

# INITIAL STATEMENT OF REASONS

## PROBLEM STATEMENT

California Penal Code sections 30300 through 30395 regulate the sale of ammunition in California. Penal Code section 30385 requires the Department of Justice (Department) to issue ammunition vendor licenses. Additionally, Penal Code section 30312(a)(2) requires the Department to set the fee an ammunition vendor may charge to process the transfer of ammunition between two private parties, neither of whom is a licensed ammunition vendor. Pursuant to Penal Code section 30385(b), the Department is expressly authorized to adopt regulations to administer the application and enforcement provisions related to ammunition vendor licensing.

## BENEFITS

Proposition 63, “The Safety for All Act of 2016,” was passed by California voters. As suggested by the title, the intent of the act is to increase public safety by various means, including regulating the sale of ammunition to prevent its acquisition by convicted felons, the dangerously mentally ill, and other persons who are prohibited from possessing firearms and ammunition. The proposed regulations will enable ammunition vendors in California to comply with statutorily mandated licensing requirements for the sale of ammunition beginning January 1, 2018. A future rulemaking will establish regulations to implement provisions of proposition 63 that require a background check on ammunition purchasers beginning July 1, 2019.

## PURPOSE AND NECESSITY

### § 4260. Ammunition Vendor License Applications

Subdivision (a) requires applicants for an ammunition vendor license to complete and submit form BOF 1021 (Rev. 07/2017), which is incorporated by reference. For clarity, this subdivision notifies applicants that they must also submit the appropriate fee and a copy of (1) any regulatory or business license required by local government, (2) a valid seller’s permit issued by the State Board of Equalization, (3) their Federal Firearms License if the applicant is federally licensed, and (4) their Certificate of Eligibility. The BOF 1021 application requires information regarding the business such as the name, type of ownership (e.g. sole proprietor, limited partnership, corporate ownership), telephone number, mailing address, business address (if different), e-mail address, and hours of operation in order for the Department to identify and communicate with the ammunition vendor. The name and copy of the Certificate of Eligibility of each employee who handles, sells, delivers, or will have under his or her custody or control any ammunition, is also required to confirm compliance with Penal Code section 30347(a).

Subdivision (b) requires applicants for renewal of an ammunition vendor license to complete and submit form BOF/CAV-0012 (Rev. 07/2017), which is incorporated by reference, along with the appropriate fee. The BOF/CAV-0012 requires the applicant to indicate any changes to the information previously provided on the application for an initial ammunition vendor license.

Subdivision (c) states a firearms dealer licensed pursuant to Penal Code sections 26700 to 26915, is automatically deemed a licensed ammunition vendor and is not required to submit an

application for an ammunition vendor license. This provision is a duplication of Penal Code section 30385(d) and is included in the regulations for clarity.

#### **§ 4261. Ammunition Vendor License Application Fee and Term Length**

Subdivision (a) establishes an annual application fee for an ammunition vendor license of \$198 per location if the vendor is not on the Centralized List of Firearm Dealers. This regulation is necessary for the Department to recover its costs for administering the ammunition vendor license program as required pursuant to Penal Code section 30390. The fee was determined by dividing the \$43,668 annual cost of a part time (.5 PY) Staff Services Analyst by the estimated 225 ammunition vendors subject to the annual fee.

Subdivision (b) specifies that the term of an ammunition vendor license is from January 1 through December 31, regardless of the date the initial license is issued. This will allow ammunition vendors who are also licensed firearm dealers (90% or more of licensed ammunition vendors) to have the same renewal date for their ammunition vendor license and their placement on the Centralized List of Firearms Dealers.

Subdivision (c) requires ammunition vendors to submit to the Department of Justice, a copy of renewals of the licenses specified in section 4260, within 30 days of the license's expiration. Failure to do so will invalidate the ammunition vendor license until a copy of the renewed license is received by the Department of Justice. This regulation is necessary to ensure ammunition vendor compliance with Penal Code section 30395.

Subdivision (d) states ammunition vendor licenses will be renewed automatically for vendors who maintain active status on the Centralized List of Firearms Dealers. This provision is consistent with Penal Code section 30385(d) which states that a licensed firearms dealer, established by their presence on the Centralized List of Firearms Dealers, "shall automatically be deemed a licensed ammunition vendor." Licensed firearms dealers are required to annually renew their placement on the Centralized List of Firearms Dealers.

#### **§ 4262. Display and Storage of Ammunition**

This regulation is necessary to provide clarification regarding the term "accessible" as used in Penal Code section 30350, which states an ammunition vendor shall not display ammunition for sale or transfer "in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor." The regulation specifies that ammunition displayed in a shopping area open to the public is not considered "accessible" provided it is in a locked container (e.g. display case, cabinet, cage).

#### **§ 4263. Vendor Fee for Processing a Private Party (non-vendors) Ammunition Sale**

This regulation is necessary to comply with Penal Code section 30312, which requires the Department to set the fee an ammunition vendor may charge the purchaser for processing an ammunition sale between two private parties (non-vendors).

Subdivision (a) authorizes ammunition vendors to charge a fee not exceed five dollars (\$5) if the purchaser will be present for immediate delivery of the ammunition. Subdivision (b) authorizes ammunition vendors to charge an additional storage fee, as agreed upon with the purchaser prior

to the vendor receiving the ammunition, if the purchaser will not be present for immediate delivery of the ammunition.

#### **§ 4264. Suspension and Forfeiture of Ammunition Vendor License**

This regulation is necessary to enforce compliance requirements as authorized pursuant to Penal Code section 30395.

Subdivision (a) establishes the Department's authority to suspend an ammunition vendor's license for up to six months for a violation of the regulations.

Subdivision (b) establishes the Department's authority to forfeit an ammunition vendor's license for a breach of any of the prohibitions and requirements in Penal Code sections 30300 through 30365.

Subdivision (c) specifies all hearings related to a suspension or forfeiture shall be conducted in accordance with Government Code section 1500 et. seq.

Subdivision (d) authorizes an ammunition vendor to re-apply for a license no earlier than one year from the effective date of forfeiture.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT OR DOCUMENTS**

The Department did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of the regulations in this rulemaking.

#### **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The proposed regulations establish a \$198 annual licensing fee for ammunition vendors who are not also licensed firearms dealers. This cost is insignificant relative to the overall costs of operating a retail business. Currently, the Department is aware of only one vendor (Walmart) that sells ammunition without also being licensed to sell firearms. Walmart has informed the Department they anticipate obtaining ammunition vendor licenses for approximately 180 locations throughout the state. A \$198 annual licensing fee for each location is insignificant relative to Walmart's revenue from ammunition sales.

There could be a minimal number of small businesses (e.g. hardware stores, bait and tackle shops) that sell ammunition but are not licensed as a firearms dealer. If ammunition sales make up a small percentage of a business's total revenue, the owner might decide to discontinue selling ammunition rather than incur the \$198 annual fee for a vendor's license. However, there is no evidence to suggest the proposed regulations would result in the closing of such businesses.

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

Public Benefit of the Proposed Regulations: The proposed regulations will increase public safety throughout California by preventing the unlawful acquisition of ammunition by convicted felons, the dangerously mentally ill, and other persons who are prohibited from possessing firearms and ammunition.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Department has determined that the proposed regulations will not have a significant, statewide, adverse economic impact affecting business for the reasons explained in the preceding section. Furthermore, to the extent there is any economic impact, it is the result of the applicable statute (Penal Code section 30390) which requires the Department to recover its costs through an annual fee assessed to ammunition vendors who are not also licensed firearms dealers.

**REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No reasonable alternatives to the regulations were presented to, or considered by the Department, that would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome.