

NOTICE OF PROPOSED RULEMAKING

Notice to be published on February 21, 2020

The Department of Justice (Department) proposes to amend sections 4261 and 4263 of Title 11, Division 5, Chapter 10, of the California Code of Regulations concerning the licensure of ammunition vendors after considering all comments, objections, and recommendations regarding the proposed action.

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 his or her 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 at 5:00 p.m. on April 7, 2020. Only comments received by that time will be considered. Written comments must be submitted to:

Kamran Ali
Bureau of Firearms
Division of Law Enforcement
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Phone: 916-227-5419
Email: bofregulations@doj.ca.gov

AUTHORITY AND REFERENCE

Authority: Sections 30385, 30390, and 30395, Penal Code.

Reference: Sections 30342, 30385, 30390, and 30395, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Proposition 63, "The Safety for All Act of 2016," was passed by California voters in 2016. The act added sections 30342 and 30385 to the Penal Code, requiring the Department to issue an ammunition vendor license (AVL) to ammunition vendors who sell more than 500 rounds of ammunition in any 30-day period beginning January 1, 2018. Existing regulations establish the process for obtaining an AVL.

This rulemaking action clarifies the requirements for an ammunition vendor to maintain a valid AVL with the Department. To obtain an AVL, Penal Code section 30395 requires ammunition vendors to provide to the Department, among other things, a copy of “any regulatory or business license required by local government” and a “federal firearms license if the person is federally licensed.” Section 4260 of the Department’s existing regulations restate the requirements of obtaining an AVL in Penal Code section 30395. (Cal. Code Regs., tit. 11, § 4260.) Section 4261 implements Penal Code section 30395 by requiring ammunition vendors, as a condition of maintaining a valid AVL, to provide a copy of a renewed local regulatory or business license, or a renewed federal firearms license “within 30 days of” the expiration of the current local or federal license.

After discussions with stakeholders, it was made apparent to the Department that there was confusion among ammunition vendors as to when the required copy of renewal documentation must be submitted to the Department. Vendors were under the impression that they must submit the copies of renewals 30 days before their current permit and licenses expired. However, many local licensing agencies will only renew licenses after they expire. This led some vendors to believe they were unable to comply with section 4261 because they were not able to submit the appropriate renewed licenses before they expire.

While the current regulations allow vendors to submit the required copies of licenses 30 days before and after they expire, the regulations proposed in this rulemaking action seek to clarify the requirements for an ammunition vendor to maintain a valid AVL. This includes requiring copies of renewals, as specified in section 4260, to be submitted to the Department “no later than 30 days” after the expiration of each permit and license, and to clarify that ammunition vendors must maintain an active Certificate of Eligibility, pursuant to Penal Code section 30395, in order to maintain an AVL.

Anticipated Benefits of the Proposed Regulations

Regulating the sale and transfer of ammunition protects public health and safety by keeping ammunition out of the hands of persons who are prohibited under state and federal law from possessing firearms or ammunition. The proposed regulations will enable California ammunition vendors to comply with statutorily mandated licensing requirements for the sale of ammunition by clarifying the timeframe to submit licenses and permit renewals to the Department. This will prevent confusion among vendors that are unsure as to when to submit their renewal documentation to the Department. This will also result in vendors being able to renew their AVLs in a timely manner and prevent them from expiring.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

Pursuant to Government Code section 11346.5, subdivision (a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. Pursuant to this evaluation, the Department has reviewed existing regulations pertaining to firearms within CCR Title 11, Division 5 and determined these proposed regulations are not inconsistent or incompatible. This determination is based on the fact that the

proposed regulations amend existing regulations to clarify the requirements to maintain a valid AVL.

Comparable Federal Regulations

The proposed action does not differ substantially from an existing comparable federal regulation or statute.

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

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

Other nondiscretionary cost or savings imposed on local agencies: None.

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Although the proposed action will directly affect businesses statewide, including some small businesses, the Department concludes the adverse economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant.

Business report requirement: None.

Significant effect on housing costs: None.

Other matters prescribed by statute applicable to the agency or to any specific regulation or class of regulations: None.

Results of the Economic Impact Assessment

The Department concludes it is unlikely the proposed regulations will affect (1) the creation or elimination of jobs within the state, (2) the creation of new businesses or the elimination of existing businesses within the state, or (3) the expansion of businesses currently doing business within the state.

These regulations will benefit ammunition vendors because they will have better understanding as to when to submit copies of renewals to the Department, allowing them to maintain a valid AVL and to sell ammunition to California residents.

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

Small Business Determination: The Department has determined the proposed regulations will not affect small business. This determination is based on the fact that these regulations clarify the requirements for a small business to maintain a valid AVL.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, 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.

Any person interested in presenting statements or arguments with respect to alternatives to the proposed regulations may do so at the hearing, if one is scheduled, or during the written comment period.

CONTACT PERSONS

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The back-up contact person for these inquiries is:

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AVAILABILITY OF RULEMAKING FILE INCLUDING THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process. The text of the proposed regulations (the “express terms”),

the Initial Statement of Reasons, and the information upon which the proposed rulemaking is based are available on the DOJ website at <https://oag.ca.gov/firearms/regs>. Copies may also be obtained by contacting Kamran Ali.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, DOJ may adopt the proposed regulations substantially as described in this notice. If DOJ makes modifications which are sufficiently related to the originally proposed text, DOJ will make the modified text (with the changes clearly indicated) available to the public for at least 15 days and accept written comments before DOJ adopts the regulations. Copies of any modified text will be available on the DOJ website at <https://oag.ca.gov/firearms/regs>. A written copy of any modified text may be obtained by contacting Kamran Ali.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon completion, the Final Statement of Reasons will be available on the DOJ website at <https://oag.ca.gov/firearms/regs>. You may also obtain a written copy of the Final Statement of Reasons by contacting Kamran Ali.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format, as well as the Final Statement of Reasons once completed, can be accessed through the DOJ website at <https://oag.ca.gov/firearms/regs>.