

CALIFORNIA DEPARTMENT OF JUSTICE

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

NOTICE OF PROPOSED RULEMAKING

Notice published August 23, 2024

The Department of Justice (Department) proposes to amend sections 4282 and 4285 of title 11, division 5, chapter 10 of the California Code of Regulations concerning the ammunition purchase fee.

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 October 8, 2024, at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Q. Farris
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 30352 and 30370, Penal Code.

Reference: Sections 26710, 28180, 30352 and 30370, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Prior to the passage of Proposition 63 of 2016 (The Safety for All Act) and Senate Bill No. 1235 (SB 1235) (Reg. Sess. 2015-2016), the sale or transfer of ammunition was not regulated in California. Although Penal Code section 30305 prohibited an individual from owning or possessing ammunition if they were prohibited from owning or possessing a firearm, the Department had no mechanism to regulate the sale of ammunition.

Proposition 63 and SB 1235 authorized the Department to complete an ammunition eligibility check or to verify that an individual's Certificate of Eligibility (COE) is valid when the individual purchases or transfers ammunition from or through an ammunition vendor.

The Department is authorized to write regulations to interpret and make specific certain Penal Code sections regulating the sale and transfer of ammunition. (Pen. Code, §§ 30352, 30370.) On June 24, 2019, the Office of Administrative Law approved the Department's regulations regarding ammunition purchases or transfers and filed them with the Secretary of State. (OAL File No. 2019-0517-07.) These regulations created a process for the Department to make a determination to either approve or reject an ammunition purchase or transfer.

As authorized by Penal Code section 30370, subdivision (e), the regulations also established a \$1.00 fee for a Standard Ammunition Eligibility Check (SAEC) and \$1.00 fee for a COE Verification check. This fee has not been sufficient to cover the Department's operating costs for the ammunition authorization program.

Effective January 1, 2024, the Department may 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).)

Effect of the Proposed Rulemaking:

The proposed regulation raises the fee for a SAEC and COE Verification check from \$1.00 to \$5.00.

Anticipated Benefits of the Proposed Regulations:

An ammunition purchase or transfer completed in the state of California must be conducted through a licensed ammunition vendor unless otherwise exempted.¹ Prior to the sale or transfer, an ammunition vendor will initiate an eligibility check to ensure the purchaser or transferee is not prohibited from possessing ammunition. The Department's regulations benefit public safety

¹ A licensed firearms dealer is automatically deemed a licensed ammunition vendor. (Pen. Code, § 30385, subd. (d).)

by creating a process which will ensure an individual prohibited by state law from possessing ammunition will be unable to purchase or transfer ammunition.

Raising the fee for a SAEC and COE Verification check from \$1.00 to \$5.00 will help cover the Department's reasonable regulatory and enforcement costs for operating the ammunition authorization program.

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 fee for a SAEC and COE Verification check.

Forms Incorporated by Reference:

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: The Department estimates that raising the fees will increase the Department's annual fee revenue by \$ 4,704,080.00 per year.

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 cost to an individual depends on the number of ammunition purchases the person makes in a year. If an individual elects to purchase all their ammunition for the entire year at once, their annual cost will increase from \$1.00 to \$5.00.

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.

Firearms dealers and ammunition vendors are already charging the \$1.00 COE Verification fee (Cal. Code Regs., tit. 11, § 4285) and the \$1.00 SAEC fee (Cal. Code Regs., tit., § 4282). Increasing the fee to \$5.00 does not impose any additional costs on these businesses.

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.

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents because they help fund the process that ensures an individual prohibited by state law to possess ammunition will be unable to purchase or transfer ammunition.

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

(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 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.

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.

Raising the ammunition fees to \$5.00 is necessary to help cover the Department's reasonable regulatory and enforcement costs for operating the ammunition authorization program.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Q. Farris
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2372
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:

G. Mac
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2322
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 upon request to the contact person above. 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/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 included above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, 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/firearms/regs>.