

CALIFORNIA DEPARTMENT OF JUSTICE

**TITLE 11. LAW
DIVISION 5. FIREARMS REGULATIONS
CHAPTER 10. AMMUNITION**

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

On August 23, 2024, the Notice of Proposed Rulemaking, the Text of Proposed Regulations, the Initial Statement of Reasons, the Economic and Fiscal Impact Statement (STD 399), and the STD 399 Attachment were mailed in compliance with Government Code section 11346.4, subdivision (a)(1) through (4). The STD 399 and STD 399 Attachment included the Department's analysis and calculations justifying the fee increase.

The initial costs of implementing the ammunition authorization program required the Department to incur a debt of \$25 million from the State's General Fund, as authorized by Penal Code section 30371. These initial program costs include personal services, operating expenses and equipment, system enhancements, infrastructure, and other costs. This debt will need to be repaid, with interest, as stipulated by the authorizing statute.

The 2023 Budget Act approved a second loan for the ammunition authorization program, including two payments of \$4.3 million. The first payment was received in FY 23/24, and the second payment is expected in FY 24/25.

The STD 399 and STD 399 Attachment were then updated to account for an anticipated decline in ammunition background check transactions, and an anticipated decline in operating costs for the ammunition authorization program. As reflected in the revised documents, the Department estimates the annual fee revenues will be \$5,292,824 per year. This calculation is based on an estimated 1,036,056 SAECs (@\$5.00), 1,586 COE verifications (@\$5.00), and 5,506 Basic Ammunition Eligibility Checks (@\$19.00).

Revenues and Spending	FY 24/25	FY 25/26	FY 26/27
Annual fee revenues	\$1,142,256	\$5,292,824	\$5,292,824
24/25 GF Loan	\$4,300,000		
Annual fiscal expenses	\$4,520,000	\$4,661,000	\$4,661,000
Funds to Reserves	\$922,256	\$631,824	\$631,824

The above calculations were made without the inclusion of any loan repayments, which will depend on the stability of the fund and revenue trends.

SUMMARY OF COMMENTS AND DEPARTMENT RESPONSES

Written comments received during the 45-day comment period are included in the rulemaking file under Exhibit 7. Comment Nos. 1838 and 1839 were not assigned.

Summaries of public comments and corresponding responses are organized by topic. The specific comments that are represented in the comment summary statement are listed after each comment summary by the commenter number as identified above followed by a dash and numbered comment when a commenter submitted more than one comment.

General

1. **Summary:** Comment opposes any fee for ammunition background checks. (8-2, 55-3, 60-2, 65-4, 71-2, 95-4, 104-2, 111-2, 132-1, 133-2, 134-3, 139-2, 143-1, 144-2, 156-1, 166-1, 170-2, 179-1, 187-1, 190-1, 198-2, 208-1, 224-1, 227-1, 239-3, 246-1, 248-3, 258-1, 264-1, 1865-1, 1868-1, 1874-1, 1892-1, 1899-2, 1951-1, 1956-1, 1978-1, 2017-1.)

Response: No change has been made in response to this comment. The proposed regulations implement Penal Code section 30370. These comments object to the underlying statute, not to the specific regulations proposed.

2. **Summary:** Comment opposes the fee increase from \$1.00 to \$5.00. Reasons include: Increasing the current fee for ammo background checks by 500% is excessive and burdensome. Very few people purchase their ammunition for the entire year in a single retail transaction. Increasing the fee disproportionately affects women, people of color, and other disadvantaged individuals. By making ammunition less affordable, this fee could reduce firearm safety because regular practice is essential for safe and responsible firearm use. The fee increase will not enhance public safety and will make self-defense harder for individuals. The fee increase may push people towards the black market and encourage people to make their own ammunition. Making ammunition less affordable could restrict access to shooting sports, especially for youth shooters who are learning responsible gun handling under supervised and structured environments. The Department should explore alternative funding mechanisms that do not place a disproportionate burden on law-abiding citizens, or figure out a way to reduce program expenses. Using technology would make background checks more efficient and reduce costs. (1-2, 2-3, 3-1, 5-1, 6-3, 8-1, 9-1, 10-1, 11-1, 12-1, 13-1, 14-3, 15-1, 18-2, 19-1, 20-1, 21-2, 22-1, 23-1, 24-2, 27-1, 28-1, 29-1, 30-1, 31-1, 32-1, 33-2, 36-3, 37-1, 38-1, 39-1, 40-1, 41-1, 42-1, 43-2, 44-3, 48-1, 49-1, 50-3, 51-2, 52-1, 53-1, 55-1, 57-1, 58-1, 59-2, 60-1, 62-1, 63-1, 64-1, 65-1, 66-1, 67-1, 68-1, 70-1, 72-1, 74-1, 75-1, 76-1, 78-1, 80-3, 81-1, 82-1, 83-2, 85-1, 86-1, 87-2, 88-1, 89-1, 90-1, 91-1, 92-2, 93-1, 95-1, 99-1, 100-1, 101-1, 102-1, 103-1, 105-2, 106-1, 107-1, 108-1, 109-2, 110-3, 111-1, 112-1, 113-1, 114-3, 115-1, 118-1, 119-2, 120-1, 121-2, 122-1, 123-2, 127-1, 128-1, 131-1, 133-2, 135-2, 136-1, 137-2, 140-1, 141-1, 145-1, 146-1, 147-2, 148-1, 150-2, 151-1, 153-2, 154-1, 157-1, 158-2, 160-2, 161-1, 162-1, 165-1, 168-1, 170-1, 171-1, 174-4, 175-1, 177-1, 178-1, 180-1, 182-1, 185-2, 186-1, 191-1, 193-1, 194-2, 195-2, 196-1, 197-1, 200-1, 201-2, 203-2, 206-1, 207-1, 209-1, 211-1, 212-1, 213-1, 215-1, 221-1, 223-2, 224-3, 225-1, 226-1, 228-1, 229-1, 230-2, 231-1, 233-1, 234-1, 235-1, 235-2, 236-1, 237-1, 238-1, 240-1, 242-1, 243-1, 244-1, 247-1,

248-1, 249-1, 251-1, 252-1, 253-1, 254-1, 255-1, 256-1, 259-1, 261-1, 262-1, 263-1, 265-1, 267-3, 267-5, 268-2, 276-2, 280-1, 282-1, 284-1, 285-1, 289-2, 290-1; 291-1, 291-3, 291-4, 293-1, 295-1, 296-1, 300-1, 301-1, 304-1, 305-1, 307-1, 308-1, 309-1, 310-1, 311-1, 312-1, 315-1, 316-1, 317-1, 319-1, 320-2, 321-1, 321-2, 321-5, 321-6, 322-1, 322-3, 1840-1, 1844-1, 1845-1, 1846-1, 1847-1, 1848-1, 1849-2, 1850-1, 1851-1, 1852-1, 1853-1, 1854-1, 1855-1, 1856-1, 1857-1, 1860-1, 1861-1, 1862-1, 1864-1, 1865-2, 1866-1, 1867-1, 1868-1, 1869-1, 1870-1, 1872-1, 1873-1, 1874-2, 1875-1, 1876-1, 1877-1, 1878-1, 1879-1, 1880-1, 1881-1, 1882-1, 1884-1, 1885-1, 1886-1, 1887-1, 1890-1, 1892-2, 1893-1, 1894-1, 1895-1, 1896-1, 1897-1, 1898-1, 1899-1, 1902-1, 1903-1, 1906-1, 1907-1, 1908-1, 1909-1, 1910-1, 1911-1, 1912-1, 1913-1, 1914-1, 1916-1, 1917-1, 1918-1, 1919-1, 1920-1, 1922-2, 1923-2, 1924-2, 1925-1, 1929-1, 1930-1, 1932-1, 1933-1, 1934-1, 1934-5, 1942-2, 1947-1, 1950-1, 1951-2, 1953-1, 1954-1, 1959-1, 1963-1, 1964-1, 1964-2, 1969-1, 1975-1, 1976-1, 1977-1, 1979-1, 1981-1, 1983-1, 1985-1, 1986-1, 1987-1, 1988-1, 1989-1, 1991-1, 1993-1, 1995-1, 1996-1, 1997-1, 1999-1, 2000-1, 2001-1, 2002-1, 2003, 2004-1, 2005-1, 2006-1, 2007-2, 2007-3, 2008-1, 2009-1, 2010-1, 2011-2, 2012-2, 2013-2, 2015-2, 2016-1, 2018-1, 2019-2, 2020-1, 2021-3.)

Response: No change has been made in response to this comment. The proposed regulations implement Penal Code section 30370. These comments object to any implementation of the underlying statute, which allows the Department to raise the fee for a Standard Ammunition Eligibility Check (SAEC) and Certificate of Eligibility (COE) Verification check to cover the reasonable regulatory and enforcement costs for operating the ammunition authorization program. (Pen. Code, § 30370, subd. (e).) The current \$1.00 fees have not been sufficient to cover the Department's operating costs for the ammunition authorization program. Eligibility checks ensure purchasers who are prohibited by either state or federal law will be unable to purchase or transfer ammunition. This includes, for example, people prohibited due to a felony and/or violent misdemeanor conviction/warrant, domestic violence restraining order, or mental health issue.

The comments do not provide sufficient specificity for the Department to change its procedures. Although the SAECs and COE verifications are automated, there are still personnel costs involved in maintaining the technology. See Response No. 10.

3. **Summary:** Comment opposes background checks for ammunition purchases (regardless of cost). Proposition 63 and Senate Bill 1235 should be repealed. Reasons include: Ammunition background checks are useless and do not stop criminals. The proposal also raises concerns about the creation of a de facto registry of ammunition purchases. This could potentially violate privacy rights and lead to unintended consequences for law-abiding citizens. (2-2, 5-3, 8-3, 14-1, 17-1, 18-1, 30-4, 38-2, 45-2, 47-2, 49-3, 63-4, 65-5, 67-2, 76-2, 82-2, 84-3, 101-3, 102-2, 105-1, 106-3, 110-1, 114-2, 119-1, 127-2, 128-3, 131-2, 133-2, 143-2, 144-3, 146-2, 147-1, 148-2, 164-1, 168-2, 173-1, 179-2, 180-4, 181-1, 182-2, 230-1, 231-2, 293-2, 232-1, 239-4, 242-3, 256-2, 260-3, 275-1, 283-2, 298-1, 299-2, 306-1, 322-4, 1884-2, 1899-3, 1909-2, 1921-1, 1923-1, 1934-4, 1946-2, 1977-3, 2008-2, 2015-1, 2017-2.)

Response: No change has been made in response to this comment. The proposed regulations implement Penal Code section 30370, which requires residents to submit to an automated

background check every time they attempt to buy ammunition. Eligibility checks ensure purchasers who are prohibited by either state or federal law will be unable to purchase or transfer ammunition. This includes, for example, people prohibited due to a felony and/or violent misdemeanor conviction/warrant, domestic violence restraining order, or mental health issue. Penal Code section 30352 requires the Department to maintain the Ammunition Purchase Records File database. These comments object to the underlying statutes, not to the specific regulations proposed.

4. **Summary:** Comment opposes other firearms fees and/or the 11 percent excise tax imposed on firearms and ammunition sales. (Rev. & Tax. Code, § 36011.) Comment opposes other firearms or ammunition laws. (3-2, 16-2, 17-2, 19-2, 21-1, 23-2, 36-4, 43-3, 44-4, 51-3, 53-2, 63-3, 64-2, 65-3, 68-3, 83-1, 88-2, 108-4, 109-1, 115-2, 130-1, 139-3, 151-2, 161-2, 162-3, 176-1, 192-1, 202-1, 205-1, 207-2, 209-2, 219-2, 233-2, 247-2, 267-4, 268-1, 281-1, 285-3, 294-1, 303-1, 305-2, 307-2, 308-2, 313-1, 1871-2, 1894-2, 1896-2, 1897-2, 1910-2, 1916-2, 1918-2, 1922-1, 1924-1, 1945-1, 1949-1, 1957-1, 1962-1, 1965-1, 1971-1, 1972-1, 1975-2, 1977-4, 1984-4, 1990-1, 1991-2, 1992-2, 1993-2, 1994-1, 1995-2, 1996-2, 1997-2, 1998-2, 2008-3, 2015-3, 2021-2.)

Response: Irrelevant. The comment is not directed at the proposed regulations or the rulemaking procedures followed.

Support for Fee Increase

5. **Summary:** Comment states that increase in ammunition fees is necessary to improve public safety, enhance regulatory compliance, and provide the Department with the resources needed to administer and enforce California's ammunition laws effectively. (323-1, 323-6.) Increasing the ammunition fee will allow the Department to fund crucial background checks and keep ammunition out of the hands of individuals who may threaten public safety. (323-2.) It will also help offset the rising administrative costs associated with processing ammunition background checks. (323-3, 323-6.) The fee is also reasonable and justified in light of the benefits it will bring to California residents. (323-4, 323-5, 323-6.) "I heartily support this." (1891-1.)

Response: The Department appreciates this comment of support and generally agrees with these comments. No change has been made in response to this comment.

Unconstitutional

6. **Summary:** Comment states any fee for ammunition background checks is unconstitutional. Fees, delays, and "other actions" are unconstitutional. (12-2, 24-1, 30-2, 33-1, 35-2, 36-2, 44-2, 45-1, 46-1, 47-3, 50-1, 54-1, 55-2, 56-1, 61-1, 63-2, 65-2, 69-1, 72-2, 77-1, 80-2, 84-2, 85-2, 86-2, 87-1, 93-2, 94-1, 96-1, 101-2, 102-3, 103-2, 104-1, 106-2, 108-2, 110-2, 112-2, 113-3, 116-2, 117-1, 120-2, 121-3, 123-1, 130-3, 133-1, 134-1, 145-2, 152-1, 174-1, 180-3, 188-1, 198-1, 209-3, 232-2, 233-3, 238-2, 240-2, 241-1, 245-1, 248-2, 255-2, 262-2, 265-2, 268-3, 269-1, 270-1, 271-1, 274-1, 277-1, 278-1, 279-1, 292-1, 293-3, 298-2, 299-1, 302-1, 305-4, 312-2, 320-1, 324-2, 1843-1, 1844-2, 1927-1, 1931-1, 1932-2, 1933-2, 1942-1, 1943-

1, 1944-1, 1946-1, 1948-1, 1952-1, 1953-2, 1955-1, 1958-1, 1961-1, 1966-1, 1967-1, 1968-1, 1973-2, 1977-2, 1980-1, 1984-2, 1988-2, 1992-1, 1994-2, 1996-3, 1997-3, 1998-1, 2005-2, 2007-1, 2007-4, 2007-5, 2010-2, 2011-1, 2012-1, 2013-1.)

Response: No change has been made in response to this comment. The Attorney General is defending the constitutionality of the ammunition background checks in pending litigation. While the district court issued a permanent injunction enjoining the ammunition authorization program, the Ninth Circuit granted a stay of the injunction pending appeal on February 5, 2024. The statutes authorizing ammunition background checks are thus currently in effect. For a full statement of the Attorney General's position and arguments on this issue, please see the Attorney General's publicly-filed briefs: *Rhode v. Bonta*, Case No. 24-542 (9th Cir.) Dkt. 13, 62.

7. **Summary:** Comment states raising the fee for ammunition background checks to \$5.00 is unconstitutional. A fivefold increase in fees may pose a significant financial burden that could discourage lawful individuals from purchasing ammunition, thus limiting their ability to exercise their constitutional rights. The Department should focus on more effective measures to promote public safety, such as improved mental health services and better enforcement of existing laws. (1-1, 4-1, 5-2, 6-1, 7-1, 8-4, 10-2, 11-2, 20-2, 25-3, 26-1, 29-2, 32-2, 33-3, 34-1, 35-1, 37-2, 42-2, 43-1, 44-1, 45-4, 51-1, 56-2, 58-2, 59-1, 68-4, 80-1, 84-1, 95-2, 100-2, 108-3, 113-2, 114-1, 116-1, 118-2, 119-3, 121-1, 135-1, 137-1, 138-1, 139-1, 140-2, 142-1, 152-2, 153-1, 155-1, 165-2, 181-2, 194-1, 195-1, 201-1, 220-1, 260-1, 263-2, 266-1, 267-1, 276-1, 287-1, 289-1, 290-1, 306-2, 316-2, 322-2, 1842-1, 1863-1, 1900-1, 1913-2, 1915-1, 1926-2, 1928-1, 1931-2, 1941-1, 1948-2, 2013-3, 2015-4, 2021-1.)

Response: No change has been made in response to this comment. Raising the fee to \$5.00 is constitutional. The Attorney General is defending the constitutionality of the ammunition background checks in pending litigation. While the district court issued a permanent injunction enjoining the ammunition authorization program, the Ninth Circuit granted a stay of the injunction pending appeal on February 5, 2024. The statutes authorizing ammunition background checks are thus currently in effect. For a full statement of the Attorney General's position and arguments on this issue, please see the Attorney General's publicly-filed briefs: *Rhode v. Bonta*, Case No. 24-542 (9th Cir.) Dkt. 13, 62.

8. **Summary:** Comment states background checks for ammunition purchases are unconstitutional, regardless of the fee amount being imposed on the purchaser. The Department should respect the January 2024 ruling in *Rhode v. Bonta* (S.D. Cal., Jan. 30, 2024, No. 18-CV-802-BEN (JLB)) 2024 WL 374901, finding that the fee-based process for acquiring and purchasing ammunition in California is unconstitutional. There is no reason to continue to collect or raise fees for an activity that will be enjoined by the court in the near future. (2-1, 3-3, 9-2, 12-3, 13-2, 14-2, 16-1, 18-3, 22-2, 25-1, 30-3, 34-2, 45-3, 50-2, 63-5, 68-2, 78-2, 79-1, 80-4, 86-3, 95-5, 96-2, 100-3, 104-3, 116-3, 123-3, 128-2, 133-1, 144-1, 160-1, 164-2, 167-1, 168-3, 169-1, 171-3, 174-2, 180-2, 183-1, 184-1, 186-2, 189-1, 219-1, 223-1, 224-2, 231-3, 235-4, 239-2, 245-2, 250-1, 251-2, 260-2, 267-2, 283-1, 287-2, 314-1, 315-2, 317-2, 318-1, 319-2, 322-5, 1840-2, 1841-1, 1851-2, 1852-2, 1853-2, 1854-2, 1855-2,

1856-2, 1857-2, 1858-1, 1859-1, 1860-2, 1861-2, 1868-2, 1877-2, 1881-2, 1885-2, 1892-3, 1904-1, 1905-1, 1906-2, 1927-2, 1934-2, 1960-1, 1965-3, 1977-5, 1984-1, 2014-1, 2019-1, 2020-3.)

Response: No change has been made in response to this comment. The Attorney General is defending the constitutionality of the ammunition background checks in pending litigation. While the district court issued a permanent injunction enjoining the ammunition authorization program, the Ninth Circuit granted a stay of the injunction pending appeal on February 5, 2024. The statutes authorizing ammunition background checks are thus currently in effect. For a full statement of the Attorney General's position and arguments on this issue, please see the Attorney General's publicly-filed briefs: *Rhode v. Bonta*, Case No. 24-542 (9th Cir.) Dkt. 13, 62.

9. **Summary:** "I am writing today to urge you to oppose the unconstitutional regulations of Prop 63 & Senate Bill 1235. A responsible gun owner like myself should not be required to undergo a background check every time I desire to purchase ammo for my firearm. This is once again putting further restrictions between me and my desire to protect your family, and elected officials should make it a priority to defend my 2nd Amendment rights. These proposed regulations aim to put the burden and cost of operating an unconstitutional system on the back of California's law-abiding gun owners like myself." (325 through 1,837.)

Response: No change has been made in response to this comment. The Attorney General is defending the constitutionality of the ammunition background checks in pending litigation. While the district court issued a permanent injunction enjoining the ammunition authorization program, the Ninth Circuit granted a stay of the injunction pending appeal on February 5, 2024. The statutes authorizing ammunition background checks are thus currently in effect. For a full statement of the Attorney General's position and arguments on this issue, please see the Attorney General's publicly-filed briefs: *Rhode v. Bonta*, Case No. 24-542 (9th Cir.) Dkt. 13, 62.

Fiscal or Economic Impact

10. **Summary:** Comment states the Department has failed to justify the proposed fee increase. The Department is unable to effectively manage and sustain the process it helped to create. The Department's ammunition authorization program is inefficient. This system should be completely computer operated. The Department should optimize operational procedures or implement technology that can reduce manual processing. Alternative funding should be considered. It is unacceptable that law-abiding citizens should be forced to bear the financial burden of the Department's ineptitude. Some comments state the program should be dismantled. (2-6, 6-2, 25-2, 33-4, 34-3, 36-1, 41-2, 47-1, 49-2, 50-4, 51-4, 52-2, 54-2, 57-2, 58-3, 63-6, 73-1, 81-2, 89-2, 91-2, 92-2, 97-1, 98-1, 104-4, 112-3, 113-4, 120-3, 121-4, 132-2, 137-3, 153-3, 171-4, 194-3, 201-3, 222-2, 263-3, 272-1, 273-1, 285-2, 288-1, 297-1, 301-1, 305-1, 321-3, 321-4, 322-4, 1888-1, 1897-3, 1938-2, 1934-3, 1938-1, 1940-1, 1942-3, 1945-2, 1963-2, 1965-2, 1970-1, 1982-1, 1984-3, 1986-2, 2020-2.)

Response: No change has been made in response to this comment. The Department cannot implement regulations that alter or amend a statute or enlarge or impair its scope. Senate Bill 1235 requires residents to submit to an automated background check every time they attempt to buy ammunition. The initial Proposition 63 cost estimate was based on 20 million transactions per year with a cost of \$20 million per year; thus, a \$1 fee. However, volume has been approximately 1.04 million transactions per year. Although the program was reduced in size, the current \$1.00 fees have not been sufficient to cover the Department's operating costs for the ammunition authorization program.

The comments do not provide sufficient specificity for the Department to change its procedures. Although the SAECs and COE verifications are automated, there are still personnel costs involved in maintaining the technology. In FY 2024-25, the California Justice Information Services Division (CJIS) requires \$2,877,000 to fund 14 positions which are integral to keeping the Department's information technology related to ammunition functionality maintained, and to perform quality assurance testing with each code release to ensure functionality is not impacted. These positions include 1.0 Program Technician III, 9.0 Information Technology Specialist (ITS) I, 2.0 ITS II, 1.0 Information Technology Manager I, and 1.0 Information Technology Supervisor II.

In FY 2024-25, the Bureau of Firearms (BOF) requires \$1,515,000 to fund 11 positions to support the ammunition authorization program. These positions include 3.0 Field Representatives to inspect ammunition vendors and firearm dealers (who are grandfathered in as ammunition vendors); 2.0 Crime Analyst Is to address the workload associated with SAECs; 3.0 Crime Analyst Is, 1.0 Crime Analyst II, and 1.0 Program Technician III to process BAECs; and 1.0 Associate Governmental Program Analyst to address general analytical duties associated with the ammunition authorization program. BOF's Enforcement Team is also notified when a prohibited person attempts to purchase ammunition.

In FY 2025-26 and ongoing, personnel costs for CJIS are \$2,977,000 and personnel costs for BOF are \$1,545,000 for the ammunition authorization program.

See Response No. 11. Additional information regarding the Department's costs is included in the STD 399 Attachment.

- 11. Summary:** Comment questions the Department's methodology for calculating its costs and argues the Department has failed to justify the proposed fee increase. "Through the rule making documentation there are several instances where assumptions are made or data is not provided. A key element to understanding reasonable costs would be to understand the time required to do the various evaluations, civil service classification of staff used for the verifications (including the number in each classification), and average time to complete the Standard Ammunition Eligibility Check (SAEC), Certificate of Eligibility (COE) and the Basic Ammunition Eligibility Check (BAEC) and the enforcement actions being undertaken as part of the SAEC, COE and BAEC fees. Past insightful information from FY 2019/2020 (FY 19/20), FY20/21, FY21/22, FY22/23, and FY 23/24 is important to understand why the increase in fees is important." "A different mix of staff than what was provided above could also provide cost savings for the Department." (324-1.)

Response: No change has been made in response to this comment. Government Code section 11357 requires a state agency to follow the Department of Finance's (DOF) instructions for estimating a regulation's fiscal and economic impact. The Department complied with DOF's guidelines and the Administrative Procedure Act. See Response No. 10.

The increase in fees is necessary so that this important public safety program may continue to operate. Proposition 63 was designed to make this program user-fee supported. The voters approved that model. However, most of the support to date has come from the General Fund due to insufficient revenues. In addition to the \$25 million start-up loan authorized in Proposition 63, the Legislature authorized two \$4.3 million loans in each of FY 2023-24 and 2024-25. These loans were necessary to support the program while the fee was addressed through regulations. By this action, the Legislature approved ongoing staffing and spending. All of this information is public and has been heard publicly.

Although the comment requests historical information, those past numbers are unlikely to provide good predictive ability. In 2017-18, work on the program began. In FY 2019-20, COVID hit. The program has finally stabilized.

- 12. Summary:** The degree to which the fee could conceivably increase is unbounded. Assuming that the ammunition background check actually improved public safety (a point which has yet to be proven, and which is arguably false), reasonable people can disagree as to whether a \$1 fee for the purchase of a \$15 box of ammunition is excessive or not. A \$5 fee is even less reasonably supported. But nothing prevents the Department from increasing the fee to an arbitrary value. What if the Department decided to charge \$20 per check, as they do for the purchase of firearms? \$50? \$200? Where is the line drawn? (2-5, 73-1, 113-5, 235-3, 242-2, 245-2, 252-1, 259-2, 302-2, 303-2, 1939-1, 1973-1, 2011-3, 2012-3.)

Response: No change has been made in response to this comment. The Department's ability to increase the fee is not without limit. The fee is limited to the Department's reasonable regulatory and enforcement costs for operating the ammunition authorization program. (Pen. Code, § 30370, subd. (e).) Further, the comment is not directed at the proposed fee increase to \$5, but to further hypothetical fee increases which are not the subject of the pending rulemaking. Ammunition background checks protect public safety by creating a process which will ensure an individual prohibited by either state or federal law from possessing ammunition will be unable to purchase or transfer ammunition. In addition to stopping the ammunition purchase, the Department can recover firearms from the prohibited person. Since the ammunition background check requirements took effect in 2019, they have prevented hundreds of prohibited persons from purchasing ammunition.

- 13. Summary:** Comment states the increase in fees from \$1.00 to \$5.00 per transaction places an undue financial burden on individuals who wish to purchase ammunition. The fee increase will impact local business as they would have substantially less business from individuals purchasing ammunition. The background check process and fees directly affect the ability of California businesses to compete with those in other states. (2-4, 95-3, 129-1, 130-2, 136-2,

141-2, 145-3, 162-2, 180-5, 185-1, 203-1, 207-3, 216-1, 257-1, 291-2, 305-3, 322-3, 1849-1, 1873-2, 1926-1, 1928-2.)

Response: No change has been made in response to this comment. The Department has made every effort to limit the burden to individuals who want to purchase ammunition and to vendors who sell ammunition. The current ammunition background check relies on existing firearm registration records rather than requiring purchasers to apply for a permit, pay a significant application fee, and renew the permit. This approach does not require gun owners to take additional steps to buy ammunition. It is also more cost-effective for the Department to implement as it requires significantly fewer personnel to operate.

The current \$1.00 fees have not been sufficient to cover the Department's operating costs for the ammunition authorization program. The Legislature authorized the Department to raise the fee for a SAEC and COE Verification check to cover the reasonable regulatory and enforcement costs for operating the ammunition authorization program. (Pen. Code, § 30370, subd. (e).) The current \$1.00 fees have not been sufficient to cover the Department's operating costs for the ammunition authorization program.

Alternatives

14. Summary: "If this goes into effect it, there needs to be an exemption for security personnel. We have fees and certifications that we pay the state and can barely afford them due to your pal newsom who has bankrupt California and is looking for anyway to make a buck off of hard working LAW ABIDING CITIZENS." (71-1.)

Response: No change has been made in response to this comment. The proposed regulations implement Penal Code section 30370. The Penal Code does not exempt security personnel from having to pass a background check to purchase ammunition or pay a fee for the background check. (Pen. Code, § 30352, subd. (e).)

15. Summary: Instead of the current ammunition authorization program, California should create a system where buyers are allowed to purchase an annual "ammo permit" for \$25-30 dollars. For those who hold firearm safety cards, ccw's or hunting license, the option to add an "ammo permit." There should be a basic background check for those who do not hold a concealed carry weapons (CCW) or Hunting License. The state could further expand the program allowing licensed permit holders to purchase ammunition online with a permit number issued by the state, allowing the state to collect sales tax additionally on those sales as well. For tracking purposes, rather than sliding a California driver's license when you buy ammo, you would slide or scan an ID card or tag that would register. As with the California Department of Food and Agriculture (CDFA), the state could offer 5yr, 10yr or lifetime permits for a greater fee. A paper license with a GoID would be traceable, trackable and likely more cost effective for the state. (23-3.)

The background check for purchasing ammunition should be an annual fee rather than a per purchase fee. (301-1.)

There are other alternatives to confirm a person is not prohibited, such as an approved CCW permit, or various other permits and licenses. If a person has not previously passed a background check to purchase a firearm, they should have to pay the firearm purchase background check fee before they can purchase ammunition. (2017-3.)

Response: No change has been made in response to this comment. The Department cannot implement regulations that alter or amend a statute or enlarge or impair its scope. Senate Bill 1235 requires residents to submit to an automated background check every time they attempt to buy ammunition.

In 2016, California voters approved a statewide ballot measure known as Proposition 63. Proposition 63 created a background check system for the purchasing of ammunition where gun owners would apply for an ammunition purchase permit. The permit would cost \$50 and it would be good for four years.

However, the legislature enacted Senate Bill 1235 before Proposition 63's effective date. Senate Bill 1235 "prospectively amended" aspects of Proposition 63 -- including the ammunition purchase permit program. Instead of creating a system using an ammunition purchase permit that was valid for four years, Senate Bill 1235 requires residents to submit to an automated background check every time they attempt to buy ammunition.

The current ammunition background check relies on existing firearm registration records rather than requiring purchasers to apply for a permit, pay a significant application fee, and renew the permit. This approach does not require gun owners to take additional steps to buy ammunition. It is also more cost-effective for the Department to implement as it requires significantly fewer personnel to operate.

16. Summary: If you raise the fee to \$5.00 it should be a one-time fee. (38-3.)

Response: No change has been made in response to this comment. The Department cannot implement regulations that alter or amend a statute or enlarge or impair its scope. Senate Bill 1235 requires residents to submit to an automated background check every time they attempt to buy ammunition.

17. Summary: Why aren't DROS fees being used for this? The last I had heard was that there was a surplus of money in the DROS fund. (73-3.) Another comment suggests the Gun Violence Prevention and School Safety Fund as an alternative source of funding for ammunition background checks. (324-3.)

Response: No change has been made in response to this comment. The Penal Code establishes two Dealers' Record of Sale (DROS) accounts: the DROS Special Account (Special Account) and, as of January 1, 2020, the DROS Supplemental Subaccount (Subaccount). (Pen. Code, §§ 28233, subd. (b); 28235.) Neither account has a surplus. Revenue and Taxation Code section 36005 establish the Gun Violence Prevention and School Safety Fund. Funds in these accounts may only be used for expenditure as authorized by statute, which does not include the ammunition authorization program. In contrast, the

Legislature established the Ammunition Safety and Enforcement Special Fund to implement, operate, and enforce the ammunition authorization program. (Pen. Code, § 30370, subd. (f).)

18. Summary: A reasonable alternative is to only do \$5 background checks on ammunition with purchases over 1,000 rounds. Since the average range purchase is often 1,000 rounds or less. Then you do fewer checks (lowering your costs), but the \$5 for a background check over a 1,000 round box would be less burdensome as fewer people buy in larger bulk quantities for their normal range requirements. (1934-6.)

Response: No change has been made in response to this comment. The Department cannot implement regulations that alter or amend a statute or enlarge or impair its scope. Senate Bill 1235 requires residents to submit to an automated background check every time they attempt to buy ammunition.

19. Summary: An alternative is to keep the amount at \$1 and fine the “prohibited persons” who attempt to purchase \$10,000 to cover the costs. At the rate you are catching the “prohibited persons,” this could give you a surplus with which to work. (1934-7.)

Response: No change has been made in response to this comment. The Department cannot implement regulations that alter or amend a statute or enlarge or impair its scope. Senate Bill 1235 does not allow the Department to fine prohibited persons who attempt to purchase ammunition.

20. Summary: The Department should charge \$2 instead of \$5. (1974-1; 1975-1.) “Although not an endorsement of an increase, the SAEC increase of the fee to \$4.95 would also cover the outyears with a minimal overage.” (324-1.)

Response: No change has been made in response to this comment. Raising the ammunition fees to \$5.00 is necessary to reimburse the Department’s reasonable regulatory and enforcement costs for operating the ammunition authorization program. See Response No. 10 and the STD 399 Attachment.

Late Comments

Written comments received after the 45-day comment period are included in the rulemaking file under Exhibit 8.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATIONS

In accordance with Government Code section 11346.9, subdivision (a)(4), the Department has determined that no alternative it considered, or that it otherwise identified, or was brought to its

attention, would be more effective in carrying out the purpose for which the action is proposed, 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.

Although members of the public opposed the fee increase, raising the ammunition fees to \$5.00 is necessary to reimburse the Department's reasonable regulatory and enforcement costs for operating the ammunition authorization program. Most alternatives proposed did not comply with the existing statutory framework. See Response Nos. 14, 15, 16, 17, 18, and 19.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

The Department has determined that this proposed action does not affect small businesses. Although the majority of ammunition vendors are small businesses, raising the fee they collect from individual purchasers and transferers of ammunition does not impose any additional costs on these businesses.

DOCUMENTS INCORPORATED BY REFERENCE

None.