

CALIFORNIA DEPARTMENT OF JUSTICE
NOTICE OF PROPOSED RULEMAKING ACTION

TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL

(September 21, 2018)

Notice is hereby given that the Department of Justice (DOJ) proposes to amend the California Code of Regulations in order to administer the requirements of the California Pawn and SecondhandDealer System (CAPSS) set forth in Business and Professions Code (B&PC) section 21625, et seq., by adopting Chapter 20, of Division 1, of Title 11. Chapter 20 contains articles 1, 2, and 3, and sections 2000, 2001, 2002, 2003, 2004, 2005 and 2006.

PUBLIC HEARING

The DOJ will conduct a public hearing at the time and place noted below to consider a proposed adoption of a regulation to administer the requirements of the California Pawn and SecondhandDealer System.

DATE: November 9, 2018
TIME: 10:00 a.m.
PLACE: Ziggurat Building – Auditorium
707 3rd St
West Sacramento, CA 95605

WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may present comments orally or in writing at the hearing and may submit written comments relevant to the proposed regulatory action to the contact persons listed below before the hearing. Comments may also be submitted by facsimile (FAX) to (916) 227-3774 or by e-mail to CAPSSpublichearing@doj.ca.gov. The public comment period for this regulatory action will begin on September 21, 2018. To be considered by the DOJ, written comments not physically submitted at the hearing must be submitted on or after September 21, 2018, and received **no later than 5:00 pm** on November 6, 2018, and addressed to the following:

Michelle Land, Associate Governmental Program Analyst
California Department of Justice
Bureau of Criminal Identification and Investigative Services
4949 Broadway
Sacramento, CA 95820
Email: CAPSSpublichearing@doj.ca.gov

Or

Darcee Jouganatos, Associate Governmental Program Analyst
California Department of Justice
Bureau of Criminal Identification and Investigative Services
4949 Broadway
Sacramento, CA 95820
Email: CAPSSpublichearing@doj.ca.gov

Please note that under the California Public Records Act (Government Code (GC), section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in B&PC sections 21628, 21628.2, 21630, 21636, 21647, 21641, and 21642, and Financial Code (FC) sections 21300, 21301, and 21303. This action is proposed to implement, interpret, and make specific B&PC sections 21628, 21628.2, 21630, 21636, 21647, 21641, and 21642, and FC sections 21300, 21301, and 21303.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Background and Effect of the Proposed Rulemaking:

B&PC section 21628 directed the DOJ to develop the CAPSS, a new single, statewide, uniform electronic reporting system that receives secondhand dealer reports (AB 391, Chapter 172, Statutes of 2012). The CAPSS is part of a program aimed at protecting the public from the dissemination of stolen property and assisting criminal investigations in tracing and recovering stolen property. There are no existing regulations regarding the CAPSS that outline specific and unambiguous reporting requirements.

This rulemaking action makes specific the aspects of the CAPSS enabling statutes, ensuring pawnbrokers and secondhand dealers can comply with legislated reporting mandates.

Objectives and Benefits of the Proposed Regulation:

The objective of the proposed rulemaking action is to ensure uniformity of the reports being submitted and the mechanisms through which they are submitted, thus furthering the intent of the CAPSS and protecting the safety of the property of the citizens of California.

Comparable Federal Regulations

There are no existing federal regulations or statutes comparable to the proposed regulations.

Determination of Inconsistency and Incompatibility with Existing State Regulations

The DOJ has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the DOJ has concluded that these are the only regulations that concern the CAPSS.

DOCUMENTS INCORPORATED BY REFERENCE

None.

MANDATED BY FEDERAL LAW OR REGULATIONS

The proposed regulations are not mandated by federal law or regulations.

OTHER STATUTORY REQUIREMENTS

None.

DISCLOSURES REGARDING THE PROPOSED REGULATION

The DOJ has made the following initial determinations:

LOCAL MANDATE/FISCAL IMPACT

The DOJ has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandates to any local agency or school district, whether or not reimbursable by the State pursuant to GC, Title 2, Division 4, Part 7 (commencing with section 17500), or other nondiscretionary costs or savings to State or local agencies.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The DOJ has made an initial determination that the proposed regulatory 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, or on representative private persons.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA)

Effect on Jobs/Businesses:

The DOJ has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, or the creation of new business or elimination of existing businesses, or the expansion of businesses currently doing business within the State of California. This determination is based on the fact that this proposed action will not impose

any significant cost or other adverse economic impact on pawnbrokers and secondhand dealers not already imposed by the statute. Furthermore, this proposed action would have no impact on any other businesses or jobs.

Benefits of the Proposed Regulation:

By clarifying and making specific aspects of the single, statewide, uniform electronic reporting system known as CAPSS and corresponding reporting mandates, these proposed regulations further the objectives of the authorizing legislation, which includes protecting the public from the dissemination of stolen property and assisting criminal investigations in tracing and recovering stolen property, thus protecting the safety of the property of the citizens of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

B&PC section 21642.5(a) mandates that the DOJ impose a fee not to exceed three hundred dollars (\$300) to recover its actual costs. These regulations set the initial license fee and license renewal fee both at three hundred dollars (\$300), as determined by a budgetary analysis. The initial license fee will not be applicable to those existing licensed pawnbrokers and secondhand dealers because they are already licensed. The renewal license fee is due every other year. Apportioned annually (for purposes of this assessment), this constitutes a one hundred and fifty dollar (\$150) fee.

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

BUSINESS REPORT

The proposed regulations will not require the submission of reports from a business.

SMALL BUSINESS

The proposed regulations will have no significant economic impact on small businesses and private persons. The proposed regulations affect only those individuals currently subject to the provisions of B&PC section 21628, et seq. The DOJ is not aware of any cost impacts, other than the statutorily mandated fees for pawnbrokers and secondhand dealers, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Even if the statutorily mandated fees are construed to be an economic impact attributable to these regulations, the fee will not have a significant economic impact on small businesses.

HOUSING COSTS

There will be no significant effect on housing costs.

ALTERNATIVES INFORMATION

Before taking final action on the amendments, the DOJ must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, 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 persons and equally effective in implementing the statutory policy or other provision of law.

The DOJ invites interested persons to present statements or arguments, with respect to alternatives, to the proposed regulations during the 45-day written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the designated agency contact persons: Michelle Land, Associate Governmental Program Analyst, Bureau of Criminal Identification & Investigative Services, at (916) 210-3191. The back-up contact for these inquiries is Darcee Jouganatos, Associate Governmental Program Analyst, Bureau of Criminal Identification & Investigative Services, at (916) 210-3192.

AVAILABILITY OF DOCUMENTS

The DOJ has prepared an Initial Statement of Reasons (ISOR) for the proposed rulemaking action and a listing of the exact regulations proposed.

Copies of the ISOR and the full text of the proposed regulatory language, or other information upon which the rulemaking is based may be obtained from the DOJ contact persons in this notice, or may be accessed through the Attorney General's website below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

This regulatory proceeding will be conducted in accordance with the California Administrative Procedure Act, GC, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340).

After the DOJ analyzes all timely and relevant comments received during the 45-day public comment period, the DOJ will either adopt the regulations as described in this notice, or make modifications based on the comments. If the DOJ makes modifications which are sufficiently related to the original text of the proposed regulations, the amended text, with the changes clearly indicated, will be made available for an additional 15-day public comment period, before the DOJ adopts the regulations. The DOJ will accept written comments on the modifications to the regulations during the 15-day public comment period.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the Attorney General's website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

This notice, the ISOR, and all subsequent regulatory documents for this rulemaking are available on the Attorney General's website at <http://oag.ca.gov/meetings/public-participation>.