

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 5. FIREARMS REGULATIONS
CHAPTER 14. CARRY CONCEALED WEAPONS LICENSES

February 14, 2024

FINDING OF EMERGENCY

Pursuant to the requirements of Government Code section 11346.1, subdivision (a)(1), the Department of Justice (Department) is providing notice of proposed emergency adoption of regulations regarding the carry concealed weapons (CCW) uniform license. The Department finds that an emergency exists, and that the immediate adoption of sections 4401 and 4402 and amendment of section 4432 of Title 11, Division 5, of the California Code of Regulations is necessary to avoid serious harm to the public peace, health and safety, and general welfare.

SUBMISSION OF COMMENTS

Government Code section 11346.1, subdivision (a)(2), requires that, at least five (5) working days before submission of the proposed emergency action to the Office of Administrative Law (OAL), the Department provide a notice of proposed emergency action (Finding of Emergency) and proposed text to every person who has filed a request for notice of regulatory action with the Department. After submission of the proposed emergency regulation to OAL, OAL shall allow interested persons five (5) calendar days to submit comments on the proposed emergency regulation as set forth in Government Code section 11349.6.

The Proposed Text of the emergency regulation and the Finding of Emergency are posted on the Department's website at <https://oag.ca.gov/regulations>.

The Department plans to file the emergency rulemaking package with OAL at least five (5) working days from the date provided at the top of this notice. If you would like to comment on the Finding of Emergency or the proposed text, those comments must be made in writing only, must contain a notation that identifies the emergency regulation to which they relate, and must be received by both the Department and OAL within five calendar days after the Department's filing with OAL. Emergency rulemaking packages filed with OAL can be found on OAL's website at https://oal.ca.gov/emergency_regulations/emergency_regulations_under_review/. The Department may respond to public comments at its discretion.

Send comments simultaneously to:

Attorney General Rob Bonta
Department of Justice
P.O. Box 160487
Sacramento, CA 95816
(916) 210-2372
bofregulations@doj.ca.gov

and

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

EXPRESS STATEMENT OF EMERGENCY

The proposed regulations are, by legislative mandate, necessary for the immediate preservation of the public peace, health and safety, and general welfare within the meaning or purposes of Government Code section 11346.1. (Pen. Code, § 26225, subd. (d).)¹

SPECIFIC FACTS DEMONSTRATING NEED FOR IMMEDIATE ACTION

Purpose and Necessity of Each Provision

Article 1. General

§ 4401. Uniform CCW License.

Penal Code section 26175 requires the Department to develop a uniform CCW license that may be used as indicia of proof of licensure throughout the state. (§ 26175, subd. (a)(3).) A CCW license must “set forth the licensee’s full name, driver’s license or identification number, Criminal Identification and Information number, occupation, residence and business address, the licensee’s date of birth, height, weight, and color of eyes and hair, and indicate the type of license issued as it relates to Section 26220, including license issuance and expiration date, and shall, in addition, contain the licensee’s fingerprints, a picture of the licensee, and a description of the weapon or weapons authorized to be carried, detailing the name of the manufacturer, the model, the serial number, and the caliber.” (§ 26175, subd. (i)(1).)

Section 4401 sets the design standards for the uniform CCW license. The uniform CCW license was designed with input from licensing authorities.

Subdivision (a) prescribes the size of the uniform CCW license. The size is the standard size of a driver’s license or credit card. This allows the uniform license to be easily carried on one’s person. Licensing authorities may either laminate the uniform CCW license or print it on a hard card. The lamination option is necessary because not all licensing agencies have the financial resources to procure or produce hard-card licenses. Licensing authorities will create the uniform license using form BOF 4501 to ensure the design standards are met.

Subdivisions (b) and (c) prescribe the design standards for the front and back of the uniform CCW license. The uniform CCW license includes all information mandated by statute. (§ 26175, subd. (i)(1).)

Subdivision (d) allows licensing authorities to add their seal to the top left corner of the front of the uniform CCW license. This option was created at the suggestion of licensing authorities.

¹ All references are to the Penal Code unless otherwise indicated.

§ 4402. Capturing Thumbprint for Uniform CCW License.

The uniform license must contain the licensee's fingerprints. (§ 26175, subd. (i)(1).) Section 4402 sets standards for capturing the licensee's thumbprint.

Subdivision (a) requires the licensing authority to capture an original right thumbprint for every initial or renewal CCW license. If the right thumbprint is unavailable, the acceptable print order is left thumbprint followed by any available digit of the right hand, regardless of whether the digit is scarred or deformed. These standards are consistent with capturing thumbprints of firearm purchasers in California Code of Regulations, title 11, section 4220, which implements Penal Code section 28160, subdivision (b). Requiring the licensing authority to capture an original fingerprint for every initial or renewal CCW license is necessary to verify the licensee's identity. The licensee's thumbprint or fingerprint image must be true to size. This is necessary so that the Department can verify the fingerprint image.

Subdivision (b) sets standards for fingerprint capture devices. If a fingerprint capture device is used, the device must be certified by the Federal Bureau of Investigation (FBI) as tested and in compliance with the FBI's Next Generation Identification (NGI) Image Quality Specifications (IQS). This is necessary to produce sufficient image quality to support fingerprint analysis and comparison.

Subdivision (c) requires the licensing authority to print Form BOF 4501 at a minimum resolution of 600 dpi (dots per inch) and mail the form to the Department in accordance with section 4432, subdivision (d). A minimum resolution of 600 dpi is necessary to produce sufficient image quality to support fingerprint analysis and comparison.

Article 4. Licensing Authority Duties.

§ 4432. Notifications, Records, and Annual Survey.

Licensing authorities must provide the following records to the Department in a manner prescribed by the Attorney General: (1) the denial of a license; (2) the denial of an amendment to a license; (3) the issuance of a license; (4) the amendment of a license; and (5) the revocation of a license. (§ 26225, subd. (b).)

The proposed regulation corrects an error in subdivision (a). Although Penal Code section 26225, subdivision (b), requires these records to be provided to the Department "immediately," "immediately" is not defined. As corrected, licensing authorities must provide the records no later than 15 days after the denial, denial of an amendment, issuance, amendment, or revocation of a CCW license. This timeframe provides a reasonable amount of time for the licensing authorities to provide the records, but also ensures that the Department receives the information timely so it can update its records.

Explanation of Failure to Adopt Nonemergency Regulations

The Legislature deemed the Department’s regulations necessary to address an emergency because of the public’s safety interests in preventing persons who are prohibited from owning or possessing a firearm from obtaining CCW licenses.

RELIED ON DOCUMENTS

None.

AUTHORITY AND REFERENCE CITATIONS

Authority: Sections 26175 and 26225, Penal Code.

Reference: Sections 26175 and 26225, Penal Code.

INFORMATION DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

California law requires a person who desires to carry a concealed weapon in public to obtain a CCW license. This license may be issued by a sheriff of a county, or the police chief or other head of a municipal police department of any county or city. (§§ 26150, 26155, 26170.) The Department is tasked with developing a uniform CCW license that may be used as indicia of proof of licensure throughout the state. (§ 26175, subd. (a)(3).)

In late June 2022, the Supreme Court issued the *New York Rifle and Pistol Association v. Bruen* (2022) 597 U.S. 1 decision holding that licensing schemes requiring concealed carry license applicants to show “proper cause” (or something similar) to carry firearms are unconstitutional. The decision required a legislative response given California’s similar concealed carry laws.

Senate Bill 2 (SB 2) replaced California’s “good cause” and “good moral character” requirements. Before issuing a concealed carry license, the licensing authority must now determine that the applicant is not a disqualified individual under certain defined and objective criteria. (§ 26202.)

SB 2 also updated the information that must be included on the uniform CCW license. (§ 26175, subds. (a)(3) & (i).)

Effect of the Proposed Rulemaking:

The proposed regulations create the uniform CCW license that complies with the new statutory requirements. (§ 26175, subds. (a)(3) & (i).) The proposed regulations also correct an error in section 4432.

Anticipated Benefits of the Proposed Regulations:

The existing uniform CCW license is not produced in a format that is easy to carry on one’s person. The new uniform license has a similar format to a California driver’s license or ID card and therefore it can easily be carried on one’s person. A new uniform license can help reduce the use of fraudulent or fake licenses.

Comparable Federal Regulations:

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

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that the 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 CCW licenses.

Forms Incorporated by Reference: None.

Other Statutory Requirements: These emergency regulations are exempt from review by OAL. These emergency regulations shall be submitted to OAL for filing with the Secretary of State and shall remain in effect no later than two years after the effective date of Senate Bill No. 2. (§ 26225, subd. (d).)

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies or school districts:

These regulations may create a reimbursable mandate as determined by the Commission on State Mandates. The bill analysis provided by the Senate Appropriations Committee contained the following information regarding SB 2’s fiscal impact on local government:

Local Costs: Unknown, possibly reimbursable costs, to local law enforcement agencies, including city police agencies and county sheriff offices to comply with the requirements in this bill for issuing CCWs (Local Funds, General Fund).

Prior to the *Bruen* decision, local law enforcement used a good cause standard to make case-by-case decisions on CCWs. This bill may require a more nuanced evaluation of a CCW application. Local costs could be in the millions in the first two or three fiscal years as more people apply for CCWs following the Supreme Court’s ruling, with costs declining over time. Costs to the General Fund will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

Cost or savings to any state agency: The uniform CCW license does not create any costs or savings for any state agency. CCW licenses are issued by local law enforcement agencies.

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. Licensing authorities may charge a fee in an amount equal to the reasonable costs for processing the application for a new license or a license renewal, issuing the license, and enforcing the license, including any required notices, excluding fingerprint and training costs. (Pen. Code, § 26190, subds. (b) & (d).)

Cost or savings in federal funding to the state: None.