

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)**

NOTICE OF PROPOSED RULEMAKING

Notice published October 28, 2022

The Department of Justice (Department) proposes to amend sections 410, 411, 415, 416, 417, 418, 419.2, 419.3, 420, 421, 422, 423, 424, 425, and 426 of title 11, division 1, chapter 4.6 of the California Code of Regulations concerning the Nonprofit Raffle Program.

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 13, 2022, at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Department of Justice
Office of the Attorney General
Charitable Trusts Section
Attn: Scott Chan, Deputy Attorney General
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102-7004
(415) 510-3430
Scott.Chan@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: Section 320.5, Penal Code; Section 12599.6, Government Code.

Reference: Section 320.5, Penal Code; Sections 12581, 12585, 12586, and 12586.1, 12591.1, 12598, and 12599.6, Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

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. (*Id.*, § 420.)

Effect of the Proposed Rulemaking:

The proposed rulemaking modifies the registration deadline to January 1 and the reporting deadline to February 1 of the following year. The Application for Registration/Nonprofit Raffle Program (“Form CT-NRP-1”) and Nonprofit Raffle Report (“Form CT-NRP-2”) are revised to reflect the new deadlines.

The proposed rulemaking 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.

Anticipated Benefits of the Proposed Regulations:

The proposed amendments clarify and make technical and grammatical changes to existing regulations and forms. These amendments 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.

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 nonprofit raffles in California.

Forms Incorporated by Reference:

Application for Registration/Nonprofit Raffle Program (“Form CT-NRP-1” Rev. 08/2022): Sections 411 and 415.

Nonprofit Raffle Report (“Form CT-NRP-2” Rev. 08/2022): Sections 411 and 420.

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.

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 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.

Business report requirement: None. Penal Code section 320.5 requires eligible nonprofit organizations to register with the Department and report gross receipts and expenses from raffles conducted. The existing regulations require and effectuate this reporting. The proposed regulatory action merely amends the registration and reporting deadlines.

Small business determination: The Department has determined that this proposed action does not affect small businesses because nonprofits are exempt from the definition of "small business." (Gov. Code, § 11342.610, subd. (b)(6).)

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Justice
Office of the Attorney General
Charitable Trusts Section
Attn: Scott Chan, Deputy Attorney General
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102-7004
(415) 510-3430
Scott.Chan@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:

Marlon Martinez
Department of Justice
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
(213) 269-6437
regulations@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 revised forms, 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/charities/laws>. 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/charities/laws>. 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 revised forms, 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/charities/laws>.