

CALIFORNIA DEPARTMENT OF JUSTICE

**TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 22. CALIFORNIA PAWN AND SECONDHANDDEALER SYSTEM
(CAPSS)**

NOTICE OF PROPOSED RULEMAKING

Notice published November 5, 2021

The Department of Justice (Department) proposes to amend sections 999.500 and 999.502 - 999.506 of title 11, division 1, chapter 22 of the California Code of Regulations (CCR) concerning the California Pawn and SecondhandDealer System (CAPSS).

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 December 23, 2021, at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Department of Justice
Justice Data & Investigative Services Bureau
Attn: Teresa Ellis
P.O. Box 160608
Sacramento, CA 95816-0608
CAPSSpublichearing@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 21628, 21628.2, 21630, 21636, 21641, 21642 and 21647, Business and Professions Code; Sections 21208, 21300, 21301 and 21303, Financial Code.
Reference: Sections 21625, 21628, 21628.2, 21630, 21636, 21641, 21642 and 21647, Business and Professions Code; Sections 21208, 21300, 21301 and 21303, Financial Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Assembly Bill (AB) 391 (Chapter 172, Statutes of 2012) required the Department to develop the CAPSS, a statewide uniform electronic reporting system for pawnbrokers and secondhand dealers. The CAPSS is part of a program which aims to protect the public from the dissemination of stolen property and assists criminal investigations in tracing and recovering stolen property. On October 11, 2019, the Department adopted sections 999.500, 999.503, 999.504, 999.505, and 999.506 of the CCR regarding CAPSS definitions, property description and transaction reporting requirements, and seller and pledger identification and fingerprinting requirements. On November 19, 2019, the Department adopted sections 999.501 and 999.502 regarding licensing fees for pawnbrokers and secondhand dealers.

Financial Code section 21208 requires a pawnbroker to comply with the reporting requirements imposed on secondhand dealers under article 4 (commencing with section 21625) of chapter 9 of division 8 of the Business and Professions Code.

Beginning January 1, 2023, AB 1969 (Chapter 185, Statutes of 2020) modifies the reporting requirements provided in AB 391 by exempting a seller or pledger who verifies their identity using a Matricula Consular in addition to another item of identification bearing an address from the requirements that their name and current address be included in the daily report by pawnbrokers and secondhand dealers. In such a case, no personal identifying information of the intended seller or pledger shall be reported to the CAPSS. AB 1969 requires pawnbrokers and secondhand dealers to record and maintain the name, current address, and the Matricula Consular number of the seller or pledger for three years from the date the item was reported to the CAPSS. Additionally, pawnbrokers and secondhand dealers must record and maintain a certification by the intended seller or pledger that they are the owner of the property or have the authority of the owner to sell or pledge the property, along with a legible fingerprint from that person.

Effect of the Proposed Rulemaking:

The changes proposed in this rulemaking would update the existing regulations concerning the CAPSS to align with the requirements listed in AB 1969.

Anticipated Benefits of the Proposed Regulations:

The proposed regulations will benefit the health and welfare of California residents by protecting the privacy and safety of the public by updating the reporting requirements for pawnbrokers and secondhand dealers to aid in the prevention of dissemination of stolen property and assist criminal investigations in tracing and recovering stolen property. Furthermore, by aligning the regulations concerning the CAPSS with the changes required by AB 1969, these regulations would prevent discrimination, and promote fairness and social equity by exempting a seller or pledger who verifies their identity using a Matricula Consular in addition to another item of identification bearing an address from the requirements that their name and current address be included in the daily report by pawnbrokers and secondhand dealers, and ensuring that no

personal identifying information of the intended seller or pledger shall be reported to the CAPSS. The regulations will not have a discernible impact or benefit on worker safety and the state's environment beyond the explanation above.

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 the CAPSS.

Forms Incorporated by Reference:

None.

Materials Relied Upon:

None.

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: None.

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: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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 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. These regulations only update the existing regulations regarding the CAPSS to codify the requirements in AB 1969 along with additional non-substantive changes.

Results of the Economic Impact Assessment (EIA):

The Department concludes 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, (3) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

Benefits of the proposed action: The proposed regulations will benefit the health and welfare of California residents by protecting the privacy and safety of the public by updating the reporting requirements for pawnbrokers and secondhand dealers to aid in the prevention of dissemination of stolen property and assist criminal investigations in tracing and recovering stolen property. Furthermore, by aligning the regulations concerning the CAPSS with the changes required by AB 1969, these regulations would prevent discrimination, and promote fairness and social equity by exempting a seller or pledger who verifies their identity using a Matricula Consular in addition to another item of identification bearing an address from the requirements that their name and current address be included in the daily report by pawnbrokers and secondhand dealers, and ensuring that no personal identifying information of the intended seller or pledger shall be reported to the CAPSS. The regulations will not have a discernible impact or benefit on worker safety and the state's environment beyond the explanation above.

Business report requirement: None.

Small business determination: The Department has determined that this proposed action will have no significant economic impact on small businesses because the proposed regulations affect only those individuals currently subject to the provisions of Business and Professions Code section 21628, et seq.

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 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 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 align the regulations concerning the CAPSS with the changes required by AB 1969.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Justice
Justice Data & Investigative Services Bureau
Attn: Teresa Ellis
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-3212
CAPSSpublichearing@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:

Department of Justice
Justice Data & Investigative Services Bureau
Attn: Amanda Thomas
P.O. Box 160608
Sacramento, CA 95816-0608
(916) 210-3212
CAPSSpublichearing@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), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, 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/jdis/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/jdis/regs>. Please refer to the contact information included 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 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/jdis/regs>.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The Department determines that these regulations are not duplicative, nor do they propose a conflict with federal regulations, including Code of Federal Regulations of title 11, division 1, chapter 22.