

For significant developments regarding the registration of firearms in 2009, see LCAV's [Recent Developments in Federal and State Law \(by firearms policy\)](#) page.

The following material is from LCAV's February 2008 edition of [Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws](#)

## Registration of Firearms

### Background

Although registration laws vary, they typically require gun owners to record the ownership of their firearms with a designated law enforcement agency. The ownership record should include a full description of the firearm and identifying information about the registrant. In addition, the firearm should be re-registered whenever title to the firearm is transferred, and law enforcement should be notified whenever the weapon is lost or stolen.<sup>1</sup>

A comprehensive registration law would require gun owners to renew their registration annually or explain why they should no longer be legally responsible for the weapon. During the renewal process, owners would undergo an additional background check to ensure that they have not fallen into a class prohibited from owning firearms.

Registration laws provide a cornerstone of responsible gun policy because they: (1) furnish law enforcement with essential information about firearm ownership, facilitating fast and reliable tracing of crime guns; and (2) reduce illegal firearm sales by creating accountability for gun owners.

Studies note that “the increased information generated by a registration system could speed the tracing of firearms used in crime and could aid police in identifying the type(s) of firearms to which an individual may have access. . . . Registration would in effect function as a super tracing system, offering clear benefits to law enforcement.”<sup>2</sup>

Registration laws are most effective when combined with laws requiring licensing of firearm owners and purchasers.<sup>3</sup> A 2001 study analyzing the firearm tracing data of crime guns recovered in 25 U.S. cities revealed that states with some form of both registration and licensing have greater success keeping firearms initially sold by dealers in the state from being recovered in crimes than states without such systems in place.<sup>4</sup>

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<sup>1</sup> Sales reporting laws, unlike registration laws, require the seller of a firearm to report the sale to state or local law enforcement, thus placing the duty of compliance on the seller and not on the firearm owner. In addition, sales reporting occurs only at the time of purchase and not at regular intervals thereafter. Additional information on sales reporting requirements and retention of sales records is contained in the sections on [Dealer Regulations](#) and [Retention of Firearm Sales and Background Check Records](#).

<sup>2</sup> Violence Policy Center, *Handgun Licensing and Registration: What It Can and Cannot Do, Section Two: Licensing and Registration* (Sept. 2000), at <http://www.vpc.org/studies/lrntwo.htm>.

<sup>3</sup> Conceptually, licensing is directed to the owner or purchaser of the firearm, while registration is directed to the weapon itself. As shown in this analysis, some jurisdictions incorporate elements of licensing in their registration laws, and vice versa. Hawaii is the only state that has a combined licensing and registration system. Detailed information on laws requiring licensing of firearm owners and purchasers is contained in the section on [Licensing of Gun Owners or Purchasers](#).

<sup>4</sup> Daniel W. Webster et al., *Relationship Between Licensing, Registration, and Other Gun Sales Laws and the Source State of Crime Guns*, 7 *Inj. Prevention* 184, 188-89 (2001). The study included jurisdictions with concealed carry permits and dealer sales reporting, which have elements of licensing or registration but are not comprehensive licensing or registration systems.

This suggests that licensing and registration laws may make it more difficult for criminals, juveniles and other prohibited purchasers to obtain guns, and help ensure that firearm owners remain eligible to possess their weapons.

Opinion polls show that the American public overwhelmingly supports handgun registration. A May 2001 poll found that 83% of respondents, including 72% of gun owners, favored registration of all newly-purchased handguns.<sup>5</sup>

### Summary of Federal Law

There is no comprehensive national system of gun registration. In fact, federal law prohibits the use of the National Instant Criminal Background Check System (NICS) to create any system of registration of firearms or firearm owners.<sup>6</sup>

A limited system of federal firearms registration was created by the National Firearms Act, 26 U.S.C. § 5801 *et seq.* The National Firearms Act was enacted in 1934 to impose an excise tax and registration requirements on a narrow category of firearms, including machine guns, short-barreled shotguns or rifles, and silencers.<sup>7</sup>

In 1986, Congress banned the transfer and possession of machine guns not already in lawful circulation.<sup>8</sup> Machine guns that were lawfully owned prior to the ban's effective date may continue to be owned and transferred provided they are registered in accordance with requirements of the National Firearms Act.<sup>9</sup> It is also unlawful for a licensed dealer to sell a short-barreled rifle or shotgun to any person, except as specifically authorized by the Attorney General consistent with public safety and necessity.<sup>10</sup>

With its provisions effectively limited to pre-ban machine guns and transfers of short-barreled rifles and shotguns that are specifically authorized by the Attorney General, the

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<sup>5</sup> Press Release, The Educational Fund to Stop Gun Violence, *New Poll Finds American Voters Overwhelmingly Support Handgun Licensing and Registration, Criminal Background Checks* (June 12, 2001), at <http://www.commondreams.org/news2001/0612-05.htm>.

<sup>6</sup> 28 C.F.R. § 25.9(b)(3).

<sup>7</sup> 26 U.S.C. § 5845(a). The Act also includes, in a category defined as "any other weapon," certain smooth-bore handguns. 26 U.S.C. § 5845(a), (e). The vast majority of handguns are excluded.

<sup>8</sup> 18 U.S.C. § 922(o). *See also* 18 U.S.C. § 922(b)(4). Transfers to or by, or possession by, federal, state or local government agencies are exempt.

<sup>9</sup> *Id.* The National Firearms Act requires each importer, manufacturer, or dealer in firearms covered by the Act to register annually with the Secretary of the Treasury. 26 U.S.C. § 5802. In addition, anyone wishing to manufacture, make, import, or transfer such weapons must first register them. 26 U.S.C. § 5841(b). The transferee of any of these weapons cannot take possession until the Secretary approves the transfer and registration of the weapon to the transferee. 26 U.S.C. § 5841(c). The National Firearms Act Branch of ATF maintains the registry, known as the National Firearms Registration and Transfer Record. Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Dep't of Justice, *Brochure of the National Firearms Act Branch*, at <http://www.atf.gov/pub/nfab/>. The registry includes: (1) an identification of the firearm; (2) the date of registration; and (3) the identification and address of the person entitled to possess the firearm. 26 U.S.C. § 5841(a). *See also* 27 C.F.R. §§ 479.101, 479.105.

<sup>10</sup> 18 U.S.C. § 922(b)(4).

registration system created by the National Firearms Act falls far short of a comprehensive registration system.

## SUMMARY OF STATE LAWS CONCERNING REGISTRATION OF FIREARMS

Seven states and the District of Columbia require registration of some or all firearms. Conversely, nine states have statutes prohibiting them from maintaining a registry of firearms.

### States that Require Registration of All Firearms

<a href="#">District of Columbia</a>	D. C. Code Ann. §§ 7-2502.01, 7-2502.02, 7-2502.03(b), 7-2502.06(a), 7-2502.07, 7-2502.08
<a href="#">Hawaii</a>	Haw. Rev. Stat. Ann. §§ 134-3(a), (b), 134-4

### States that Require Registration of Pre-Ban Assault Weapons or 50 Caliber Rifles

<a href="#">California</a>	Cal. Penal Code §§ 12276, 12276.1, 12276.5, 12280, 12285(a) (assault weapons and 50 caliber rifles)
<a href="#">Connecticut</a>	Conn. Gen. Stat. § 53-202d(a) (assault weapons)
<a href="#">Hawaii</a>	Haw. Rev. Stat. Ann. §§ 134-3(a), (b), 134-4 (assault weapons)
<a href="#">Maryland</a>	Md. Code Ann., Crim. Law § 4-303 (assault weapons)
<a href="#">New Jersey</a>	N.J. Stat. Ann. §§ 2C:39-5f, 2C:58-12 (assault weapons)

### Other State Registration Laws

<a href="#">Louisiana</a>	La. Rev. Stat. Ann. §§ 40:1781, 40:1783
<a href="#">Michigan</a>	Mich. Comp. Laws § 28.429

### States that Prohibit Registries of Firearms

<a href="#">California</a>	Cal. Penal Code § 11106(b) (long guns only)
<a href="#">Delaware</a>	Del. Code Ann. tit 11, § 1448A(d)(1), (3)
<a href="#">Florida</a>	Fla. Stat. Ann. § 790.335(2), (3)
<a href="#">Georgia</a>	Ga. Code Ann. § 16-11-129(a)
<a href="#">Idaho</a>	Idaho Const., art. 1, § 11
<a href="#">Pennsylvania</a>	18 Pa. Cons. Stat. § 6111.4 (long guns only)
<a href="#">Rhode Island</a>	R.I. Gen. Laws § 11-47-41
<a href="#">South Dakota</a>	S.D. Codified Laws § 23-7-8.6
<a href="#">Vermont</a>	Vt. Stat. Ann. tit. 20, § 8(b)(3)(B)

### Description of State Laws Concerning Gun Registration

1. *States That Require Registration of All Firearms:* Only Hawaii and the District of Columbia require the registration of all firearms.

Hawaii requires registration of all firearms with the county police chief within five days of acquisition. The registration must include: (1) the name of the manufacturer and importer; (2) the model, type of action, caliber or gauge, and serial number of the firearm; and (3) the source from which the firearm was obtained, including the name and address of the previous registrant. In addition, every person who brings a firearm into Hawaii must register the firearm within three days of the arrival of either the person or the

firearm, whichever arrives later.<sup>11</sup> Hawaii does not require renewal of the registration. (Hawaii also has a licensing scheme, requiring that all firearm purchasers obtain a permit prior to acquisition.<sup>12</sup>)

The District of Columbia's registration law serves as a ban on most classes of firearms within the District. While the District requires a registration certificate for every gun that is possessed, controlled or purchased in the District, most classes of firearms may not be registered. Sawed-off shotguns, machine guns (which include certain semiautomatic assault weapons), short-barreled rifles, and handguns<sup>13</sup> not registered to the current owner before September 24, 1976, may not be registered.<sup>14</sup>

The District of Columbia requires that an application for registration be made before taking possession of a firearm or, in some circumstances, immediately after a firearm is brought into the District. In addition to providing identifying information about the applicant and the firearm, applicants are also required to provide detailed information concerning: (1) whether and, if so, the reasons for any denial of a firearms license; (2) the applicant's role in any mishap involving a firearm, including the date, place, time, circumstances, and the names of the persons injured or killed; (3) the intended use of the firearm; and (4) where the firearm generally will be kept. Applicants undergo a background check conducted by the Chief of Police.<sup>15</sup>

Registered owners are required to notify the Chief of Police of the loss, theft, or destruction of the registration certificate or of a registered firearm. Certificate holders must also notify the Chief of the sale, transfer, or other disposition of the firearm at least 48 hours before delivery, and must return the registration certificate for any firearm which has been lost, stolen, destroyed, or otherwise disposed of or transferred.<sup>16</sup> The District does not require renewal of the registration.

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<sup>11</sup> Hawaii's registration statute also provides that all registration data that identify the registrant's name or address shall be confidential, except for use by law enforcement.

<sup>12</sup> Hawaii's permitting laws are described in the section on [Licensing of Gun Owners or Purchasers](#).

<sup>13</sup> In 2007 the U.S. Court of Appeals for the District of Columbia Circuit struck down the District of Columbia's strict laws banning most handgun possession in the District, and requiring lawfully owned firearms to be kept unloaded and disassembled or bound by a trigger lock or similar device. *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007). The court held that the laws violate the Second Amendment, interpreting the Amendment to protect an individual right to keep and bear firearms unrelated to service in the militia. The U.S. Supreme Court granted *certiorari* on the following question: Whether the challenged provisions violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes? *District of Columbia v. Heller*, 128 S. Ct. 645, 169 L. Ed. 2d 417 (2007). The Supreme Court is expected to issue its ruling in the case by June 2008.

<sup>14</sup> Although the code does not directly identify the types of firearms that *may* be registered, at least one court has stated that long guns may be registered in the District of Columbia. See *Kuhn v. Cissel*, 409 A.2d 182, 186 (D.C. 1979).

<sup>15</sup> Note that these features of the District of Columbia's registration law are comparable to some states' licensing requirements. Additional information about state and local licensing laws is contained in the section on [Licensing of Gun Owners or Purchasers](#).

<sup>16</sup> Law enforcement personnel, members of the military, licensed dealers and non-residents participating in lawful firearm-related recreational activities are exempt from the registration requirements.

2. *States that Require Registration of Pre-Ban Assault Weapons or 50 Caliber Rifles:* Five states (California, Connecticut, Hawaii, Maryland and New Jersey) have banned assault weapons,<sup>17</sup> but allow continued possession of such weapons if they were lawfully owned on a specified date and are registered. In California (the only state that currently bans the possession of 50 caliber rifles) any person who lawfully possessed a 50 caliber rifle before January 1, 2005, must have registered it no later than April 30, 2006 in order to retain possession of the firearm.<sup>18</sup>

3. *Other State Registration Laws:* Louisiana requires the registration of certain firearms, including short-barreled shotguns and rifles, shotguns or rifles modified to have an overall length of less than 26 inches, concealable firearms with obliterated serial numbers, machine guns and mufflers or silencers for any firearm.

While Michigan does not require registration *per se*, it does require persons acquiring handguns to present the handgun to local law enforcement for a safety inspection. If the person presenting the handgun is eligible to possess it, a certificate of inspection will be issued reflecting his or her name, age, address, description and signature, as well as a full description of the handgun. Copies of the certificate are kept by state and local law enforcement, thereby creating a record of all legally acquired handguns possessed in the state and their owners.<sup>19</sup>

4. *States That Prohibit Registration of Some or All Firearms:* Seven states are explicitly prohibited by law from maintaining a registry of any firearms. Delaware, Florida,<sup>20</sup> Georgia, Idaho, Rhode Island, South Dakota and Vermont prohibit keeping any registry of privately owned firearms. California and Pennsylvania<sup>21</sup> prohibit any registry of long guns. California, Delaware, Florida and Rhode Island have exceptions for records required for a criminal prosecution and/or investigation.

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<sup>17</sup> Hawaii and Maryland ban assault pistols.

<sup>18</sup> Additional information on assault weapons and 50 caliber rifles is contained in the sections on [Assault Weapons](#) and [Fifty Caliber Rifles](#), respectively.

<sup>19</sup> Michigan also requires handgun owners and purchasers to obtain either a license to carry a handgun or a handgun purchase license. Additional information about Michigan's licensing laws is contained in the section on [Licensing of Gun Owners or Purchasers](#).

<sup>20</sup> Florida's prohibition does not apply to records relating to licenses to carry concealed firearms.

<sup>21</sup> Although Pennsylvania's statute appears to prohibit the state from maintaining a registry of any firearms, the Pennsylvania Supreme Court ruled in *Allegheny County Sportsmen's League v. Rendell*, 860 A.2d 10 (Pa. 2004), that the statute did not prohibit Pennsylvania's database of handgun sales.

## SUMMARY OF SELECTED<sup>22</sup> LOCAL LAWS CONCERNING GUN REGISTRATION

### Local Gun Registration Laws

<b>Chicago</b>	<b>Chicago, Ill., Code §§ 8-20-040 – 8-20-150, 8-20-200</b>
<b>Cleveland</b>	<b>Cleveland, Ohio, Code §§ 674.02, 674.05</b>
<b>New York City</b>	<b>New York, N.Y., Admin. Code §§ 10-303, 10-304, 10-305(m)</b>
<b>Omaha</b>	<b>Omaha, Neb., Code §§ 20-251, 20-253 – 254</b>

*Chicago:* Chicago has a comprehensive system of firearm registration.<sup>23</sup> All firearms in the city must be registered before the transferee takes possession of the firearm. No registration certificate may be issued to any person unless such person:

- Possesses a valid Illinois Firearm Owner's Identification (FOID) card;
- Has not been convicted of a crime of violence (defined as any felony committed while armed with a weapon);
- Has not been convicted within the preceding five years of aggravated assault or any violation of any law relating to the use, possession or sale of any narcotic or dangerous drug;
- Has vision better than or equal to that required to obtain an Illinois driver's license; and
- Is not otherwise ineligible to possess a firearm under any federal, state or local law.

Applicants for registration are required to submit a sworn application to the Superintendent of Police. Applications for registration must include the following information:

- Name, social security number, residential and business address of the applicant;
- Age, sex and citizenship of the applicant;
- Manufacturer, caliber or gauge, model, type and serial number of the firearm to be registered;
- Source from which the firearm was obtained;

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<sup>22</sup> This section is based on research and analysis of existing firearms laws in: Boston, Massachusetts; Chicago, Illinois; Hartford, Connecticut; Los Angeles, California; Newark, New Jersey; New York, New York; Omaha, Nebraska; and San Francisco, California. LCAV selected these cities because they are located in states that grant local jurisdictions broad authority to regulate firearms. It also includes existing laws in Cleveland and Columbus, Ohio. Note, however, that in 2006, the Ohio Legislature passed House Bill 347 (overriding the Governor's veto), which created Ohio Rev. Code Ann. § 9.68(A), a provision that purports to preempt all local authority to regulate firearms with few, limited exceptions. Legal challenges to the law are pending. Additional information about state laws governing local authority to regulate firearms is contained in the section of this report titled "[The Legal Background.](#)"

<sup>23</sup> Note that assault weapons, sawed-off shotguns, machine guns and short-barreled rifles may not be registered. Chicago, Ill., Code § 8-20-050. Handguns may not be registered unless they were validly registered prior to March 30, 1982, and have a trigger lock and load indicator device. *Id.* Thus, the effect of the registration provisions is to ban certain classes of weapons, similar to the District of Columbia registration law described above. Unlike the District of Columbia law, however, Chicago has an independent provision banning assault weapons (Chicago, Ill., Code §§ 8-24-025, 8-24-026).

- Evidence that the applicant meets the criteria described above; and
- Two recent photographs of the applicant.

The applicant may also be required to submit to fingerprinting if necessary to establish his or her identity. Upon receipt of an application for registration, the Superintendent of Police must investigate the information contained in the application to determine whether the application and firearm meet the requirements for registration.

Registrants are responsible for reporting the sale or transfer of a firearm 48 hours prior to delivery, and a firearm's theft or loss immediately upon discovery. Registration certificates must be renewed annually, and applications for renewal are subject to all the requirements of registration. Failure to comply with the renewal requirement causes the firearm to become unregistrable.

*Cleveland:* Cleveland prohibits any person from receiving, possessing, having on or about the person, or using any handgun unless the person has a registration card for each handgun. Cleveland also prohibits any person from delivering, transferring or furnishing any handgun to any person unless the transferee exhibits at the time of transfer a registration card for each handgun.

When satisfied that the applicant holds a valid identification card and is not prohibited from possessing the handgun, the Chief of Police issues a registration card to the applicant no sooner than three days and no more than sixty days after the date of application. Registration cards are serially numbered according to a system devised by the Chief of Police. The cards bear date of issue, the name of the Chief of Police, the applicant's name, home address, identification card number, the signature of the applicant, and the name, type, caliber, and serial number of the handgun. A copy of each application and registration card is retained permanently by the Chief of Police, but is deemed not to be a public record and may not be disclosed to unauthorized persons.

Any person who sells or otherwise transfers possession of a registered handgun must, within five days of the date of transfer of possession of the handgun, surrender the registration card for the handgun to the Chief of Police.

There is no requirement for renewal of the registration.

*New York City:* New York City requires every person in possession of a rifle or shotgun to have a certificate of registration for the weapon. The certificate must be exhibited to law enforcement upon demand when the weapon is carried. A transferee with a valid permit to purchase and possess a rifle or shotgun will be issued a rifle or shotgun registration certificate by the dealer at the time of transfer, or by the police commissioner if the seller is not a licensed dealer. There is no requirement for renewal of the registration.

New York City residents acquiring a rifle or shotgun outside the city are required to apply for a registration certificate within 72 hours after bringing the weapon into the city.

*Omaha:* Omaha prohibits any person from owning, possessing, or maintaining control over any concealable firearm that has not been registered with the Chief of Police.

A concealable firearm will not be registered to any person who:

- Is the subject of an active protection order;
- Has provided false information on the registration request;
- Has a conviction (which has not been pardoned or set aside under state or federal law) for: (a) any felony; (b) carrying a concealed weapon or being a minor in possession of a concealable firearm; or (c) within the previous five years, assault, child abuse, or violation of any provision of the Omaha municipal weapons code;
- Has been convicted of any charge of domestic violence, including stalking or harassment;
- Has a record of mental disorder which would show the applicant to be a danger to self or to others;
- Is a fugitive from justice;
- Has been dishonorably discharged from the U.S. Armed Forces;
- Is a user of, or addicted to, unlawful controlled substances;
- Is not a citizen of the United States; or
- Is under age 21.

Qualified applicants receive a permit from the Chief of Police.<sup>24</sup>

A corporation may register a concealable firearm in its corporate name, but may only allow persons to possess or control the firearm if the person:

- Is a part-time or full-time employee;
- Is acting within the scope of his or her employment; and
- Possesses a current identification card authorizing the cardholder to carry concealed weapons.<sup>25</sup>

There is no requirement for renewal of the registration.

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<sup>24</sup> It is unlawful for any person in Omaha to sell or rent a concealable firearm to any person who has not obtained a written permit from the Chief of Police, as described above. Therefore, Omaha's registration system functions as a hybrid of licensing and registration. Additional information about Omaha's licensing requirements is contained in the section on [Licensing of Gun Owners or Purchasers](#).

<sup>25</sup> The requirements for obtaining an identification card authorizing the carrying of concealed weapons in Omaha include completion of a firearms safety training program. Additional information about the requirements for obtaining a concealed firearm identification card is contained in the section on [Carrying Concealed Weapons](#).

## FEATURES OF COMPREHENSIVE FIREARM REGISTRATION LAW<sup>26</sup>

The features listed below are intended to provide a framework from which policy options may be considered and debated. LCAV has not attempted to include every provision or every creative approach identified in the analysis above, nor have we addressed appropriate exceptions so that the regulation does not produce unintended consequences. A jurisdiction considering modifying existing, or developing new legislation in this area should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- Registration is required for all firearms prior to taking possession, or, in the case of firearms already owned or brought into the jurisdiction, immediately after the firearm is brought into the jurisdiction or the effective date of the law (*District of Columbia, Chicago; Hawaii requires registration within 5 days of acquisition of firearm*)
- Registration includes: name, address and other identifying information about the owner of the firearm; names of manufacturer and importer; model, type of action, caliber or gauge, and serial number of firearm; and name and address of source from which firearm was obtained (*Hawaii, District of Columbia, Chicago*)
- Registered owners are required to renew registration annually, including submitting to a background check (*Chicago*)
- Registered owners are required to report any loss, theft or transfer of the registered firearm to law enforcement within a short time of the event (*District of Columbia, Chicago*), and to turn in their registration card or certificate upon loss, theft or transfer (*District of Columbia, Cleveland (handguns only)*)
- Registered owners are required to store all firearms safely and securely
- Additional restrictions may include limitations on where registered firearms may be possessed and to whom they may be transferred (particularly relevant for certain classes of firearms (e.g. assault weapons, 50 caliber rifles))

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<sup>26</sup> The most comprehensive system of regulating the purchase, possession and ownership of firearms combines licensing of gun owners with registration of all firearms. Additional information on licensing of firearm owners is contained in the section on [Licensing of Gun Owners or Purchasers](#).