

803 CMR 10.00: GUN TRANSACTION RECORDING

Section

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10.01: Purpose and Scope

- (1) 803 CMR 10.00 is issued in accordance with M.G.L. c. 6, § 168B, M.G.L. c. 30A, and M.G.L. c. 140, §§ 122, 122A, and 123.
- (2) Nothing contained in 803 CMR 10.00 shall be interpreted to limit the authority granted to the Department of Criminal Justice Information Services (DCJIS) or to its commissioner by the Massachusetts General Laws.

10.02: Definitions

All definitions set forth in 803 CMR 2.00: *Criminal Offender Record Information (CORI)*, 5.00: *Criminal Offender Record Information (CORI) - Housing*, 7.00: *Criminal Justice Information System (CJIS)*, 8.00: *Obtaining Criminal Offender Record Information (CORI) for Research Purposes*, 9.00: *Victim Notification Registry (VNR)*, and 11.00: *Consumer Reporting Agency (CRA)* are incorporated in 803 CMR 10.00 by reference. The following additional words and phrases as used in 803 CMR 10.02 shall have the following meanings:

Electronic Communication Link. Refers to the Massachusetts Instant Record Check System (MIRCS).

Gun. Firearms, rifles, shotguns, or machine guns as defined in M.G.L. c. 140, § 121.

Gun Dealer. A person licensed pursuant to M.G.L. c. 140, §122 to conduct gun transactions.

Massachusetts Instant Record Check System (MIRCS). The automated system (and any successor system) owned and maintained by the DCJIS that provides on-line firearms licensing by licensing authorities and on-line reporting of gun transactions by gun dealers. The MIRCS is the sole electronic communication link by which a gun dealer may submit gun transaction data to the DCJIS.

Personal Identification Number (PIN). A unique, arbitrary string of characters generated by the MIRCS for each firearms licensee at the time of first issue and at each license renewal.

Verification. The process of verifying the identity of the firearms license holder and the validity of the firearms license. There are two steps in the verification process. The first involves the submission of the licensee's PIN to the DCJIS and the DCJIS response regarding the identity of the purchaser and the validity of the license. The second step involves the visual inspection of the firearms license presented and the visual comparison of the photo on the license to the individual presenting the license.

Legacy License. A firearm license issued in the Commonwealth by a licensing authority that has not been issued *via* the MIRCS.

10.03: Applicability

803 CMR 10.00 applies to Gun dealers licensed pursuant to M.G.L. c. 140, § 122.

10.04: Training Requirements

- (1) Only Gun dealers that have successfully completed the MIRCS training provided by the DCJIS will be granted access to MIRCS.
- (2) Said training shall be completed within 60 days of notice from the commissioner of the DCJIS.

10.05: Background Check Requirements

- (1) As mandated by M.G.L. c. 6, § 172M, gun dealers shall obtain from the DCJIS all available criminal offender record information (CORI) prior to accepting a person as an employee to determine the suitability of such individual if the person will have direct and unmonitored contact with firearms, shotguns, or rifles.
- (2) In order to obtain CORI for this purpose, gun dealers shall register for an iCORI account and submit CORI requests as provided in 803 CMR 2.00: *Criminal Offender Record Information (CORI)*.
- (3) Gun dealers mandated by M.G.L. c. 6, § 172M to conduct CORI checks on employees are subject to the provisions of M.G.L. c. 6, §§ 168 through 178B and 803 CMR 2.00: *Criminal Offender Record Information (CORI)*.
- (4) A gun dealer who has no employees shall submit a form, specified by the DCJIS Commissioner, to the DCJIS attesting to the fact that he or she is exempt from the provisions of M.G.L. c. 6, § 172M.
- (5) Failure to comply with the background check requirements set forth in 803 CMR 10.05 shall be reported by the DCJIS to the local licensing authority that issued the gun dealer's license.

10.06: Technical Requirements

In order to electronically transmit gun transactions to the DCJIS *via* the MIRCS, gun dealers are required to obtain the following:

- (1) an internet connection;
- (2) any type of computer that can connect to the internet; and
- (3) a printer.

10.07: Submission of Gun Transactions

Gun transactions must be reported electronically to the DCJIS via the MIRCS.

- (1) The gun dealer will conduct a physical verification of the firearms license and will also compare the photograph on the license to the individual who presented it.
- (2) The gun dealer will enter the following information for each gun transaction:
 - (a) the license number appearing on the firearms license;
 - (b) the type of gun being purchased;
 - (c) an indication as to whether or not the gun is a large capacity weapon;
 - (d) the PIN that corresponds to the firearms license; and
 - (e) the detailed descriptive information of the firearm.
- (3) After the gun information has been entered into the MIRCS, the gun dealer shall contact the National Instant Check System (NICS).

10.07: continued

- (4) The gun dealer will print out two copies of the completed FA-10 Form, giving one copy to the purchaser and keeping one copy for the gun dealer's records. The purchaser's signature is required on the gun dealer's copy of the FA-10 Form.
- (5) If MIRCS displays a message that a license is "on hold", the gun dealer shall not proceed with the gun transaction and shall instruct the purchaser to contact the purchaser's licensing authority.
- (6) In the event that the purchaser's identity and the validity of his or her license cannot be ascertained through the use of a personal identification number, the gun dealer shall immediately contact the DCJIS.

10.08: Exceptions to the Submission of Transactions via the MIRCS

Notwithstanding the MIRCS submission requirements set forth in 803 CMR 10.07, a gun dealer may transmit a gun transaction to the DCJIS in an alternative manner, to be determined by the commissioner of the DCJIS or his or her designee, if:

- (1) granted authorization per gun transaction by the commissioner or his or her designee; and
- (2) the commissioner or his or her designee determines that the MIRCS infrastructure is not operational.

10.09: Gun Dealer's Access to Firearms Records

Gun dealers and their agents shall utilize MIRCS for the purpose of conducting gun transactions, including sales, rentals, leases, and transfers and to access all previous sales submitted by the respective gun dealer. No interface or other automated mechanism for accessing MIRCS shall be permitted without the express written permission of the commissioner of the DCJIS.

10.10: Sanctions

Any licensed gun dealer who violates any provision of, or is otherwise not in compliance with, 803 CMR 10.00 may be found in violation of M.G.L. c. 140, §§ 122 and 123. The DCJIS shall promptly notify the licensing authority of any such violations.

10.11: Licensing Authority Dissemination of Firearms Records

A licensing authority, as defined by M.G.L. c. 140, shall only disseminate information contained in the MIRCS as authorized by M.G.L. c. 66, § 10.

10.12: Severability

If any provision of 803 CMR 10.00, or the application thereof, is held to be invalid, such invalidity shall not affect the other provisions or the application of any other part of 803 CMR 10.00 not specifically held invalid and, to this end, the provisions of 803 CMR 10.00 and various applications thereof are declared to be severable.

REGULATORY AUTHORITY

803 CMR 10.00: M.G.L. c. 4, § 7; c. 6, §§ 168B and 172M; c. 30A; c. 66, §10; c. 140, §§122, 122A and 123.