

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 5. FIREARMS REGULATIONS
CHAPTER 2. CENTRALIZED LIST OF FIREARMS DEALERS

NOTICE OF PROPOSED RULEMAKING

Notice published April 12, 2024

The Department of Justice (Department) proposes to adopt section 4027 of title 11, division 5, chapter 2 of the California Code of Regulations concerning a dealer's verification of a purchaser's hunting license.

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 May 29, 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: Section 28215, Penal Code.

Reference: Sections 16685, 27510, 28215 and 28220, Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Existing law prohibits the sale or transfer of a firearm to any person who does not have a firearm safety certificate. (Pen. Code, §§ 31615, 31700.)¹ Existing law also prohibits the sale or transfer of a firearm by a licensed firearm dealer to a person under 21 years of age. (§ 27505.)

Existing law exempts from these provisions the sale, transfer, purchase, or receipt of a firearm, other than a handgun, to or by a person without a firearm safety certificate, but in possession of a valid, unexpired hunting license, or a recently expired hunting license, as specified. (§ 31700, subd. (c).) Existing law also allows the sale or transfer of a firearm, other than a handgun, semiautomatic centerfire rifle, completed frame or receiver, or firearm precursor part to a person 18 years of age or older who possesses a valid, unexpired hunting license. (§ 27510, subd. (b)(1).)

Effective January 1, 2022, Senate Bill 715 defines a valid and unexpired hunting license as a hunting license issued by the Department of Fish and Wildlife for which the time period authorized for the taking of birds or mammals has commenced but not expired. (§ 16685.) In addition, Penal Code section 31700 was amended to no longer allow a person with a hunting license from the immediately preceding year to be exempt from the firearm safety certificate requirement in Penal Code section 31615, subdivision (a).

As relevant here, the SB 715 prohibits a dealer from delivering a firearm if they are unable to confirm the hunting license is valid and unexpired upon visual inspection. (§ 28215, subd. (a)(5).) The dealer must also record the license document number, the GO ID issued by the Department of Fish and Wildlife, and the dates valid as listed on the hunting license. (§§ 28210, 28215, subd. (a)(4).)

Commencing July 1, 2025, the Department shall verify the validity of the purchaser's hunting license with the Department of Fish and Wildlife. (§ 28220, subd. (a)(2).) If the Department is unable to ascertain the validity of the hunting license, the Department shall immediately notify the dealer to cancel the sale of the firearm. (§ 28220, subd. (f)(5).) The Department shall notify the purchaser by mail that the hunting license was not valid and unexpired or the Department of Fish and Wildlife was unable to verify the license based upon the information provided. (*Ibid.*)

These new safety requirements were established in response to the Poway Shooting. In April 2019, a 19-year-old armed with a semi-automatic rifle opened fire at a synagogue in Poway, California killing one person. The shooter obtained a semi-automatic firearm, despite being under the age of 21, with a hunting license that was not yet valid. (Assem. Com. on Appropriations, Rep. on Sen. Bill No. 715 (2021-2022) Reg. Sess. as amended June 21, 2021, p. 2.)

¹ All statutory citations are to the Penal Code unless otherwise noted.

Effect of the Proposed Rulemaking:

The proposed regulation creates the procedure for a dealer or salesperson to confirm the validity of a hunting license and report the document number, GO ID, and dates valid to the Department. The dealer or salesperson will also confirm that they visually inspected the license, and that it is valid and unexpired. The dealer or salesperson will report this information electronically via the Dealer Record of Sale (DROS) Entry System (DES).²

Anticipated Benefits of the Proposed Regulations:

The proposed regulations describe the procedure for a dealer or salesperson to meet their obligation of recording the document number, GO ID, and dates valid listed on the hunting license. Commencing July 1, 2025, the Department will use this information to verify the validity of the purchaser’s hunting license with the Department of Fish and Wildlife. This regulation protects public safety by implementing a statutory requirement that persons under 21 years old may only purchase or receive a firearm if the dealer or salesperson verifies that the person’s hunting license is valid and unexpired.

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 dealer’s verification of a purchaser’s hunting license.

Forms Incorporated by Reference:

None.

Other Statutory Requirements:

None.

² The Department maintains the DES, a web-based application used by firearms dealers to report the sale, loan, transfer, redemption, and acquisition of handguns and long guns to the Department, as required by state law. (§ 28205; Cal. Code Regs., tit. 11, § 4200 et seq.)

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 \$146,198 in additional expenditures in the current Fiscal 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 Department estimates that a representative private person or business will necessarily incur \$1.33 to complete and submit the required report. The average firearms dealer will face the above scenario approximately three times a year.

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.

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 by creating a procedure for a dealer or salesperson to verify that the hunting license is valid and unexpired,

and to report to the Department the document number, GO ID, and dates valid listed on the hunting license. The regulation would protect public safety by implementing a requirement that persons under 21 years old may only purchase or receive a firearm if the dealer or salesperson verifies that the person's hunting license is valid and unexpired.

(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 by establishing an electronic format for the required report and thereby preventing paper waste.

Business report requirement: The Department finds it is necessary for the health, safety or welfare of the people of this state that proposed section 4027, which requires a report, applies to businesses.

Small business determination: The Department has determined that this proposed action affects small businesses. Requiring the dealer to notify the Department electronically via the DES is the easiest way to make sure that the dealer provides all required information. Dealers are already familiar with using the DES to report transactions to the Department.

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 regulation is the most effective way for a dealer or salesperson to report the document number, GO ID, and dates valid listed on the hunting license. Requiring the dealer or salesperson to notify the Department electronically via the DES is the least burdensome way to make sure they provide all required information. Dealers are already familiar with using the DES to report transactions to the Department.

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) 210-2153
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>.