

TITLE 11. DEPARTMENT OF JUSTICE

NOTICE OF PROPOSED RULEMAKING

The Department of Justice (“Department”) plans to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Department of Justice proposes to adopt sections 978.10 thru 978.44 in Title 11, Division 1 of the California Code of Regulations (CCR). These sections apply to assault weapons and large capacity firearms magazines.

PUBLIC HEARINGS

The Department will hold two public hearings on the following dates at the following locations:

February 18, 2000 - 8:00 a.m.

Department of Justice
4949 Broadway
Sacramento, California

February 28, 2000 - 8:00 a.m.

Department of Justice
300 South Spring Street
Los Angeles, California

At the hearings, any person may present statements or arguments orally or in writing relevant to the proposed regulatory action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at either hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m., on February 28, 2000. The Department will consider only comments received at the Department offices by that time. Submit written comments to:

Debbie Coffin, Analyst
Department of Justice, Firearms Division
P.O. Box 820200
Sacramento, CA 94203-0200

AUTHORITY AND REFERENCE

Pursuant to California Penal Code sections 12079, 12276.1, 12276.5, 12285, and Government Code sections 15376 and 15378, the Department is authorized to adopt the proposed regulations, which would implement, interpret, or make specific sections 12020,

12079, 12276, 12276.1, 12276.5, 12280, 12285, and 12289 of the California Penal Code; and sections 15376, 15378 and Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

INFORMATIVE DIGEST

Penal Code (PC) section 12276.1 adds specific characteristic definitions to assault weapons, augmenting weapons that the Legislature declares to pose a threat to the health, safety and security of all citizens of this state as set forth by PC section 12275.5. PC section 12285 requires registration of lawfully possessed assault weapons as defined in PC section 12276.1. PC section 12020 prohibits the manufacture, sale, importation, lending or giving of large capacity magazines except under certain conditions.

Section 978.10 names the title and scope of these proposed regulations.

Section 978.20 defines six terms used in the identification of assault weapons pursuant to PC section 12276.1. Those terms are defined as follows:

- “detachable magazine” means any magazine that can be readily removed without the use of tools.
- “flash suppressor” means any device that reduces or conceals the visible light or flash created when a firearm is fired. This definition includes flash hidiers, but does not include compensators and muzzle brakes (devices attached to or integral with the muzzle barrel to utilize propelling gasses for counter-recoil).
- “forward pistol grip” means any protrusion in front of the trigger that is designed or intended to grasp and control the firearm.
- “permanently altered” means any irreversible change or modification.
- “pistol grip that protrudes conspicuously beneath the action of the weapon” means any component that allows for the grasp, control, and fire of the firearm where the portion grasped is located beneath an imaginary line drawn parallel to the barrel that runs through the top of the exposed trigger.
- “thumbhole stock” means any stock with any opening that enables the firearm to be grasped, controlled, and fired with one hand.

Section 978.30 establishes the assault weapon registration requirements which include compliance with the Roberti-Roos Assault Weapons Control Act of 1989, and submission of an Assault Weapon Registration application which requires registrant identification information and assault weapon information. Additionally, this section provides for joint registration of assault weapons owned by family members while residing in the same household.

Section 978.31 establishes the assault weapon registration fees at \$20 per registrant.

Section 978.32 establishes the Department's time standards for processing assault weapon registration applications.

Section 978.40 establishes the requirements under which California firearms dealers may apply for a Penal Code section 12079 permit for the out of state importation or exportation of large capacity magazines, which includes the transportation of magazines as necessary to complete a transfer to or from an out of state source. The requirements are the submission of a Large Capacity Magazine Permit application and a statement from the firearms dealer that a marketplace exists for the import or export of large capacity magazines at their dealership, and that they comply with The Dangerous Weapons Control Law relative to large capacity magazines.

Section 978.41 establishes the Department's time standards for processing large capacity magazine permit applications.

Section 978.42 establishes the term length of large capacity magazine permits at one year, and further states that active status on the Department of Justice Centralized List of Firearms Dealers must be maintained or the permit is not longer valid.

Section 978.43 establishes the record keeping requirements for large capacity magazine permittees. The permittee is required to maintain acquisition and disposition records for three years and make them available upon request to representatives of the Department of Justice or any other law enforcement agency.

Section 978.44 establishes that large capacity magazine permits may be revoked for failure to comply with the regulations and The Dangerous Weapons Control Law relative to large capacity magazine permits, and further states that hearings related to permit revocation shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None. Costs are paid by registrant fees.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

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

Significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states: None.

Potential cost impact on private persons or directly affected businesses: \$20.00 per registrant.

Adoption of these regulations will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

PLAIN ENGLISH DETERMINATION AND OVERVIEW

Small business determination

The Department has determined that the proposed regulations affect small business.

Plain English Policy Overview

The purpose of the proposed regulations is to clarify and make specific the definitions of the characteristics of assault weapons in California. The proposed regulations also establish procedures for registering assault weapons, and for obtaining permits to import and export large capacity firearms magazines.

Availability of Text in Plain English

The express terms of the proposed action written in plain English are available from the agency contact named in this notice.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(12), the Department must determine that no alternative it considered 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.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to:

Stacey Prado
Department of Justice, Firearms Division
P.O. Box 820200
Sacramento, CA 94203-0200
(916) 227-3694

Inquiries concerning the substance of the proposed action may be directed to:

Debbie Coffin, Analyst
Department of Justice, Firearms Division
P.O. Box 820200
Sacramento, CA 94203-0200
(916) 227-3644

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the Economic and Fiscal Impact Statement (Std. 399), minutes of meetings held regarding the preparation of these proposed regulations and firearms definitions research material. Copies may be obtained by contacting Stacey Prado at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. 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

Stacey Prado at the 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.