

**Department of Justice
4949 Broadway
Sacramento, CA 95820**

July 12, 2000

**NOTICE OF MODIFICATIONS TO
TEXT OF PROPOSED REGULATIONS**

Pursuant to the requirements of Government Code section 11346.8 (c), and section 44 of Title 1 of the California Code of Regulations, the Department of Justice is providing notice of changes made to modified regulation section 978.20 and the addition of section 978.33. The original proposed regulations were the subject of regulatory hearings on February 24, 2000 and February 28, 2000, and were subsequently modified and noticed to the public on May 10, 2000. These changes are in response to comments received regarding the modified regulations.

The Department will accept written comments regarding the proposed changes between July 12, 2000 and July 31, 2000. All written comments must be received by the Department no later than 5:00 p.m. on July 31, 2000, and addressed to:

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

All written comments received by July 31, 2000, which pertain to the indicated changes will be reviewed and responded to by the Department's staff as part of the compilation of the rulemaking file. Please limit your comments to the modifications to the text.

Text of Modified Regulations

The Department has illustrated changes to the text in the following manner: modified regulation language is in regular text; deletions from the modified language are shown in strikeout using a “-”; and additions to the modified language are underlined.

Chapter 12.8

Department of Justice Regulations for Assault Weapons and Large Capacity Magazines

Article 1. General

978.10 Title and Scope

This chapter shall be known as the “Department of Justice Regulations for Assault Weapons and Large Capacity Magazines,” may be cited as such and are referred to herein as “these regulations.” The provisions of these regulations shall apply to assault weapons as defined in Penal Code sections 12276.1 and 12276.5, and large capacity magazines as defined in Penal Code section 12020 (c)(25). These regulations do not apply to assault weapons as defined in Penal Code section 12276.

NOTE: Authority cited: Sections 12079, 12276.1, 12276.5 and 12285, Penal Code. Reference: Sections 12020, 12079, 12276, 12276.1, 12276.5 and 12285, Penal Code.

Article 2. Definitions of Terms Used to Identify Assault Weapons

978.20 Definitions

The following definitions apply to terms used in the identification of assault weapons pursuant to Penal Code section 12276.1:

- (a) “detachable magazine” means any ammunition feeding device that can be removed readily from the firearm with neither ~~without~~ disassembly of the firearm action nor ~~or the~~ use of a tool(s) being required. ~~For the purpose of this definition, a~~ A bullet or ammunition cartridge is ~~not considered~~ a tool. Ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine.
- (b) “flash suppressor” means any device ~~that~~ designed, intended, or that functions to reduces or redirects muzzle flash from the shooter’s field of vision.

- (c) “forward pistol grip” means a grip that allows for a pistol style grasp forward of the trigger.
- (d) "pistol grip that protrudes conspicuously beneath the action of the weapon” means a grip that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing.
- (e) “thumbhole stock” means a stock with a hole that allows the thumb of the trigger hand to penetrate into or through the stock.

NOTE: Authority cited: Section 12276.5(i), Penal Code. Reference: Sections 12276.1, 12276.5, 12280, 12285, and 12289, Penal Code.

Article 3. Assault Weapon Registration

978.30 Requirements for Assault Weapon Registrations Pursuant to Penal Code Section 12285

- (a) Registration applicants must be in compliance with the Roberti-Roos Assault Weapons Control Act of 1989 commencing with Penal Code section 12275, relative to the lawful acquisition and ownership of any assault weapon subject to registration,
- (b) Assault weapon registrations shall be filed on a Department of Justice (DOJ) Assault Weapon Registration Application (FD 023). For purposes of compliance with the assault weapon registration period pursuant to Penal Code Section 12285 (a), an assault weapon registration application and required fee must be submitted to the Department with a postmark date no later than the end of the applicable registration period. If submitted on time with the required fee, the Department will process the registration application even if the application must be returned to an applicant for completion or correction after the close of the registration period. The applicant must resubmit the application within 15 days from the date on the notification letter from DOJ. The following information is required on the DOJ Assault Weapon Registration Application (FD 023):
 - (1) Registrant information: registrant’s name; date of birth; sex; height; weight; eye color; hair color; residence address (physical); mailing address; telephone number; California Driver License (CDL) number or Identification number issued by the California Department of Motor Vehicles (DMV); signature; date; right thumb print; and
 - (2) Assault weapon information: serial number; make; model; type; caliber; day (if known), month (if known), and year of acquisition; name and address of person or firearms dealership from whom assault weapon was acquired (optional);

- (c) Joint registrations will be permitted for assault weapons owned by family members residing in the same household.

NOTE: Authority cited: Sections 12276.5(i), and 12285(a) and (e), Penal Code, Reference: Sections 12276.5(i), and 12285(a) and (e), Penal Code.

978.31 Fees

Assault weapon registration applications shall be accompanied by a fee of \$20 per person for any number of assault weapons registered at one time.

NOTE: Authority cited: Section 12285(a), Penal Code. Reference: Section 12285(a), Penal Code.

978.32 Processing Times

- (a) The time standards for processing assault weapon registration applications are as follows:
 - (1) Within 30 days after the date of receipt of an application, the Department shall either inform the applicant, in writing, that the application is complete and accepted for processing, or return the application as deficient and specify what information is required.
 - (2) Within 75 days after the date of receipt of a completed application, the Department shall complete the processing of the application.
- (b) If the Department fails to meet its time standards for processing an assault weapon registration application, the applicant, within 30 days from the date of the notice of the final decision granting or denying the registration, may apply in writing for a full reimbursement of any and all registration fees. The Department shall respond within 10 days of receipt of a request for reimbursement. If the reimbursement request is denied, the applicant may appeal the denial, in writing, directly to the Attorney General. The appeal must be filed within 30 days of the date the applicant was notified of the reimbursement denial and shall set forth a concise statement of facts and chronology of events regarding the application. Following any investigation of the matter which the Attorney General deems appropriate, and within 30 days from the date of receipt of the appeal, a decision shall be issued. The appeal shall be decided in the applicant's favor if the Department exceeds the maximum time period for the processing of the application and the Department has failed to establish good cause for exceeding this time period. Information regarding this appeal process shall be included with all assault weapon registration application forms.

NOTE: Authority cited: Sections 15376 and 15378, Government Code. Reference: Sections 15376 and 15378, Government Code.

978.33 Voluntary Cancellations

- (a) The Department will accept voluntary cancellations for assault weapons that are no longer possessed by the registrant. Cancellations will also be accepted for assault weapons, defined and registered pursuant to Penal Code section 12276.1, that have been modified or reconfigured to no longer meet the assault weapon definition. Cancellation requests must be signed, dated, and provide the following information:
 - (1) Registrant's full name, telephone number, and current address; make, model, and serial number of the assault weapon; and the DOJ assault weapon registration number (as indicated on the registration confirmation letter provided to the registrant at the time of registration). If the DOJ assault weapon registration number is unknown, the request must be notarized.
- (b) After confirmation of the information provided on the cancellation request, the Department will permanently delete the registration for the specified assault weapon(s). If there are no remaining assault weapons registered to the individual, all personal information regarding the registrant will also be deleted from the assault weapon data base. The Department will mail confirmation of the cancellation to the address provided on the request.

NOTE: Authority cited: Section 12285, Penal Code. Reference: Section 12285, Penal Code.

Article 4. Large Capacity Magazine Permits

978.40 Requirements for Large Capacity Magazine Permits Pursuant to Penal Code Section 12079

- (a) This article applies to Penal Code section 12079 permits for the out of state importation and exportation of large capacity magazines as defined in Penal Code section 12020 (c)(25). Importation and exportation includes the transportation of magazines as necessary to complete a transfer to or from an out of state source.
- (b) No permit shall be issued to any person who fails to establish "good cause" for issuance of the permit and that the permit would not endanger public safety. "Good cause" shall be established by the following:
 - (1) A statement from the applicant that a large capacity magazine marketplace exists for their dealership; and

- (2) Compliance with The Dangerous Weapons' Control Law commencing with Penal Code section 12000 relative to large capacity magazines and record keeping requirements specified in section 978.43 of these regulations.
- (c) Large capacity magazine permit applications shall be filed on a Department of Justice form (FD 050) which requires the following information: California Firearms Dealership (CFD) number; dealership name; dealership mailing address; statement of good cause; signature of dealership licensees; and date.

NOTE: Authority cited: Sections 12020 (b)(26) and 12079, Penal Code. Reference: Sections 12020, 12079, 12276.1, 12276.5 and 12285, Penal Code.

978.41 Processing Times

- (a) The time standards for processing large capacity magazine permit applications are as follows:
 - (1) Within 30 days after the date of receipt of an application, the Department shall either inform the applicant, in writing, that the application is complete and accepted for processing, or return the application as deficient and specify what information is required.
 - (2) Within 30 days after the date of receipt of a completed application, the Department shall complete the processing of the application.
- (b) If the Department fails to meet its time standards for processing a large capacity magazine permit application, the applicant, within 30 days from the date of the notice of the final decision granting or denying the application, may apply in writing for a full reimbursement of any and all application fees. The Department shall respond within 10 days of receipt of a request for reimbursement. If the reimbursement request is denied, the applicant may appeal the denial, in writing, directly to the Attorney General. The appeal must be filed within 30 days of the date the applicant was notified of the reimbursement denial and shall set forth a concise statement of facts and chronology of events regarding the application. Following any investigation of the matter which the Attorney General deems appropriate, and within 30 days from the date of receipt of the appeal, a decision shall be issued. The appeal shall be decided in the applicant's favor if the Department exceeds the maximum time period for the processing of the application and the Department has failed to establish good cause for exceeding this time period. Information regarding this appeal process shall be included with all large capacity magazine permit application forms.

NOTE: Authority cited: Sections 15376 and 15378, Government Code. Reference: Sections 15376 and 15378, Government Code.

978.42 Term Length of Large Capacity Magazine Permits

- (a) The term of a large capacity magazine permit shall be from January 1 through December 31. It is the responsibility of the permittee to submit a completed renewal application prior to December 31 of each year in order to maintain uninterrupted status as a large capacity magazine permittee. Renewal applications shall be submitted on the form (FD 050) prescribed in section 978.40 (b) of these regulations.
- (b) If at any time a permittee is not among the licensed firearms dealers on the Department of Justice Centralized List of Firearms Dealers, the large capacity magazine permit is no longer valid and shall be canceled.

NOTE: Authority cited: Section 12079, Penal Code. Reference: Sections 12020 and 12079, Penal Code.

978.43 Large Capacity Magazine Permit Record Keeping

Permittees shall maintain acquisition and disposition transaction records of the importation and exportation of large capacity magazines. Records shall include transaction date, transaction volume; and the name, address, and Federal Firearms License number (if any) of the out of state transferee or transferor. Records must be maintained at the dealership for three years and be made available to representatives of the Department of Justice or any other law enforcement agency upon request.

NOTE: Authority cited: Section 12079, Penal Code. Reference: Section 12079, Penal Code.

978.44 Large Capacity Magazine Permit Revocations

- (a) Large capacity magazine permits shall be subject to revocation for failure to comply with record keeping requirements specified in section 978.43 of these regulations or for failure to comply with The Dangerous Weapons' Control Law commencing with Penal Code section 12000 relative to large capacity magazines.
- (b) All procedures and hearings related to the revocation of a large capacity magazine permit shall be conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

NOTE: Authority cited: Section 12079, Penal Code. Reference: Section 12079, Penal Code; and Chapter 5 commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.