

CALIFORNIA DEPARTMENT OF JUSTICE

**TITLE 11. LAW
DIVISION 5. FIREARMS REGULATIONS
CHAPTER 2. CENTRALIZED LIST OF FIREARMS DEALERS**

NOTICE OF PROPOSED RULEMAKING

Notice published April 26, 2024

The Department of Justice (Department) proposes to amend sections 4017, 4018, and 4021 of title 11, division 5, chapter 2 of the California Code of Regulations concerning licensed firearms dealers' (licensees) annual renewal for placement on the Department's Centralized List of all persons licensed to sell firearms pursuant to Penal Code section 26715.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes June 11, 2024, at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Q. Farris
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2372
bofregulations@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority: Sections 26705, 26715, and 26806, Penal Code.
Reference: Sections 26705, 26715, and 26806, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Prior to the passage of Senate Bill (SB) 1384, state law imposed no requirements on licensees regarding the maintenance of a digital video and audio surveillance system. Effective January 1, 2024, SB 1384 requires licensees to install a digital video and audio surveillance system outside their business, including permanently mounted interior and exterior cameras that: record 24 hours a day; record audio inside the premise; and has a visible timestamp with the date and time. The new law also requires licensees to maintain the recordings for a minimum of one year in a manner that protects them from tampering or theft. SB 1384 also requires licensees to certify that their digital video and audio surveillance system is in proper working order when annually renewing their continued placement on the Department's Centralized List of Firearms Dealers. (Penal Code, § 26806, subd. (d))

Effect of the Proposed Rulemaking:

This proposed regulation updates the procedure for licensees' annual renewal for placement on the Department's Centralized List of Firearms Dealers to include certification to the Department that a digital video and audio surveillance system is in proper working order and complies with the requirements set forth in Penal Code section 26806.

The proposed regulation also updates the process applicants must follow to apply for placement on the Centralized List. Assembly Bill (AB) 28 (stats. 2023, ch. 231) amended Penal Code Section 26705, subdivision (b), to update the seller permit requirement by replacing "Board of Equalization" with "California Department and Fee Administration (CDTFA)." AB 28 also added a new requirement for placement on the Centralized List. Commencing July 1, 2024, applicant must provide a valid certificate of registration issued pursuant to Revenue and Taxation Code section 36036.

Anticipated Benefits of the Proposed Regulations:

This rulemaking action will enhance public safety by implementing security standards for licensed firearms dealers in California. Prior to SB 1384, no state laws imposed requirements on licensees regarding the maintenance of a digital video and audio surveillance system. The proposed regulation will ensure that licensees meet their obligation to have a digital video and audio surveillance system in proper working order by providing annual certification to the Department as a condition of their continued placement on the Department's Centralized List of Firearms Dealers. If the licensee fails to provide the annual certification or timely renew their license, the licensee shall be removed from the Centralized List, lose access to the Dealer Record of Sale (DROS) Entry System (DES), and be prohibited from submitting new DROS transactions (Penal Code, § 26715, subd. (b)(3)).

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to these proposed regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing State regulations. After conducting a review for any regulations that relate to or affect this area, the Department has concluded that these are the only regulations that concern licensees' annual certification to the Department that a digital video and audio surveillance system is in place and in proper working order at their business.

Forms Incorporated by Reference:

None.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department's Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The Department estimates \$177,000 in additional expenditures for the current Fiscal Year to implement the certification requirement by updating regulations and administrative and technology processes.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on representative person or business: The Department is not aware of any new cost impacts that a representative private person or business will necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses, including ability to compete: The Department has made an initial determination that that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Assessment (EIA):

The Department concludes that it is (1) unlikely that the proposed regulation will create or eliminate jobs within the state, (2) unlikely that the proposed regulation will create new businesses or eliminate existing businesses within the state, (3) unlikely that the proposed regulation will result in the expansion of businesses currently doing business within the state.

The Department also concludes that:

(1) The proposed regulation will benefit the health and welfare of California residents by updating the initial and annual procedure for licensees to renew their placement on the Department's Centralized List of Firearms Dealers. The annual procedure now mandates licensees comply with state law and provide certification to the Department that their location has a digital video and audio surveillance system in proper working order. The regulation will protect public safety by implementing stronger firearms dealers' security measures, which helps curb gun store theft.

(2) The proposed regulation will not benefit worker safety because it does not regulate worker safety standards.

(3) The proposed regulation will not benefit the state's environment because it does not change any applicable environmental standards.

Business report requirement: None.

Small business determination: The Department has determined that this proposed regulation does not affect small businesses because licensees are currently required to submit a hard copy, via United States mail, of the annual renewal form BOF 4080 and pay the annual renewal fee by January 31 of each year for continued placement on the Department's Centralized List of Firearms Dealers. The Department will now mail annual renewal application forms to replace BOF 4080. The Department will mail Centralized List of Firearms Dealers and Dealer Inspection Program Annual Renewal Fee Transmittal and Certification Notice (BOF/CL-0004), and a Centralized List of Firearms Dealers and Dealer Inspection Program Annual Renewal Fee Transmittal and Certification (BOF/CL-0012), to all licensees. Licensees shall continue to have until January 31 of each year to submit their renewal applications and pay the annual renewal fee via United States Mail. When completing the new form, licensees will be required to certify on form BOF/CL-0012 that their digital video and audio surveillance system is in proper working order and complies with state law.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected

private persons and equally effective in implementing the statutory policy or other provision of law.

The proposed regulation requires licensees to provide necessary information on forms prescribed by the Department. Prescribing forms is the easiest way to make sure that licensees provide all required information, including certifying they are complying with state law by having a digital video and audio surveillance system in proper working order. This is the most efficient way to ensure the licensees provide all required information. Licensees are already required to fill out a form to annually renew their placement on the Department's Centralized List of Firearms Dealers.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Q. Farris
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2372
bofregulations@doj.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

G. Mac
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2322
bofregulations@doj.ca.gov

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process upon request to the contact person above. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the "express terms" of the regulations), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/firearms/regs>. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this notice or make modifications based on the comments. If the Department makes modifications which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department's website at <https://oag.ca.gov/firearms/regs>. Please refer to the contact information included above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/firearms/regs>.