

NOTICE OF PROPOSED RULEMAKING

(Published July 14, 2017)

The Department of Justice (Department or DOJ) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department will hold a public hearing to receive public comments on the proposed regulatory action from 10:00 a.m.-12:00 noon on Monday, August 28, 2017, at the following location:

Resources Building Auditorium
1416 9th Street
Sacramento, California 95814

The auditorium is wheelchair accessible.

At the hearing, any person may present oral or written comments regarding the proposed regulatory action. The Department requests, but does not require, that persons making oral comments at the hearing also submit a written copy of their testimony.

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 August 28, 2017. Only comments received by that time will be considered. Written comments must be submitted to:

Jeff Amador
Department of Justice
P.O. Box 160487
Sacramento, CA 95816-0487
Email: regulations@doj.ca.gov
Fax: (916) 227-1068

AUTHORITY AND REFERENCE

Authority: Sections 30312, 30347, 30350, 30385, 30390, and 30395, Penal Code.

Reference: Sections 30300, 30305, 30306, 30312, 30314, 30342, 30345, 30347, 30348, 30350, 30352, 30355, 30357, 30360, 30362, 30363, 30365, 30385, 30390, and 30395, Penal Code; Sections 11500, 11501, 11502, 11503, 11504, 11504.5, 11506, 11507, 11507.3, 11507.5, 11507.6, 11507.7, 11508, 11509, 11511, 11511.5, 11511.7, 11512, 11513, 11514, 11515, 11516, 11517, 11518, 11518.5, 11519,

11519.1, 11520, 11521, 11522, 11523, 11524, 11526, 11527, 11528 and 11529,
Government 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 Penal Code sections 30342 and 30385 requiring a Department of Justice (Department) issued ammunition vendor license to sell more than 500 rounds of ammunition in any 30-day period beginning January 1, 2018. As detailed below, the proposed regulations establish the process of obtaining an ammunition vendor license and set the fee an ammunition vendor is authorized to charge the purchaser for processing an ammunition sale between two private parties (non-vendors).

Section 4260 specifies the application forms required to obtain and renew an ammunition vendor license, and also specifies that a firearms dealer who is on the Centralized List of Firearms Dealers is automatically deemed a licensed ammunition vendor pursuant to Penal Code section 30385(d) and is not required to submit an application for an ammunition vendor license.

Section 4261 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 section also establishes the term of an ammunition vendor license starting January 1st and ending December 31st regardless of the date the initial license is issued.

Section 4262 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).

Section 4263 authorizes ammunition vendors to charge a fee not to exceed five dollars (\$5) if the purchaser will be present for immediate delivery of the ammunition. Vendors may 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.

Section 4264 authorizes the Department to suspend an ammunition vendor’s license for up to six months for a violation of the regulations and forfeit an ammunition vendor’s license for a breach of any of the prohibitions and requirements in Penal Code sections 30300 through 30365. All hearings related to a suspension or forfeiture shall be conducted in accordance with Government Code section 1500 et. seq.

Anticipated Benefits of the Proposed Regulations

“The Safety for All Act of 2016” is intended to increase public safety by various means, including regulating the sale of ammunition to prevent it from being acquired by convicted felons, the dangerously mentally ill, and other persons who are prohibited from possessing firearms and ammunition. The proposed regulations will enable California ammunition vendors 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.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

Pursuant to Government Code section 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing state regulations. The Department has reviewed existing regulations pertaining to firearms and ammunition within California Code of Regulations (CCR) Title 11, Division 5 and determined the proposed regulations are not inconsistent or incompatible. This determination is based on the fact that there are no existing regulations that address the specific subject matter of the proposed regulations.

Duplication of State Statute as Necessary to Satisfy Government Code Section 11349.1(a)(3)

Section 4260(a) of the proposed regulations duplicates and cites as authority California Penal Code section 30395 which requires applicants to 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. Additionally, section 4260(c) of the proposed regulations and Penal Code section 30385(d) state that a licensed firearms dealer shall automatically be deemed a licensed ammunition vendor. The duplication provides clarity as necessary for the regulations to satisfy the requirements of Government Code section 11349.1(a)(3).

Comparable Federal Regulations

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

FORMS INCORPORATED BY REFERENCE

Application for Ammunition Vendor License (Non-Firearms Dealer) BOF 1021 (Rev. 07/2017)
Ammunition Vendor License Renewal Fee Transmittal BOF/CAV-0012 (Rev. 07/2017)

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The Department estimates its costs (state agency) to administer the Ammunition Vendor Licensing program will be \$131,007 over the three year period from 7/1/2017 through 6/30/2020. The Department will recover its costs from an annual licensing fee of \$198 assessed to an estimated 220 ammunition vendors who are not on the Centralized List of Firearms Dealers.

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.

Cost impacts on a representative person or business: Ammunition vendors who are not on the Centralized List of Firearms Dealers will be subject to an annual licensing fee of \$198.

Significant statewide adverse economic impact directly affecting businesses and individuals: 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.

Benefits of the Proposed Regulations: The proposed regulations will increase public safety by establishing a process through which the Department will issue ammunition vendor licenses as statutorily required pursuant to Penal Code sections 30342 and 30385. The proposed regulations will also provide clarification regarding the term “accessible” as referenced in Penal Code section 30350.

Small Business Determination: The Department has determined the proposed regulations will affect small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered, 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, 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 scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Jeff Amador
Department of Justice
Bureau of Firearms
P.O. Box 160487
Sacramento, CA 95816-0487
Email: regulations@doj.ca.gov
Telephone: (916) 227-4217

The back up contact person for these inquiries is:

Jacqueline Dosch
Department of Justice
Bureau of Firearms
P.O. Box 160487
Sacramento, CA 95816-0487
Email: regulations@doj.ca.gov
Telephone: (916) 227-5419

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 <http://oag.ca.gov/firearms>. Copies may also be obtained by contacting Jeff Amador.

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 <http://oag.ca.gov/firearms>. A written copy of any modified text may be obtained by contacting Jeff Amador.

AVAILABILITY OF FINAL STATEMENT OF REASONS

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

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, 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 <http://oag.ca.gov/firearms>.

CALIFORNIA DEPARTMENT OF JUSTICE

NOTICE OF RESCHEDULED PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

Notice is hereby given that the Department of Justice (Department) has rescheduled the public hearing regarding ammunition vendor licensing from the originally noticed date and time of August 28, 2017 at 10:00 a.m.

Oral comments on the proposed action will be taken at a public hearing from 10:00 a.m.-12:00 noon on September 12, 2017, at the following location:

Resources Building Auditorium
1416 9th Street
Sacramento, California 95814

The auditorium is wheelchair accessible.

At the hearing, any person may present oral or written comments regarding the proposed regulatory action. The Department requests, but does not require, that persons making oral comments at the hearing also submit a written copy of their testimony.

Please direct inquiries concerning the hearing to:

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Fax: (916) 227-1068

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period has been extended and will now close at 5:00 p.m. on September 12, 2017. Only comments received by that time will be considered.