

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

**CHAPTER 4.6. NONPROFIT RAFFLE PROGRAM REGULATIONS CHAPTER 9 OF
PART 1, TITLE 9, PENAL CODE (SECTION 320.5, PENAL CODE)**

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

Penal Code section 320.5 permits an eligible nonprofit organization, as defined in subdivision (c), to legally conduct raffles for the purpose of directly supporting beneficial or charitable purposes of the eligible organization or that of another nonprofit organization. Eligible nonprofit organizations must register with the Department prior to conducting a raffle and subsequently must file an annual report providing the gross receipts and direct costs from the operation of the raffles.

Penal Code section 320.5, subdivision (h), authorizes the Department to adopt regulations necessary to effectuate the statute. Nonprofits are currently required to register with the Department by September 1. (Cal. Code Regs., tit. 11, § 417.) The registration fee is \$30. (*Id.*, § 418.) Nonprofits are currently required to file annual reports by October 1 of the following year. (*Id.*, § 420.)

The proposed rulemaking modifies the registration deadline to January 1 and the reporting deadline to February 1 of the following year. It also clarifies that to conduct a raffle, an eligible organization must be registered and in good standing with the Nonprofit Raffle Program. The organization's corporate and tax-exempt status must also be in good standing.

Lastly, the proposed rulemaking clarifies that the Attorney General may impose penalties under Government Code section 12591.1 if a person or entity subject to the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Gov. Code, § 12580 et seq.) submits false or misleading information, or fails to provide required information, in either the registration form or the raffle report.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

The proposed amendments clarify and make technical and grammatical changes to existing regulations and forms. These amendment will lessen confusion and promote the submission of accurate and truthful information as well as increase transparency for the Nonprofit Raffle Program.

The Nonprofit Raffle Program increases funding of charitable works by enabling private nonprofit organizations to conduct raffles, without violating existing criminal law. Eligible organizations are required to register with the Department prior to conducting a raffle and subsequently must file an annual report providing the gross receipts and direct costs from the

operation of the raffles. The registration and reporting ensure appropriate oversight over these charitable activities.

Revising the registration period to the calendar year will promote compliance and lessen confusion among applicants because January 1 is a common annual deadline.

The proposed rulemaking also clarifies that the Attorney General may impose penalties under Government Code section 12591.1 if a person or entity subject to the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Gov. Code, § 12580 et seq.) submits false or misleading information, or fails to provide required information, in either the registration form or the raffle report. This will deter organizations from submitting false or incomplete information.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION

§ 410. Title and Scope.

Changes without regulatory effect. Authority citation is amended.

§ 411. Definitions.

Existing subdivision (a) is deleted. The term “administrative information” is no longer used in these regulations.

Existing subdivision (f) is deleted. The Nonprofit Raffle Program is defined in section 421. Therefore, the definition provided in subdivision (f) is not necessary.

Existing subdivision (i) is renumbered to subdivision (g). This subdivision incorporates Form CT-NPR-1 by reference. Form CT-NRP-1 was updated to include the new registration deadline of January 1 and a revision date of August 2022. The form must also be signed under penalty of perjury. The necessity for a signature under penalty of perjury is to impress upon applicants the seriousness and importance of signing the form, to attest to the accuracy and completeness of the information submitted, and to deter misrepresentations and submission of false information.

Existing subdivision (j) is renumbered to subdivision (h). This subdivision incorporates Form CT-NRP-2 by reference. Form CT-NRP-2 was updated to include the new registration deadline of January 1, the new reporting deadline of February 1, and a revision date of August 2022. The form must also be signed under penalty of perjury. The necessity for a signature under penalty of perjury is to impress upon applicants the seriousness and importance of signing the form, to attest to the accuracy and completeness of the information submitted, and to deter misrepresentations and submission of false information.

Changes without regulatory effect. Authority citation is amended. Subdivisions are renumbered. Non-substantive grammatical corrections (e.g., changing “which” to “that”) are made.

§ 415. Registration.

The Department updated Form CT-NRP-1 with a revision date of August 2022. This section was amended to reflect the correct revision date.

The annual registration period was revised to January 1 through December 31. The current registration period of September 1 through August 31 does not align with the calendar year or fiscal year. Revising the registration period to the calendar year will lessen confusion among applicants because January 1 is a common annual deadline.

Changes without regulatory effect. Authority citation is amended. Non-substantive grammatical corrections (e.g., changing “prior to” to “before”) are made.

§ 416. Place of Filing.

Changes without regulatory effect. Authority citation is amended.

§ 417. Time of Registration.

The deadline for registering was revised to January 1. The current registration period of September 1 through August 31 does not align with the calendar year or fiscal year. Revising the registration period to the calendar year will promote compliance and lessen confusion among applicants because January 1 is a common annual deadline.

Changes without regulatory effect. Authority citation is amended. Non-substantive grammatical corrections are made.

§ 418. Fee for Registration.

Changes without regulatory effect. Authority citation is amended. “Department of Justice” is changed to “DOJ” for consistency of terms.

§ 419.2. Denial, Revocation or Suspension of Registration.

Changes without regulatory effect. Authority citation is amended. Non-substantive grammatical corrections (e.g., changing “which” to “that”) are made.

§ 419.3. Appeal of Denial, Revocation or Suspension.

Changes without regulatory effect. Authority citation is amended.

§ 420. Reporting Requirements.

Under existing section 420, the annual report is due October 1, thirteen month after the registration deadline. Because the registration deadline is amended to January 1, the annual report will be due February to disclose proceeds and expenses of the prior calendar year.

Revising the registration deadline will promote compliance and lessen confusion among applicants because January 1 is a common annual deadline. The annual report deadline is adjusted to be thirteen months after the new registration deadline.

The Department updated Form CT-NRP-2 with a revision date of August 2022. This section was amended to reflect the correct revision date.

Changes without regulatory effect. Authority citation is amended. Non-substantive grammatical corrections (e.g., changing “conducts” to “conducted”) are made.

Article 3. Contents of and Access to the Nonprofit Raffle Program

“Non-Profit” is changed to “Nonprofit” for consistency of terms.

§ 421. Nonprofit Raffle Program.

Existing section 421 permits the Department to retain electronic copies of all registration applications and reports so long as hard copies are maintained for the period prescribed by law. Section 421 is amended to delete the requirement that the Department maintain hard copies and to mandate that the Department maintain electronic copies of all registration applications and reports. Maintaining electronic records increases accessibility and efficiency.

Changes without regulatory effect. Authority citation is amended. Non-substantive grammatical corrections (e.g., changing “provided” to “submitted”) are made.

§ 422. Proof of Registration.

Existing section 422 requires the Department to provide written confirmation when a registration application is approved. Section 422 is amended to allow the Department to provide confirmation electronically or in writing. Providing confirmation electronically is less time-consuming for the Department and also saves paper and resources.

Changes without regulatory effect. Authority citation is amended.

§ 423. Conduct of Raffles.

Existing section 423 provides that after July 1, 2001, a raffle may be conducted by an eligible organization if it is registered in the Nonprofit Raffle Program. The term “after July 1, 2001,” has been deleted because this date has already passed, making the language superfluous.

Section 423 is amended to align with statutory requirements. In order to conduct a raffle, an eligible organization must be registered and in good standing with the Nonprofit Raffle Program. (Pen. Code, § 320.5, subd. (h)(1) & (h)(6).) The organization’s corporate and tax-exempt status must also be in good standing. (Pen. Code, § 320.5, subd. (c).) Including these statutory requirements in the regulation is necessary for clarity so that all procedures are in one place. Changes without regulatory effect. Authority and reference citations are amended.

Article 4. Penalties for False or Misleading Registration or Reporting

The title of Article 4 is amended to better reflect the subject matter.

§ 424. Penalties for False or Misleading Registration or Reporting.

The Department may deny, revoke, or suspend a registration if the registrant violates Penal Code section 320.5 or the regulations adopted thereto. (Pen. Code, § 320.5, subd. (i) & (j).) The word “eligible” is deleted before “organization” because the Department may take legal action against a registrant regardless of whether it is an eligible organization. Providing false or misleading information in the raffle report is added as grounds subjecting the organization to denial, revocation, or suspension of its raffle registration. This is necessary to deter organizations from filing false or misleading reports.

Section 424 is further amended to clarify that the Attorney General may impose penalties under Government Code section 12591.1 if a person or entity subject to the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Act) submits false or misleading information, or fails to provide required information, in either the registration form or the raffle report. The Act governs charitable fundraising (see, e.g., Gov. Code, § 12599.6), and to the extent the organization is using a raffle as a form of charitable fundraising, it is subject to the Act and its penalties. For example and among other things, Government Code section 12599.6 of the Act prohibits charitable organizations from misrepresenting the nature of a solicitation, operating in violation of orders of the Attorney General, and knowingly submitting for filing any statement, report, or other information to be filed with the Attorney General that contains information, a statement, or an omission that is false or misleading. This clarification is necessary to deter organizations from submitting false or incomplete information.

Changes without regulatory effect. Authority and reference citations are amended. The section title is amended to better reflect the scope of the regulation. Non-substantive grammatical corrections (e.g., adding the word “raffle” before “registration”) are made.

§ 425. Requests by Attorney General.

Changes without regulatory effect. Authority citation is amended.

§ 426. Inquiries and Investigations.

Changes without regulatory effect. Authority citation is amended.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

(1) It is unlikely that the proposal would create or eliminate jobs within the state because it governs the procedures for nonprofits to conduct raffles to raise funds for charitable purposes.

(2) It is unlikely that the proposal would create new businesses or eliminate existing businesses within the state because it governs the procedures for nonprofits to conduct raffles to raise funds for charitable purposes.

(3) It is unlikely that the proposal would result in the expansion of businesses currently doing business within the state because it governs the procedures for nonprofits to conduct raffles to raise funds for charitable purposes.

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents because eligible nonprofits will have an easier time registering to conduct raffles to raise money for charitable purposes.

(2) The proposal would not benefit worker safety because it does not regulate worker safety standards.

(3) The proposal would benefit the state's environment because allowing the Department to provide electronic confirmation of registration will reduce paper use. The regulations will also prevent the misuse of donations made to nonprofits supporting environmental causes.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR SIMILAR DOCUMENTS RELIED UPON

The Department did not rely on any technical, theoretical, or empirical studies, reports or similar documents in proposing these regulations.

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

The Department has made an initial determination that the proposed action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This proposed rulemaking governs the procedures for nonprofits to conduct raffles to raise funds for charitable purposes. The rulemaking modifies the registration and reporting deadlines so that nonprofits will have an easier time registering to conduct raffles.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Department determines that these proposed regulations do not affect small businesses.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND THE AGENCY'S REASON FOR REJECTING THOSE ALTERNATIVES

The Department finds that no alternatives were presented to, or considered by, the Department that would be more effective in carrying out the purpose of these proposed regulations or would be as effective and less burdensome to affected private persons than these proposed regulations. The existing registration and reporting deadlines created confusion for registrants.

Performance Standard as Alternative:

Penal Code section 320.5 requires eligible nonprofit organizations to register with the Department and report gross receipts and expenses from raffles conducted. The Department is required to provide a form for registration and annual reporting. (Pen. Code, § 320.5, subd. (h)(1) & (h)(7).) This rulemaking updates the forms to reflect the new registration and reporting deadlines.