



## **INFORMATION BULLETIN:**

# ***FREQUENTLY ASKED QUESTIONS REGARDING UPCOMING JULY 1ST AMMUNITION BACKGROUND CHECK REQUIREMENTS***

**MAY 21, 2019**

Starting July 1, 2019, California law will require anyone purchasing ammunition in the state to undergo a background check. New requirements on California licensed firearm dealers and ammunition vendors will also take effect. It has become apparent that many gun owners are unaware of the myriad of changes these new requirements will bring.

To better assist our members and the California gun-owning community, CRPA attorneys, with the support of the National Rifle Association, have prepared the following FAQ. ***Be warned***—the California Department of Justice (“DOJ”) has yet to formally adopt regulations implementing the ammunition background check process. As a result, ***the information contained herein is subject to change.*** To ensure you stay up-to-date on any changes, subscribe to NRA and CRPA email alerts by visiting the NRA-ILA California dedicated webpage at <https://www.nraila.org/campaigns/california/stand-and-fight-california/> and the CRPA webpage at <https://crpa.org/>.

### **I. WHERE CAN I LEGALLY BUY AMMUNITION IN CALIFORNIA?**

**As of January 1, 2018, the sale of ammunition must be conducted by or processed through a licensed ammunition vendor.**<sup>1</sup> Where neither party to a transaction is a licensed vendor, the seller must deliver the ammunition to a licensed vendor to process the transaction.<sup>2</sup> However, in addition to law enforcement and certain firearm related businesses, the following purchasers/transactions are exempt from this requirement:

- [Federally licensed C&R collectors](#) who also possess a [California Certificate of Eligibility](#);
- Persons purchasing/receiving ammunition at a target facility holding a business or other regulatory license, provided the ammunition is ***at all times*** kept within the facility’s premises; or,

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<sup>1</sup> Cal. Penal Code § 30312(a). A “licensed ammunition vendor” is a person or entity that either “holds a current ammunition vendor license” or “a firearms dealer license.” Cal. Penal Code § 16151.

<sup>2</sup> Cal. Penal Code § 30312(b).

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- Persons receiving ammunition from a spouse, registered domestic partner, or “immediate family member” (parent-child or grandparent-grandchild relationship).<sup>3</sup>

## II. CAN I STILL PURCHASE OR ACQUIRE AMMUNITION OVER THE INTERNET?

**YES, but it must be delivered to a licensed ammunition vendor before you can receive it.** As of January 1, 2018, the sale, delivery, or transfer of ownership of ammunition must occur in a “face-to-face” transaction with the seller.<sup>4</sup> This prohibits direct mail shipments to the purchaser. Because the face-to-face requirement does not apply to transfers to a licensed vendor, a purchaser could order online and have the ammunition delivered to a licensed ammunition vendor in California for pickup. In addition to law enforcement and certain firearm related businesses, the following purchasers/transaction are exempt from this requirement:

- [Federally licensed C&R collectors](#) who also possess a [California Certificate of Eligibility](#);
- Persons purchasing/receiving ammunition at a target facility holding a business or other regulatory license, provided the ammunition is *at all times* kept within the facility’s premises; or,
- Persons receiving ammunition from a spouse, registered domestic partner, or “immediate family member” (parent-child or grandparent-grandchild relationship).<sup>5</sup>

*Note: Even though California law provides for the above exemptions, out-of-state ammunition vendors may nevertheless refuse to ship ammunition to anyone except licensed dealers or licensed ammunition vendors per company policy.*

## III. AS A RESIDENT OF CALIFORNIA, CAN I PURCHASE AMMUNITION WHILE TRAVELING OUTSIDE OF CALIFORNIA AND BRING IT BACK WITH ME?

**NO. You may, however, purchase ammunition and have it delivered to a licensed vendor in California and pick it up there.** As of January 1, 2018, California residents can no longer bring or transport into California any ammunition purchased or otherwise obtained from out-of-state on their person. The ammunition can be sent to a licensed vendor in California who will then process the transfer.<sup>6</sup> In addition to law enforcement and certain firearm related businesses, the following persons/transactions are exempt from this restriction:

- [Federally licensed C&R collectors](#) who also possess a [California Certificate of Eligibility](#); or,
- Persons receiving ammunition from a spouse, registered domestic partner, or “immediate family member” (parent-child or grandparent-grandchild relationship).<sup>7</sup>

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<sup>3</sup> Cal. Penal Code § 30312(c).

<sup>4</sup> Cal. Penal Code § 30312(b).

<sup>5</sup> Cal. Penal Code § 30312(c).

<sup>6</sup> Cal. Penal Code § 30314(a).

<sup>7</sup> Cal. Penal Code § 30314(b).

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#### IV. WHAT INFORMATION DO I NEED TO PROVIDE WHEN PURCHASING AMMUNITION IN CALIFORNIA?

As of now, licensed ammunition vendors do not need to record any specific information when processing an ammunition transaction. **But beginning July 1, 2019**, licensed vendors will be required to record the following information on a DOJ-approved form for each ammunition transaction:

- The date of the sale/transfer;
- The purchaser's driver's license or other identification number and the state in which it was issued;
- The brand, type, and amount of ammunition sold or otherwise transferred;
- The purchaser's full name and signature;
- The name of the salesperson who processed the transaction;
- The purchaser's full residential address and telephone number;
- The purchaser's date of birth.<sup>8</sup>

*Note: the above listed information is that which is required under California law. However, DOJ appears to illegally require additional information (such as citizenship information) pursuant to their [most recent regulatory proposal](#).*

#### V. DO I NEED A CALIFORNIA DRIVER'S LICENSE OR CALIFORNIA ID TO PURCHASE AMMO?

Under California law, **NO**, but ***DOJ has indicated one will be required as of July 1, 2019***. California law does not require purchasers to provide a California Driver's License/ID when purchasing ammunition. Instead, sellers of ammunition need only be shown "bona fide evidence of majority and identity," which includes out-of-state identification, to ensure the purchaser is of appropriate age.<sup>9</sup>

Starting July 1, 2019, California law will require individuals to provide a copy of their driver's license or other identification number "and the state in which it was issued" in connection with the required background check for ammunition transactions.<sup>10</sup> Nevertheless, DOJ has informed ammunition vendors that the system will only accept California Driver's Licenses or IDs.

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<sup>8</sup> Cal. Penal Code § 30352(a).

<sup>9</sup> Cal. Penal Code § 30300(b). The term "bona fide evidence of majority and identity" is defined as "a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person." Cal. Penal Code § 16300.

<sup>10</sup> Cal. Penal Code § 30352(a)(2).

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## VI. HOW WILL DOJ CONDUCT AMMUNITION BACKGROUND CHECKS STARTING JULY 1, 2019?

**In one of three ways.** Beginning July 1, 2019, with the few exceptions described below, all ammunition transactions processed by a licensed ammunition vendor will be subject to a background check requirement. The required background check will be completed by the licensed vendor using one of the following methods, depending on the purchaser:

- A search of DOJ's Automated Firearm System ("AFS") records<sup>11</sup> and the Prohibited Armed Persons File to confirm there is a matching firearm transaction record associated with the ammunition purchaser and that the purchaser is not listed as prohibited;
- A search of DOJ's records confirming the ammunition purchaser has a valid certificate of eligibility; or,
- A full-scale background check similar to purchasing a firearm.<sup>12</sup>

*Note: Some gun owners are under the mistaken belief that the background check process would involve obtaining an ammunition purchaser permit to use when purchasing ammunition in California. But that provision, created by Senate Bill 1235, did not become operative due to the enactment of Proposition 63.*

## VII. ARE THERE ANY EXCEPTIONS TO THE BACKGROUND CHECK REQUIREMENT?

**YES.** DOJ's most recent regulatory proposal lists several individuals and transaction types that are exempt from the background check requirement. These exceptions, however, are generally limited to firearm related businesses and properly identified law enforcement personnel. However, if you satisfy an exception to the ammunition vendor processing requirement, you do not need to undergo a background check when having ammunition delivered to you.

## VIII. CAN A PERSON RECEIVE AMMUNITION AS A GIFT WITHOUT HAVING TO UNDERGO A BACKGROUND CHECK?

**YES, subject to certain limitations.** For a gift of ammunition to not be subject to the background check requirement, it must occur in a transaction that is not required to be processed by a licensed ammunition vendor. As noted above, the following persons/transactions are exempt from the vendor processing requirement:

- [Federally licensed C&R collectors](#) who also possess a [California Certificate of Eligibility](#);
- Persons purchasing/receiving ammunition at a target facility holding a business or other regulatory license, provided the ammunition is *at all times* kept within the facility's premises; or,

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<sup>11</sup> AFS is the database of all DROS transactions that have occurred in the state of California that were required to be reported to DOJ. An AFS transaction record is simply one which states that on the date of transaction, the individual was eligible to own and possess firearms.

<sup>12</sup> Cal. Penal Code § 30370(a).

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- Persons receiving ammunition from a spouse, registered domestic partner, or “immediate family member” (parent-child or grandparent-grandchild relationship).<sup>13</sup>

## IX. ARE CCW HOLDERS EXEMPT FROM THE BACKGROUND CHECK REQUIREMENT?

**NO.** As noted above, in order to be exempt from the background check requirement, the transaction must be one that need not be processed by a licensed vendor. There is no exemption for CCW holders to this requirement, therefore CCW holders are not exempt from the background check requirement either.

## X. HOW MUCH WILL THE REQUIRED BACKGROUND CHECKS COST?

**Up to \$1 for AFS/COE verifications and up to \$19 for full-scale background checks.** According to California law, verifying the purchaser’s AFS records or COE will cost no more than \$1.<sup>14</sup> But if a full-scale background check is required, California law allows DOJ to charge “a fee not to exceed the fee charged for the department’s Dealers’ Record of Sale (DROS) process” which is up to \$19.<sup>15</sup>

*Note: As of the publication of this document, DOJ’s [most recent proposal](#) sets the fees at \$1 for AFS/COE verification and \$19 for full-scale background checks.*

## XI. HOW LONG DOES EACH BACKGROUND CHECK PROCESS TAKE?

**California law requires the background check to be completed instantly, [but DOJ regulations suggest this will not be the case.](#)** California law requires DOJ to issue approval “at the time of purchase or transfer,” meaning the process should be instant upon submission to DOJ.<sup>16</sup> However, DOJ’s [most recent regulatory proposal](#) suggests DOJ will not comply with California law in this regard. Instead, DOJ will issue “Ammunition Transaction Numbers” allowing purchasers to “monitor the status” of the background check.

## XII. HOW WILL I OR MY VENDOR KNOW WHICH BACKGROUND CHECK PROCESS TO USE?

According to DOJ’s [most recent regulatory proposal](#), it will be up to the purchaser to decide which background check process to use in connection with an ammunition transaction.

## XIII. HOW CAN I CHECK IF I HAVE AN AUTOMATED FIREARM SYSTEM (“AFS”) RECORD THAT CAN BE USED FOR PURPOSES OF THE AMMUNITION BACKGROUND CHECK?

**By requesting a copy of your AFS records from DOJ.** DOJ provides a means by which individuals can obtain a complete list of all firearms associated with them according to the AFS database. To obtain a copy of these records, individuals must complete and submit the “Automated Firearms System (AFS) Request for

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<sup>13</sup> Cal. Penal Code § 30312(c).

<sup>14</sup> Cal. Penal Code § 30370(e).

<sup>15</sup> Cal. Penal Code § 30370(c).

<sup>16</sup> Cal. Penal Code § 30370(a).

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Firearm Records” form, form # BOF 053 (rev. 09/2018), available on DOJ’s website at <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/AFSPriateCitizen.pdf>.

*Note: It is unclear what constitutes a “match” within the meaning of DOJ’s proposed regulations regarding ammunition transactions. This means that subtle variations between your AFS records and personal information may result in a denial (e.g., the word “Street” appearing as “St.” on your AFS record but not on your Driver’s License).*

#### **XIV. DO I STILL NEED TO UNDERGO A BACKGROUND CHECK WHEN PURCHASING AMMUNITION AT A RANGE FOR USE ON THE RANGE?**

**MAYBE.** As noted above, ammunition transactions at a target facility holding a business or other regulatory license are not required to be processed by a licensed ammunition vendor as long as the ammunition is “at all times” kept within the facility’s premises.<sup>17</sup> But not all ranges have the necessary staff or layout to ensure the ammunition stays on the facility’s premises—let alone what procedures should be followed by range personnel.

Because DOJ has failed to provide any guidance on this issue thus far, many ranges may take a conservative approach in processing ammunition transactions after July 1. This means some ranges may require ammunition transactions to undergo the background check to ensure the range does not inadvertently violate California law.

#### **XV. DO I NEED A LICENSE TO SELL OR TRANSFER AMMUNITION TO FRIENDS OR FAMILY?**

**MAYBE.** California law requires any person or business who *sells* more than 500 rounds of ammunition in any 30-day period to obtain a California ammunition vendor license.<sup>18</sup> In other words, provided you sell no more than 500 rounds of ammunition in any 30-day period, or simply give (not sell) the ammunition to someone, you do not need a California ammunition vendor license. However, such transfers must still be processed by a California licensed ammunition vendor unless the recipient is exempt (See question 1).<sup>19</sup>

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<sup>17</sup> Cal. Penal Code § 30312(c)(9).

<sup>18</sup> Cal. Penal Code § 30342.

<sup>19</sup> Gun owners should also be aware that manufacturing ammunition (i.e. reloading) for purposes of sale may require a Federal Firearm License.

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## XVI. DOES CALIFORNIA RESTRICT THE SALE, POSSESSION, AND/OR USE OF SPECIFIC TYPES OF AMMUNITION?

**YES.** California prohibits the manufacture, importation, sale, giving, lending, and/or possession of any ammunition containing flechette darts or explosive agents.<sup>20</sup> It is also illegal to manufacture, import, sell, transport, or possess any handgun ammunition designed primarily to penetrate metal or armor.<sup>21</sup> Hunters should also be aware that beginning July 1, 2019, non-lead ammunition will be required when taking any wildlife with a firearm anywhere in California.<sup>22</sup>

For more information regarding generally prohibited items in California, including restricted types of ammunition, be sure to read the latest edition of *California Gun Laws: A Guide to State and Federal Firearm Regulations*, [available for purchase on CRPA's website](#).

## XVII. IS THERE A MINIMUM AGE REQUIREMENT TO PURCHASE OR POSSESS AMMUNITION IN CALIFORNIA?

**YES.** California law generally prohibits a minor (persons under 18 years of age) from possessing live ammunition.<sup>23</sup> But this restriction does not apply when the minor has the written consent of their parent or legal guardian, is accompanied by a parent or legal guardian, or when the minor is actively engaged in, or is going to or from, a lawful activity involving the use of a firearm.<sup>24</sup>

In addition, California law also places restrictions on the sale or transfer of ammunition to a minor by individuals or businesses. Specifically, California prohibits individuals or businesses from:

- Selling any ammunition or reloaded ammunition to a person under 18 years of age;
- Selling any ammunition or reloaded ammunition “designed and intended for use in a handgun” to a person under 21 years of age; or,
- Supplying, delivering, or giving possession of any ammunition to a minor who does meet an exception to California’s restrictions against minors possessing ammunition (i.e. the minor does not have the

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<sup>20</sup> Cal. Penal Code § 30210. Violations are punishable as either a felony or misdemeanor. The ammunition itself is also considered a “nuisance” under California law subject to confiscation and destruction. PC 30290.

<sup>21</sup> Cal. Penal Code § 30315. Violations are punishable as a felony.

<sup>22</sup> See <https://www.wildlife.ca.gov/Hunting/Nonlead-Ammunition>.

<sup>23</sup> Cal. Penal Code § 29650.

<sup>24</sup> Cal. Penal Code § 29655. California gun owners should also be aware that there are applicable federal restrictions and exceptions regarding the possession of ammunition by minors. For more information on these restrictions, refer to the *California Gun Laws: A Guide to State and Federal Firearm Regulations* book [available for purchase on CRPA's website](#).

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written consent of their parent or legal guardian, is not accompanied by their parent or legal guardian, or is not actively engaged in a lawful activity involving firearms).<sup>25</sup>

### **XVIII. MY LOCAL GUN STORE / AMMUNITION VENDOR NOW KEEPS THEIR AMMUNITION BEHIND THE COUNTER. DOES IT HAVE TO?**

**YES.** As a result of the enactment of Proposition 63 and Senate Bill 1235, all California licensed firearm dealers and ammunition vendors must display their ammunition in a manner that prevents it from being accessible to a prospective purchaser without assistance of the vendor or an employee of the vendor.<sup>26</sup>

### **XIX. ARE RELOADING COMPONENTS AFFECTED BY CALIFORNIA'S NEW AMMUNITION SALES RESTRICTIONS?**

**NO.** California's sales restrictions only apply to "ammunition," defined as "one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles."<sup>27</sup> Individual components that do not consist of loaded cartridges are not subject to these restrictions.

### **XX. IS THERE A LAWSUIT CHALLENGING THESE LAWS?**

**YES.** The California Rifle & Pistol Association, with support from the National Rifle Association, has already filed a lawsuit, titled *Rhode v. Becerra*, challenging each of the restrictions described above. Kim Rhode, a six-time Olympic medal winner who uses specialized ammunition approved by the International Shooting Sport Federation during competitions she participates in, is lead plaintiff. Joining her are several law-abiding California gun owners and out of state businesses who can no longer ship ammunition directly to their customers.

The case is still in the discovery phase of litigation. Plaintiffs have already enjoyed success against California's motion to dismiss with a [very promising ruling](#). Of note, the same judge who oversaw the [recent decision](#) striking down California's "large-capacity" magazine restrictions in another CRPA supported lawsuit is also overseeing the *Rhode* lawsuit.

### **XXI. WHAT IS THE STATUS OF DOJ'S PROPOSED REGULATIONS REGARDING AMMUNITION BACKGROUND CHECKS?**

DOJ has submitted its proposed regulations to the Office of Administrative Law ("OAL") for final review. OAL has until July 1, 2019 to decide whether to approve or reject DOJ's proposal.

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<sup>25</sup> Cal. Penal Code § 30300(a). An absolute defense to a criminal charge for a violation of this restriction shall apply when the individual or business "demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity." 30300(b).

<sup>26</sup> Cal. Penal Code § 30350.

<sup>27</sup> Cal. Penal Code § 16150.

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Should OAL approve DOJ's proposed regulations, they will be transmitted to California's Secretary of State and will then become enforceable. Gun owners and ammunition vendors should know, however, that OAL could make their decision as late as July 1—the day the new requirements are set to take effect. This would mean DOJ's system for processing ammunition background checks would not yet be available. The same could happen if OAL rejects DOJ's proposal should it violate California's Administrative Procedures Act. Given the July 1 deadline fast approaching, it would likely be impossible for DOJ to propose and adopt necessary replacement regulations should the current proposal be rejected.

CRPA is aware of this dynamic and is prepared to respond accordingly.

### **For More Information**

Please take a moment to visit CRPA's website at [www.CRPA.org](http://www.CRPA.org) and the NRA's website at <https://www.nraila.org/campaigns/california/stand-and-fight-california/>. And be sure to subscribe to CRPA and NRA email alerts to stay informed on the latest developments regarding this case.

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