

803 CMR 10.00: GUN TRANSACTION RECORDING

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10.01: Purpose and Scope~~Authority to Promulgate~~

(1) 803 CMR 10.00 ~~et seq.~~ is issued~~promulgated~~ in accordance with M.G.L. c. 6, §168B, M.G.L. c. 30A, 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.

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10.02: Definitions

All definitions set forth in 803 CMR 2.00, 5.00, 7.00, 8.00, 9.00 and 11.00 are incorporated herein by reference. The following additional words and phrases as used in 803 CMR 10.00 shall have the following meanings:

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Regulations Do Not Limit Statutory Authority

~~Nothing contained in 803 CMR 10.00 et seq. shall be interpreted to limit the authority granted to the criminal history systems board or its executive director by M.G.L. c. 6, §168B, M.G.L. c. 30A, M.G.L. c. 140, §§122, 122A and 123.~~

10.03: Applicability

~~Gun dealers licensed pursuant to M.G.L. c. 140, §122 shall be required to complete the MIRCS training within 60 days of notice from the executive director of the criminal history systems board. Gun dealers that have completed MIRCS training shall be required to follow the provisions of 803 CMR 10.00.~~

10.04: Definitions

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

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Gun~~Refers to~~ firearms, rifles, shotguns or machine guns as defined in M.G.L. c. 140, §121.

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

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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.

is an integrated computer application owned and maintained by the CHSB that provides on-line firearms licensing by licensing authorities, and on-line reporting of gun transactions by gun dealers. MIRCS is the sole electronic communication link by which a gun dealer may submit gun transaction data

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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.
is an arbitrary string of characters generated by MIRCS.

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Positive Identification Device (PID) is an electronic device used to capture a fingerprint.

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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.

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is the submission of a positive identification device or personal identification number to the criminal history systems board and the criminal history systems board's response regarding identity of the purchaser and validity of the license; or visual inspection of said license as authorized by 803 CMR 10.06(2)(a); or specific authorization from the criminal history systems board pursuant to 803 CMR 10.07.

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

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10.03: Applicability

These regulations apply 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 sixty (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 *et seq.*
- (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, §§ 168-178B and 803 CMR 2.00 *et seq.*
- (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/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 this section shall be reported by the DCJIS to the local licensing authority that issued the gun dealer's license.

10.065: Technical Requirements

In order to electronically transmit gun transactions to the DCJIS, pursuant to M.G.L. c. 140, § 123 via the MIRCS, gun dealers are required to obtain the following:

- (1) an internet connection; ~~that provides access to the commonwealth's internet portal; and~~
- (2) ~~any type of computer that can connect to the internet; and a computer that meets the standards published by the executive director of the criminal history systems board. Such standards will appear on the criminal history systems board's website at www.mass.gov/chsb.~~
- (3) a printer.

10.076: Submission of Electronic Transmission of Gun Transactions Records

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

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).
- (4) The gun dealer will print out 2 copies of the completed FA-10 Form, giving 1 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/her license cannot be ascertained through the use of a personal identification number, the gun dealer shall immediately contact the DCJIS.
- (1) If a purchaser holds a license issued via MIRCS, the gun dealer shall proceed with a gun transaction as follows:
 - (a) The gun dealer shall submit via MIRCS the following required information:

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1. the license number as displayed on the purchaser's license to carry or firearms identification card; and
2. the licensing authority that issued the license as displayed on the purchaser's license to carry or firearms identification card; and
3. the type of gun being purchased; and
4. identification as either a large capacity weapon or a non-large capacity weapon as defined in M.G.L. c. 140, § 121.

(b) 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;

(c) The gun dealer shall verify identity of purchaser and validity of license as follows:

1. by use of positive identification device; or if not available
2. by use of personal identification number.

a. in the event that the purchaser's identity and the validity of his/her license cannot be ascertained through the use of a positive identification device or personal identification number, the gun dealer shall contact the criminal history systems board.

b. the criminal history systems board shall expeditiously notify the gun dealer on how to proceed with the transaction.

(d) Upon verification, the gun dealer shall review the accuracy of the gun dealer's information as displayed on MIRCS and proceed with entering the purchaser's address, demographics, and personal attributes via MIRCS.

(e) After the purchaser's information has been completed, the gun dealer shall enter the make, model, serial number, caliber, barrel length, and gun surface finish for the gun transaction.

1. After the gun information has been entered, the gun dealer shall contact the national instant check system.

(f) The gun dealer shall review and re-verify the identity of the purchaser and the validity of the license as outlined in 803-CMR 10.06 (1)(e).

(g) Prior to the completion of a gun transaction, the gun dealer shall 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.

(h) The purchaser's signature on the printed FA-10 form is required for the completion of a gun transaction.

(2) If a purchaser holds a legacy license issued in the Commonwealth by a licensing authority, the gun dealer shall proceed with the gun transaction as follows:

(a) The gun dealer shall verify the identity of the purchaser and the validity of the license by visual inspection of the purchaser's license to carry or firearms identification card; and

(b) At the time of a gun transaction, the gun dealer shall submit via MIRCS the following required information:

1. the license number as displayed on the purchaser's license to carry or firearms identification card; and
2. the licensing authority that issued the license as displayed on the purchaser's license to carry or firearms identification card; and
3. the type of gun being purchased; and
4. identification if a gun is either a large capacity weapon or a non-large capacity weapon as defined by M.G.L. c. 140, § 121.

(c) The gun dealer shall review the accuracy of the gun dealer's information as displayed on MIRCS and proceed with entering the purchaser's address, demographics, and personal attributes via MIRCS.

(d) After the purchaser's information has been completed, the gun dealer shall enter the make, model, serial number, caliber, barrel length, and gun surface finish for the gun transaction.

(e) The gun dealer shall contact the national instant check system.

(f) The gun dealer shall review and re-verify the identity of the purchaser and the validity of the license as outlined in 803 CMR 10.06 (2)(a).

(g) Prior to the completion of a gun transaction, the gun dealer shall 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.

(h) The purchaser's signature on the printed FA-10 form is required for the completion of a gun transaction.

10.078: Exceptions to Electronic Transmission of Transactions via the MIRCS

Notwithstanding the ~~MIRCS~~ electronic submission requirements set forth in 803 CMR 10.076, 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/her designee, if: ~~the manner as prescribed by the executive director of the criminal history systems board, a gun transaction if:~~

- (1) granted authorization per gun transaction by the commissioner or his/her designee; and ~~executive director of the criminal history systems board, or his/her designee; and~~
- (2) ~~the commissioner~~ executive director of the criminal history systems board, or his/her designee, determines that the Commonwealth's MIRCS infrastructure is not operational.

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10.089: 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 executive director of the criminal history systems board.

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10.1009: Sanctions

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

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10.110: Licensing Authority Dissemination of Access to Firearms Records

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

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10.124: Severability

~~It is hereby declared that the provisions of 803 CMR 10.00 *et seq.* are severable. If any provision of 803 CMR 10.00, or the its application thereof, to any person or circumstance is held to be invalid, such invalidity shall not affect the other provisions or the applications of any part of 803 CMR 10.00 not specifically held invalid and, to this end, the provisions of 803 CMR 10.00 and~~

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~~various applications thereof are declared to be severable which can be given effect without the invalid provision or application.~~

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.
