

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 5. FIREARMS REGULATIONS

CHAPTER 3. CERTIFICATES OF ELIGIBILITY and CHAPTER 11. FIREARM PRECURSOR PARTS

NOTICE OF PROPOSED RULEMAKING

Notice published December 3, 2021

The Department of Justice (Department) proposes to amend sections 4031, 4035, 4036 of Title 11, Division 5, Chapter 3 and adopt sections 4300, 4301, 4310, 4311, 4312, 4313, and 4314 of Title 11, Division 5, Chapter 11 of the California Code of Regulations concerning firearm precursor part vendor licenses.

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 on January 18, 2022 at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Kelan Lowney
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2377
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: Penal Code sections 26710, 30485, 30490, and 30495.

Reference: Penal Code sections 16532, 26700, 26710, 30400, 30405, 30406, 30412, 30414, 30442, 30445, 30447, 30448, 30450, 30452, 30454, 30470, 30485, 30490 and 30495

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Existing law generally limits the sale of ammunition to a person whose information matches an entry in the Automated Firearms System and who is eligible to possess ammunition, to a person who has a current certificate of eligibility issued by the Department, or to a person who purchases or transfers the ammunition in a single ammunition transaction. The sale or transfer of ammunition is generally required to be conducted through a licensed ammunition vendor. A person or business must have a valid ammunition vendor license to sell more than 500 rounds of ammunition in any 30-day period.

In 2019, the Legislature passed Assembly Bill (AB) 879 (Ch. 730, Stats. 2019) to require firearm precursor parts to be sold or transferred through a licensed firearm precursor part vendor in a similar process to the laws governing ammunition purchases. It would further create a registry of these vendors and a new crime for, among other things, the transfer of firearm precursor parts without the involvement of a licensed firearm precursor part vendor.

Beginning April 1, 2022, AB 879 requires the Department to begin accepting applications for firearm precursor part vendor licenses. AB 879 requires each firearm precursor part vendor to have a valid Certificate of Eligibility and prohibits the firearm precursor part vendor, agent, or employee from handling, selling, delivering, or having in their custody and control a firearm precursor part unless that person has obtained a Certificate of Eligibility from the Department.

Commencing July 1, 2022, state law will generally limit the sale of firearm precursor parts to: (1) an individual who is exempt from Department approval; (2) an individual whose information matches an entry in the Automated Firearms System and who is eligible to possess a firearm; (3) an individual who has a valid Certificate of Eligibility issued by the Department; or (4) an individual who purchases or transfers the firearm precursor part in a single transaction and is eligible to possess a firearm. It will also require the transfer and sale of firearm precursor parts to be conducted by a licensed firearm precursor part vendor. Further, it will generally require a person or business to have a valid firearm precursor part vendor license to sell more than one firearm precursor part in any 30-day period.

Effect of the Proposed Rulemaking:

The proposed regulations would enable firearm precursor part vendors to comply with statutorily-mandated licensing requirements for the sale of firearm precursor parts by establishing application and renewal requirements and the timeframe for submitting updated permit and license information to the Department.

Anticipated Benefits of the Proposed Regulations:

Generally, these regulations protect public health and safety because they provide the basis for the July 1, 2022 implementation of restrictions on the transfer and sale of firearm precursor parts. Currently, people who are prohibited from possessing a firearm are able to lawfully purchase precursor firearm parts off the Internet and then can build a homemade firearm. By implementing a new licensing structure for firearm precursor part vendors pursuant to AB 879,

these regulations help keep firearms out of the hands of those prohibited from possessing firearms.

Specifically, the proposed regulations would enable firearm precursor part vendors in California to comply with statutorily-mandated licensing requirements for the sale of firearm precursor parts beginning April 1, 2022. Future rulemaking would establish regulations to implement provisions of AB 879 that require a background check on firearm precursor part purchasers beginning July 1, 2022.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to these proposed regulations. However, the United States Department of Justice's Bureau of Alcohol, Tobacco and Firearms and Explosives (ATF) has recently proposed regulations that, for purposes of the federal Gun Control Act, would expand the definition of firearms to include unfinished frames and receivers. (Docket No. ATF 2021R-05; AG Order No. 5051-2021.)

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 would relate to or affect this area, the Department has concluded that these are the only regulations that concern firearm precursor parts.

Forms Incorporated by Reference:

1. Application for Firearm Precursor Part Vendor License (Non-Firearms Dealer or Ammunition Vendor), BOF 1106 (Orig. 04/2022).
2. Firearm Precursor Part Vendor License Renewal Fee Transmittal, BOF/PPV 0012 (Orig. 07/2022).

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 that its costs to license firearm precursor part vendors will be \$5,069 each year. The Department will recover its costs from an annual licensing fee of \$101 that will be paid by an estimated 50 firearm precursor part vendors that are not also firearms dealers or ammunition vendors, which are both automatically deemed firearm precursor part vendors. The Department anticipates the licensing fee will generate annual revenue in the amount of \$5,050.

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: Firearm precursor part vendors who are not also firearms dealers or ammunition vendors will be subject to a fee of \$101 at the time of application and every July 1, or the next business day.

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 the proposed action would 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 has determined that it is (1) unlikely that the proposal would create or eliminate jobs within the state, (2) unlikely that the proposal would create new businesses or eliminate existing businesses within the state, and (3) unlikely that the proposal would result in the expansion of businesses currently doing business within the state.

Benefits of the proposed action:

(1) Generally, these regulations protect public health and safety because they provide the basis for the July 1, 2022 implementation of restrictions on the transfer and sale of firearm precursor parts. Currently, people who are prohibited from possessing a firearm are able to lawfully purchase firearm precursor parts off the Internet and then can build a homemade firearm. By implementing a new licensing structure for firearm precursor part vendors pursuant to AB 879, these regulations help keep firearms out of the hands of those prohibited from possessing firearms.

Specifically, the proposed regulations would enable firearm precursor part vendors in California to comply with statutorily-mandated licensing requirements for the sale of firearm precursor parts beginning April 1, 2022. Future rulemaking would establish regulations to implement provisions of AB 879 that require a background check on firearm precursor part purchasers beginning July 1, 2022.

(2) The proposal does not directly benefit worker safety.

(3) The proposal does not directly benefit the environment.

Business report requirement: None.

Small business determination: The Department has determined that the proposed action affects small businesses.

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 been brought to the attention of the Department would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than this 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 Department has determined that the proposed regulations are the most effective way to implement a firearm precursor part vendor licensing program. The proposed regulations are modeled after existing regulations governing the licensing of ammunition vendors. By modeling existing processes, the proposed regulations efficiently implement AB 879 in a way that is already familiar to the regulated community.

CONTACT PERSONS

Inquiries concerning this proposed administrative action may be directed to:

Kelan Lowney
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2377
b0fregulations@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:

Timothy Mulligan
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2153
b0fregulations@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 at its office at the above address. 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), program forms, the Initial Statement of Reasons, Economic and Fiscal Impact Statement (STD

399), and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, program forms, 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 listed above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice, the express terms, program forms, 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>.