

**CALIFORNIA DEPARTMENT OF JUSTICE**

**TITLE 11. LAW**

**DIVISION 5. FIREARMS REGULATIONS**

**CHAPTER 1. BUREAU OF FIREARMS FEES**

**ECONOMIC AND FISCAL IMPACT STATEMENT (STD 399) ADDENDUM**

**Fiscal Impact Statement**

**B. 4.**

The emergency regulation implements a statutory fee that will increase revenue to fund statutorily-mandated firearms-related programs.

Existing law allows the Department of Justice (Department) to require a firearms dealer to charge each firearm purchaser a fee, called the “DROS Fee,” at the time of a transfer of firearms (a “DROS transaction”). Until January 1, 2020, the DROS Fee was set at \$19 by CCR, Title 11, section 4001, as authorized by former Penal Code (PC) sections 28225 and 28230. Revenue from the \$19 DROS Fee funded multiple statutorily-specified firearms regulatory and enforcement activities.

Assembly Bill (AB) 1669, effective January 1, 2020, changed the authority for the DROS Fee, from PC 28225 to the newly-added section 28233. This new section authorizes a fee of \$31.19 to fund many of the same statutorily-specified firearms regulatory and enforcement activities that had been funded by the previous DROS Fee.

The Department implemented this \$31.19 fee in an emergency rulemaking action that went into effect on January 1, 2020. The Department’s emergency regulations named this fee the “DROS Fee,” because the old DROS Fee was, for practical purposes, repealed; because the fee in PC 28233 funds the activities specified by the previous DROS Fee; and because this fee now is the principal fee charged at the time of each DROS transaction. For all practical purposes, the DROS Fee has increased from \$19 to \$31.19.

**DROS Fee Revenue**

**Table 1** (below) shows revenue from the DROS Fee, and the projected revenue that the Department anticipates will result from the adoption of these regulations. This table does not include other sources of revenue that are also deposited into the DROS Fund (e.g., the fees authorized by PC 23690 and 28300).

The first row shows the total number of actual and projected DROS transactions each year. Firearm sales numbers are relatively stable, but are sensitive to new legislation and political developments. During the 2019-2020 fiscal year, the Department experienced a higher than normal DROS volume. This unanticipated increase in DROS volume during the 2019-2020 fiscal year is not considered to be reflective of long-term trends.

The second row shows the number of actual and projected *billable* DROS transactions each year. Per PC 28240, only one billable fee may be charged per transaction regardless of the number of firearms in the transaction. Because some people purchase multiple firearms in a single transaction, the number of billable DROS transactions are fewer than the total number of DROS transactions.

The third row shows the amount of actual and projected DROS Fee revenue. Through December 31, 2019, the DROS Fee was \$19 per billable DROS transaction. Because the Department lost the authority to charge the \$19 DROS Fee on January 1, 2020, the revenues for fiscal year 2019-20 includes six months of billable DROS transactions at the \$19 fee level and six months of billable DROS transactions at the \$31.19 fee level. The revenue estimates for fiscal year 2020-21 and subsequent fiscal years reflect anticipated collections of the \$31.19 fee.

**TABLE 1: REVENUE (Actual and Projected)**

	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>FY 19-20* (Projected)</b>	<b>FY 20-21 (Projected)</b>	<b>FY 21-22 (Projected)</b>
<b>Total DROS Transactions</b>	857,536	789,540	956,551	1,162,963	839,552
<b>Billable DROS Transactions</b>	752,302	683,380	834,703	1,011,778	730,410
<b>Revenue from \$19/\$31.19 DROS Fee</b>	\$14,293,738	\$12,984,220	\$17,740,933	\$31,557,356	\$22,781,488

**\*The Department is still calculating DROS transactions for fiscal year 2019-20. The final number may vary by approximately one percent.**

Without the readoption of the emergency regulation, the DROS Fee revenue will drop to \$0 when the emergency action expires.

### **DROS Fee Expenditures**

The DROS Fee is deposited in the DROS Fund. The monies are then appropriated by the Legislature for expenditure by the Department.

As authorized by PC 28233, the DROS Fee will pay for the costs of operating, in whole or in part, the firearms-related programs listed below.

**TABLE 2: PROGRAMS FUNDED BY THE DROS FEE**

<b>Program</b>	<b>Penal Code Statutes Implemented</b>
Automated Firearms Systems Unit*	18100, 30000
Armed & Prohibited Persons Section*	30000
Phone Resolution Unit	28220
Law Enforcement Release Unit*	33850, excepting those activities specified in section 33860

Carry Concealed Weapon Permits Unit*	26175, excepting those activities specified in section 26190
Background Clearance Unit	28220
Training, Information and Compliance Section*	Chapter 2, excepting those activities specified in section 26720
Customer Support Center	28215
Reporting and Quality Assurance Section	28215
Administration and Special Projects Section*	Penal Code, Part 6, Title 4

**NOTE: An asterisk (\*) indicates that the program is not wholly funded through DROS Fee revenue. Certain functions of specified programs are funded through separate fee and General Fund monies, as specified in statute.**

These programs largely concern background checks on potential firearms purchasers or transferees. A firearm dealer must submit to the Department certain identifying information for every potential firearm purchaser or transferee. (Pen. Code, §§ 28100-28490.) As required by PC 28220, the Department then examines available records to determine whether the potential purchaser or transferee is prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm. If the Department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (e.g., convicted felons; persons found to be a danger to self or others because of a mental illness; persons addicted to the use of narcotics; et cetera), the Department immediately notifies the dealer and the sale is denied.

More specifically, the Background Clearance Unit examines available records concerning the potential purchaser or transferee, and determines whether the individual is prohibited. The Phone Resolution Unit tracks down information that is not immediately available, such as incomplete court records. The Reporting and Quality Assurance Section reviews DROS records and determinations for accuracy. The Customer Support Center answers questions from dealers as to how to complete the Dealer Record of Sale. The Automated Firearms System Unit maintains the Automated Firearms System, a repository of firearm records maintained by the Department. The Armed and Prohibited Persons Section matches records of persons who own or possess a firearm (usually subsequent to a DROS transaction) with evidence that the person may be newly prohibited (e.g., a restraining order). Each of these activities is necessary to the process of ensuring that prohibited persons are not allowed to purchase or possess a firearm.

In recent years, the Department significantly reduced its firearms-related program activities and expenditures in order to operate within the available DROS Fee revenues, which are well below the appropriation levels established by the Legislature for these critical public safety firearms programs. For example, the Bureau of Firearms has maintained only baseline program functionalities with an average personnel vacancy rate of 18 percent over the last three years; has postponed significant facility infrastructure projects; and has delayed necessary information technology refreshes in order to maintain solvency in the DROS Fund. The Department anticipates that the cost to refresh and rebuild its aging information technology (IT) systems will total approximately \$2,352,000 for planning and other initial costs, and then \$8,275,000 annually for a five-year period.

**Table 3** (below) shows a side-by-side comparison of projected DROS Fee revenues and estimated expenditures by the Department from the DROS Fund. DROS Fee revenue projections for each fiscal year are taken from Table 1.

The second row shows all other sources of revenue that are also deposited into the DROS Fund, such as other fees, transfers and other adjustments. Notably absent is the required repayment of two loans to the DROS Fund from the Firearms Safety and Enforcement Fund, totaling \$5,844,000 which are scheduled to be repaid by fiscal year 2024-25.

The first and second rows, combined, make up the total projected DROS Fee Revenue for fiscal years 2020-21 through 2022-23.

Departmental expenditures include its appropriation for salaries and benefits, operating expenses and equipment; a supplemental pension loan repayment of \$666,000; a Pro Rata cost of \$819,000 (which increases to \$1,226,000 in 2020-21), and the anticipated cost to refresh and rebuild legacy firearms IT systems.

The third row shows anticipated DROS Fund appropriations, which are expended by the Department for salaries and benefits, operating expenses and equipment. Historically, due to insufficient fee revenues, appropriations from the DROS Fund have exceeded DROS Fund revenues, resulting in an operational deficit. Until now, the shortfall has been offset by spending down the fund balance, shifting Departmental resources from other Departmental priorities, and holding critical positions vacant.

The pension loan repayment is a result of the 2017-18 budget package (Chapter 50 [Senate Bill 84, Committee on Budget and Fiscal Review]), which was approved as part of the Governor's May Revision proposal. The state borrowed \$6 billion from the Pooled Money Investment Account to make a one-time supplemental payment to the California Public Employees' Retirement System. All funds that make pension payments, including the General Fund and most other state funds, must repay the loan over the next decade. While the General Fund started repaying the loan in 2017-18, other funds (i.e., the DROS Fund) began payments in 2018-19.

The Pro Rata cost is the cost of central service agencies, such as the Department of Finance, the State Treasurer, the State Controller, and the Legislature for providing budgeting, banking, accounting, auditing, payroll, and other services to all state departments. The Pro Rata process apportions the costs of providing central administrative services to all state departments and funding sources that benefit from the services. Amounts apportioned to special funds (i.e. the DROS Fund) for their fair share of central administrative services costs are transferred from the special funds to the General Fund and the Central Service Cost Recovery Fund.

The Department is currently in the beginning stages of refreshing and rebuilding its firearms IT systems. Since 1980, the Department has built and maintained numerous firearms IT systems in order to comply with various legislative mandates. Over the past 40 years, the systems have become outdated and have effectively reached the end of their life. It is no longer efficient to make modifications to the current systems each year in response to new legislative requirements. In response, the Department has been working towards a system refresh and

rebuild to modernize its firearms IT systems into one cohesive unit that will be adaptable to future needs. This modernization is projected to cost approximately \$40 million, and will last at least five years. At that time, the Department will have a better estimate of its future expenditures, and can readjust the DROS Fee as necessary.

**TABLE 3: EXPENDITURES (Projected)\***

	<b>FY 20-21 (Projected)</b>	<b>FY 21-22 (Projected)</b>	<b>FY 22-23 (Projected)</b>
<b>(+) DROS Fund Revenue from \$19/\$31.19 DROS Fee</b>	\$31,557,356	\$22,781,488	\$22,781,488
<b>(+) DROS Fund Revenue from other sources including transfers &amp; other adjustments</b>	\$5,768,083	\$6,557,485	\$6,557,485
<b>(-) DROS Appropriation</b>	\$27,551,000	\$22,476,000	\$21,419,000
<b>(-) Pension Loan Repayment &amp; Pro Rata</b>	\$1,892,000	\$1,281,000	\$1,281,000
<b>(-) Firearms IT System Modernization</b>	\$2,352,000	\$8,275,000	\$8,275,000
<b>Surplus (Deficit)</b>	\$7,360,448	<b>(\$3,440,027)</b>	<b>(\$1,914,027)</b>

\* Does not include repayment of \$5,844,000 in loans from the Firearms Safety and Enforcement Fund anticipated to occur in fiscal year 2024-25.

**DROS Fund Deficit**

Although the DROS Fee increased to \$31.19 via emergency action on January 1, 2020, the Department estimates that in fiscal years 2020-21 through 2025-26, with the addition of the Firearms IT System Modernization costs, this deficit will grow to over \$3.5 million each year. These estimates do not factor in additional chaptered legislation that may further impact the DROS expenditures, as new and expanded responsibilities are added to the DROS program.

If, instead, the DROS Fee decreases to \$0, due to lack of authority to collect the \$31.19 fee, the Department estimates that the DROS Fund will have a deficit of over \$17 million for fiscal year 2020-21 and over \$31 million for each fiscal year thereafter (see **Table 4**, below).

**TABLE 4: DEFICIT WITH A \$0 DROS Fee (Projected)**

	<b>FY 20-21 (Projected)</b>	<b>FY 21-22 (Projected)</b>	<b>FY 22-23 (Projected)</b>
<b>Deficit</b>	<b>(\$17,523,187)</b>	<b>(\$32,779,000)</b>	<b>(\$31,253,000)</b>