

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 5. FIREARMS REGULATIONS
CHAPTER 4. DOCUMENTATION REQUIREMENTS FOR FIREARMS AND
AMMUNITION ELIGIBILITY CHECKS, CHAPTER 8. DROS ENTRY SYSTEM (DES),
and CHAPTER 11. FIREARM PRECURSOR PARTS

NOTICE OF PROPOSED RULEMAKING

Notice published March 4, 2022

The Department of Justice (Department) proposes to adopt sections 4300, 4301, and 4320, 4321, 4322, 4323, 4324, 4325, 4326, and 4327 of Title 11, Division 5, Chapter 11; amend section 4045.1 of Chapter 4; and amend section 4210 of Chapter 8 of the California Code of Regulations concerning the sale or transfer of firearm precursor parts.

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 April 19, 2022 at 5:00pm. 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: Sections 30452 and 30470, Penal Code.

Reference: Sections 28180, 28220, 30400, 30405, 30406, 30412, 30414, 30442, 30445, 30447, 30448, 30450, 30452, 30454, 30470, 30485, 30490, and 30495, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Existing law generally limits the sale of ammunition to the following: (1) a person whose information matches an entry in the Automated Firearms System and who is eligible to possess ammunition; (2) a person who has a current Certificate of Eligibility issued by the Department; or (3) a person who purchases or transfers the ammunition in a single ammunition transaction, as specified. Existing law generally requires the sale or transfer of ammunition to be conducted through a licensed ammunition vendor.

In 2019, the Legislature passed Assembly Bill (AB) 879 (Ch. 730, Stats. 2019) to require firearm precursor parts to be sold/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 parts and a new crime for, among other things, the transfer of firearm precursor parts without the involvement of a licensed firearm precursor parts vendor.

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 or sale of firearm precursor parts to be conducted by a licensed firearm precursor part vendor.

Effect of the Proposed Rulemaking:

The proposed regulations will establish a process for the Department to authorize the purchase or transfer of firearm precursor parts; what to do if an attempted purchase or transfer is denied; and what is needed to establish that a purchaser or transferee is exempt from Department approval.

Anticipated Benefits of the Proposed Regulations:

Generally, these regulations protect public health and safety by implementing an authorization program for the transfer or sale of firearm precursor parts. Currently, people who are prohibited from possessing a firearm and are therefore not able to purchase a firearm from a licensed firearm dealer can instead purchase firearm precursor parts off the Internet and build a homemade firearm. By implementing an eligibility check process for firearm precursor parts, these regulations help keep firearms out of the hands of those who are prohibited from possessing firearms.

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 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:

Firearm Precursor Part Vendor (Non-Firearms Dealer or Ammunition Vendor) Application for Telephonic Vendor Approval, BOF 1107 (Orig. 09/2021)

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 implement the firearm precursor part authorization program will be between \$223,000 in the first 12 months subsequent to implementation of the regulation. The Department will recover some of its costs from background check fees that will be paid by firearm precursor part purchasers and transferees. The Department anticipates that the background check fees will generate annual revenue in the amount of \$20,000 to \$50,000.

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: Purchasers or transferees of firearm precursor parts will be subject to a background check fee of \$1. The cost impact of the fee on an individual will depend on how many times the individual purchases or accepts transfers of firearms precursor parts.

The Department estimates it will take an additional two minutes to complete the sale or purchase of a firearm precursor part. Assuming the additional staff time costs at least \$14 per hour, the Department estimates each firearm precursor part transaction will cost firearm precursor part vendors an additional \$0.47 per transaction in staff time. The additional cost per transaction is estimated to result in a yearly cost to individual firearm precursor part vendor businesses of between \$5.17 and \$12.69 each year.

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

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents by implementing an authorization program for the transfer and sale of firearm precursor parts. Currently, people who are prohibited from possessing a firearm and are therefore not able to purchase a firearm from a licensed firearm dealer can instead purchase firearm precursor parts off the Internet and build a homemade firearm. By implementing an eligibility check process for firearm precursor parts, these regulations help keep firearms out of the hands of those who are prohibited from possessing firearms.

(2) The proposal would benefit worker safety insofar as these regulations may prevent workplace firearm violence committed by individuals prohibited from possessing firearms.

(3) The proposal would 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 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

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 Department has determined that the proposed regulations are the most effective way to implement a background check approval process for firearm precursor part purchases and transfers. The proposed regulations are modeled after existing regulations governing eligibility check approvals for ammunition purchases and transfers. By modeling existing processes, the proposed regulations efficiently implement the authorization program mandated, and authorized, by Penal Code section 30470, in a way that is already familiar to the regulated community.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

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

Timothy Mulligan
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2153
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 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, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the 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, the 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>.