's License or Identification Card is required at the time of purchase of any firearm.

PC section 12071(b)

17. What should I do if I don't agree with the results of the PFEC?

If you disagree with the results of the PFEC, please contact the DOJ Firearms Program at (916) 227-3749.

18. How can I get a copy of my California criminal history record?

You may obtain information on how to receive a summary of your California criminal history record by telephoning (916) 227-4715. It is important to understand that your criminal history record will not reveal certain other firearms prohibition categories, such as mental health, restraining orders, wanted persons and applicable federal prohibitions.

PC sections 11120 - 11127

19. Can a prospective employer require me to obtain a PFEC as a condition of employment?

Penal Code section 12077.5(g) prohibits persons or agencies from requesting or requiring another person to have a PFEC conducted. However, effective January 1, 2004, California Licensed Firearms dealers are authorized to require their employees to possess a Certificate of Eligibility as evidence that the employee is not prohibited from possessing firearms. For more information on Certificates of Eligibility please refer to the dealer FAQs on the Firearms Division web site at www.ag.ca.gov/firerams.

PC section 12077.5(h)

20. I submitted an application for a PFEC but forgot to enclose the fee. What should I do?

Incomplete application submissions will be returned to the applicant allowing the applicant 30 days to resubmit a complete package. Questions regarding PFEC can be directed to (916) 227-3749.

21. What if I have a disability that prevents me from completing the application?

Applicants lacking the ability to complete the application may have assistance with the completion of the application. The application must be signed by the applicant. The notary public will certify the applicant is who is stated on the application.

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
FIREARMS DIVISION
P.O. Box 820200, Sacramento, CA 94203-0200

Employee COE
Frequently Asked Questions/Answers

1. What is an Employee COE?

The Employee COE is issued only to persons who apply for a COE as employees of a licensed California firearms dealer, and are found to be lawfully eligible to possess firearms.

2. What is required to obtain an Employee COE?

Applicants must submit a completed application (FD 4008 rev. 11/2003), initial fees in the amount of \$73, and two completed 10-print fingerprint cards (BID-7). Applicants who are applying for a COE as an employee or agent of a licensed firearms dealer must check the "employee" box and record the licensee's California Firearms Dealer (CFD) number and dealership name on the application. For an application and fingerprint cards, please contact the Firearms Division at (916) 227-5367. A COE is valid for one year. The annual renewal fee is \$17 and requires submission of the fee, and a completed application (FD 4008 rev. 11/2003).

3. I want to get a job at a gun store. Are there any legal requirements for me to work at a gun store?

Effective January 1, 2004, firearms dealers may, if they choose, require any employee who handles, sells or delivers firearms, to possess a Certificate of Eligibility (COE). In order to get a COE, the applicant must submit an application, fingerprint cards, and a fee of \$73. (PC section 12071(b)(20)(A))

4. I've been working in a firearms store for several years. My duties include showing potential buyers various types of firearms. My employer recently told me I have to get a COE. Does he have a right to require that?

Yes. Effective January 1, 2004, licensed firearms dealers may require employees who handle, deliver or sell firearms to obtain a Certificate of Eligibility from the Department of Justice. Upon application, a firearms eligibility check will be conducted to determine whether the applicant is eligible to lawfully possess firearms. If so, the applicant is issued a COE. A copy of the COE must be provided to the employer by the Employee COE holder, and must be renewed annually, as required by the licensee.

- 5. I have a job in a sporting goods store that also sells firearms. I work in the fishing department, which is not associated with the firearms department. Can my employer require me to obtain a COE?**

No. Licensed firearms dealers' authority to require employees to obtain COEs is limited to those employees or agents who handle, sell, or deliver firearms. If you don't have direct access to unsecured firearms, your employer cannot require you to obtain a COE.

- 6. If my employer requires that I obtain a COE, who has to pay the \$73 fee?**

California law does not address the issue of who is responsible for COE fees. Therefore, DOJ has no jurisdiction over the matter.



STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
FIREARMS DIVISION

P.O. Box 820200, Sacramento, CA 94203-0200



PERSONAL FIREARMS ELIGIBILITY CHECK APPLICATION (PC 12077.5)

See Reverse for Instructions, Fees and Notary Acknowledgment

This Application Must Be Notarized by a Licensed California Notary Public

Name: Last Suffix (e.g. Jr., Sr.) First Middle

Alias(es):

Female Male Date of Birth: California DL or ID#: (Copy must accompany application)

Height: Weight: Eye Color: Hair Color: Race: Telephone #:

U.S. Citizen: Yes No If no, you must provide your Alien Registration# or I-94#: (Copy must accompany application)

Mailing Address: Street Address City State Zip

Physical Address: (If Different) Street Address City State Zip

No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility pursuant to Section 12077.5 of the Penal Code. A violation of these provisions is a misdemeanor.

If the applicant for a firearms eligibility check intends to purchase, transfer, or receive a firearm through a licensed dealer as required by law, a Dealer Record of Sale (DROS) waiting period and background check are both required. This is not a DROS.

This check is for informational purposes and is intended to assist applicants in ascertaining their eligibility to possess and/or purchase firearms. Any findings from this check will not result in the applicant being arrested or prosecuted for providing false information for the purposes of completing a Dealer Record of Sale or a federal form 4473 (Firearms purchase/transfer application).



Right Thumbprint

I declare under penalty of perjury (Sections 118 et seq., and 672 PC) that all statements made by me on this application are true and complete. I expressly authorize DOJ to perform firearms eligibility checks of all relevant state and federal databases, including the National Instant Criminal Background Check System. I also understand that if I currently possess/own firearms and the results of this check reveal that I am ineligible to lawfully either possess or purchase firearms, I must relinquish any and all firearms in my possession.

Signature of Applicant: (Must be Notarized on Reverse) Date:

FOR DOJ USE ONLY

Date Received: PFEC #: Eligible:
Date Paid: Date Processed: Ineligible:
Complete Submission: Processed by: Eligible to Possess but not Purchase:
Incomplete Submission: NTN #: Determination Could not be made:



STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
FIREARMS DIVISION
P.O. Box 820200, Sacramento, CA 94203-0200



PERSONAL FIREARMS ELIGIBILITY CHECK

*Application Instructions, Fees and Notary Acknowledgment
Application on Reverse*

PERSONAL FIREARMS ELIGIBILITY CHECK APPLICATION SUBMISSION REQUIREMENTS

- The application must be complete and proper fees submitted. Please type or print clearly in blue or black ink.
- The applicant's right thumbprint impression must be provided on the application and must be of fingerprint identification quality.
- You must include a photocopy of your California Driver's License or California Identification Card. If you are a non-U.S. citizen, you must also provide a copy of your Alien Registration or I-94 card.
- The Personal Firearms Eligibility Check (PFEC) fee is \$20. Please submit a check or money order payable to the Department of Justice. **DO NOT SEND CASH.**
- The application must be notarized by a licensed California Notary Public (see below). To find a Notary Public in your area, please consult your telephone directory. Also, many web site search engines provide area searches for notaries public.
- DOJ will make every effort to process PFECs within 30 days, however, please allow 90 - 120 days for the processing of your application. You will be notified via U.S. Mail.

Mail the completed application package and fees to:

DEPARTMENT OF JUSTICE
FIREARMS DIVISION - PFEC
P.O. BOX 820200
SACRAMENTO, CA 94203-0200

CERTIFICATE OF ACKNOWLEDGMENT

State of California, County of _____ On _____ ,
Date

before me, _____ personally appeared:
Name, Title of Officer

Name of Applicant

Personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



NOTARY SEAL

Signature of Notary



STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
FIREARMS DIVISION

P.O. Box 820200, Sacramento, CA 94203-0200
(916) 227-5367 Telephone • (916) 227-3700 Facsimile



Employee Certificate of Eligibility
Report of Employment
Instructions on Reverse

COE HOLDER INFORMATION

Name _____ COE Number _____

Address _____
Street City CA ZIP

California Driver's License or I.D. Number _____ Date of Birth _____
mm/dd/yyyy

EMPLOYER INFORMATION

Firearm's Dealership Name _____ CFD # _____

Name of Licensee

Please Print

Business Address _____
Street City CA ZIP

Employee COE Holder Declaration

I certify I currently hold the COE listed above. My employer has informed me that I am required to maintain a current COE and provide a copy to him/her. I understand that if my COE is revoked, the licensee(s) of the dealership named above will be notified of the revocation. I understand that if I terminate my employment with this dealership to ensure the protection of my privacy I will notify DOJ by submitting a Firearms Dealership Agent Certificate of Eligibility Termination of Employment Notice (FD 118) to DOJ within 10 days of termination. I declare under penalty of perjury (Penal Code sections 118 et seq., and 672) that all statements made on this document are true and complete.

Signature

Date

Employee Certificate of Eligibility Report of Employment

Instructions

This form is to be completed and submitted to the Department of Justice (DOJ) when a person who currently holds a valid Certificate of Eligibility (COE) becomes an employee of a licensed California firearms dealer who requires that his/her employees to possess a COE (Penal Code section 12071(b)(20)). The transmittal of this form to DOJ will associate your name with the dealer with whom you are employed. If, during the term of this COE, or upon renewal, you are found to be lawfully prohibited from possessing firearms, your COE will be revoked and you and the licensee stated on this form will be notified of the revocation.

To ensure your privacy, when you terminate employment with this firearms dealership, complete a Termination of Employment Notice (FD 118) and submit it to the DOJ. The transmittal of that form to DOJ will result in the department disassociating your name with the dealership.

Please complete the form and mail it to:

Department of Justice
Firearms Division - COE
P.O. Box 820200
Sacramento, CA 94203-0200

or send via facsimile to:

(916) 227-3700 - Attn: COE

If you have any questions, please contact the Firearms Division at (916) 227-5367.