



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-1217 Private Investigator Act: firearms qualification. (2017-2018)

SHARE THIS:  

Date Published: 09/27/2018 09:00 PM

Senate Bill No. 1217

CHAPTER 791

An act to amend Sections 7542, 7564, and 7570 of, and to add Sections 7542.2, 7542.3, 7542.4, 7542.5, 7542.6, 7542.7, 7542.9, 7542.10, 7542.11, and 7542.12 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 26, 2018. Filed with Secretary of State September 26, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1217, Morrell. Private Investigator Act: firearms qualification.

The Private Investigator Act provides for the licensure and regulation of private investigators and the Private Security Services Act provides for the licensure and regulation of persons engaged in the provision of private security services by the Bureau of Security and Investigative Services, which is within the Department of Consumer Affairs. The Private Investigator Act requires a licensee or qualified manager who carries or uses a firearm or who possesses a valid firearms qualification card to comply with certain provisions relating to firearms that are specified in the Private Security Services Act.

This bill would revise and recast the provisions relating to firearms under the Private Investigator Act by, among other things, adding those above-described provisions in the Private Security Services Act to the Private Investigator Act.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7542 of the Business and Professions Code is amended to read:

7542. (a) A licensee and qualified manager who in the course of his or her employment or business carries a deadly weapon shall complete a course of training in the exercise of the powers to arrest as specified in Section 7583.7 and a course of training in the carrying and use of firearms, as specified in Sections 7585, 7585.1, 7585.2, and 7585.6. A licensee or qualified manager shall not carry or use a firearm unless he or she has met the requirements of Sections 7542.2, 7542.3, and 7542.7 and has in his or her possession a valid firearms qualification card. A licensee or qualified manager who possesses a valid firearms qualification card shall comply with, and be subject to, Sections 7542.4, 7542.5, 7542.6, 7542.9, 7542.10, 7542.11, and 7542.12. A licensee or qualified manager who possesses a valid firearms qualification card may carry a firearm capable of being concealed upon the person in a concealed manner if he or she complies with applicable provisions set forth in Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6 of the Penal Code.

(b) If a firearms qualification card is denied, the denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a review by the Private Investigator Disciplinary Review Committee to contest

the denial, the review shall be requested of the director within 30 days following the issuance of the denial. A review or hearing shall be held pursuant to Section 7519.3. However, no review or hearing shall be granted to an individual who is otherwise prohibited by law from carrying a firearm.

(c) (1) If a firearms qualification card is denied on the basis of the results of an assessment pursuant to Section 7583.47, the denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires to contest the denial, the applicant shall request a hearing within 30 days of the issuance of the denial.

(2) Appeals of denials pursuant to this subdivision shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 7542.2 is added to the Business and Professions Code, to read:

7542.2. The bureau shall issue a firearms permit when all of the following conditions are satisfied:

(a) (1) The applicant is a licensee or a qualified manager of a licensee.

(b) The firearms permit is associated with one of the following:

(1) An individual licensed as a private investigator pursuant to Section 7525.1.

(2) A partner of a partnership licensed as a private investigator pursuant to Section 7525.1.

(3) A qualified manager of a licensed private investigator pursuant to Section 7536.

(c) A certified firearms training instructor, as specified in Section 7585.5, has certified that the applicant has successfully completed a written examination prepared by the bureau and a training course in the carrying and use of firearms approved by the bureau.

(d) The applicant has filed with the bureau a classifiable fingerprint card, a completed application for a firearms permit on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct. In lieu of a classifiable fingerprint card, the applicant may submit fingerprints into an electronic fingerprinting system administered by the Department of Justice. An applicant who submits his or her fingerprints by electronic means shall have his or her fingerprints entered into the system through a terminal operated by a law enforcement agency or other facility authorized by the Department of Justice to conduct electronic fingerprinting. The terminal operator may charge a fee sufficient to reimburse it for the costs incurred in providing this service.

(e) The bureau has determined, after investigation, that the carrying and use of a firearm by the applicant, in the course of his or her duties, presents no apparent threat to the public safety, or that the carrying and use of a firearm by the applicant is not in violation of the Penal Code.

(f) The applicant has produced evidence to the firearm training facility that he or she is a citizen of the United States or has permanent legal alien status in the United States. Evidence of citizenship or permanent legal alien status shall be that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, United States Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(g) The application is accompanied by the application fees prescribed in this chapter.

SEC. 3. Section 7542.3 is added to the Business and Professions Code, to read:

7542.3. (a) The bureau shall not issue a firearm permit if the applicant is prohibited from possessing, receiving, owning, or purchasing a firearm pursuant to state or federal law.

(b) Before issuing an initial firearm permit, the bureau shall provide the Department of Justice with the name, address, social security number, and fingerprints of the applicant.

(c) The Department of Justice shall inform the bureau, within 60 days from receipt of the information specified in subdivision (b), of the applicant's eligibility to possess, receive, purchase, or own a firearm pursuant to state and federal law.

(d) An applicant who has been denied a firearm permit based upon subdivision (a) may reapply for the permit after the prohibition expires. The bureau shall treat this application as an initial application and shall follow the required screening process as specified in this section.

(e) The bureau shall not issue a firearm permit pursuant to this chapter to a licensee or a qualified manager who, within the past 12 months, has been assessed pursuant to Section 7583.47 and found incapable of exercising appropriate judgment, restraint, and self-control for the purposes of carrying and using a firearm during the course of his or her duties as a security guard.

SEC. 4. Section 7542.4 is added to the Business and Professions Code, to read:

7542.4. (a) The bureau shall not renew a firearm permit if the applicant is prohibited from possessing, receiving, purchasing, or owning a firearm pursuant to state or federal law.

(b) Before renewing a firearm permit, the bureau shall provide the Department of Justice with the information necessary to identify the renewal applicant.

(c) The Department of Justice shall inform the bureau, within 30 days of receipt of the information specified in subdivision (b), of the renewal applicant's eligibility to possess, receive, purchase, or own a firearm pursuant to state and federal law.

(d) An applicant who is denied a firearm permit renewal based upon subdivision (a) may reapply for the permit after the prohibition expires. The bureau shall treat this as an initial application and shall follow the screening process specified in Section 7542.3.

SEC. 5. Section 7542.5 is added to the Business and Professions Code, to read:

7542.5. (a) The Department of Justice may charge the bureau a fee sufficient to reimburse the department's costs for furnishing firearm eligibility information upon submission of the application for issuance or renewal of a firearm permit. The fee charged shall not exceed the actual costs for system development, maintenance, and processing necessary to provide this service.

(b) The bureau shall collect the fee described in subdivision (a) for all initial and renewal applications for firearm permits.

SEC. 6. Section 7542.6 is added to the Business and Professions Code, to read:

7542.6. (a) A firearm permit shall be automatically revoked if, at any time, the Department of Justice notifies the bureau that the holder of the firearm permit is prohibited from possessing, receiving, or purchasing a firearm pursuant to state or federal law. Following the automatic revocation, an administrative hearing shall be provided upon written request to the bureau in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The bureau shall seek an emergency order pursuant to Article 13 (commencing with Section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code against the holder of the firearms permit if, after the bureau's investigation relating to any of the following events, the bureau determines that the holder of the firearms permit presents an undue hazard to public safety that may result in substantial injury to another:

(1) Receipt of subsequent arrest information of an arrest for any of the following:

(A) Assault.

(B) Battery.

(C) Any use of force or violence on any person committed by the permitholder.

(2) A report from a bureau-approved firearms training facility or instructor made pursuant to Section 7585.18.

(3) A report from the permitholder's employer or former employer that the permitholder may be a threat to public safety.

(4) A complaint filed by any member of the public that the permitholder may be a threat to public safety.

(5) The results of the assessment administered pursuant to Section 7583.47 indicate that the permitholder is incapable of exercising appropriate judgment, restraint, and self-control for the purpose of carrying and using a firearm in the course of his or her duties as a registered security guard.

SEC. 7. Section 7542.7 is added to the Business and Professions Code, to read:

7542.7. If an applicant fails to complete his or her application within one year after it has been filed, the application shall be considered to be abandoned. An application submitted subsequent to the abandonment of the former application shall be treated as a new application.

SEC. 8. Section 7542.9 is added to the Business and Professions Code, to read:

7542.9. The firearms qualification card, if issued, shall be mailed to the applicant at the address which appears on the application. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay the replacement fee prescribed in this chapter, whereupon the bureau shall issue a certified replacement of the card.

SEC. 9. Section 7542.10 is added to the Business and Professions Code, to read:

7542.10. In order to carry a firearm capable of being concealed upon the person, the holder of a firearms qualification card shall comply with Section 7542. A firearms qualification card does not authorize the holder thereof to carry a pistol, revolver, or other firearm capable of being concealed upon the person.

SEC. 10. Section 7542.11 is added to the Business and Professions Code, to read:

7542.11. (a) A firearms qualification card expires two years from the date of issuance, if not renewed. A person who wishes to renew a firearms qualification card shall file an application for renewal at least 60 days prior to the card's expiration. A person whose card has expired shall not carry a firearm until he or she has been issued a renewal card by the bureau.

(b) The bureau shall not renew a firearms qualification card unless all of the following conditions are satisfied:

(1) The cardholder has filed with the bureau a completed application for renewal of a firearms qualification card, on a form prescribed by the director, dated and signed by the applicant under penalty of perjury certifying that the information on the application is true and correct.

(2) The applicant has requalified on the range and has successfully passed a written examination based on course content as specified in the firearms training manual approved by the department and taught at a training facility approved by the bureau.

(3) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

(4) The applicant has produced evidence to the firearms training facility, either upon receiving his or her original qualification card or upon filing for renewal of that card, that he or she is a citizen of the United States or has permanent legal alien status in the United States. Evidence of citizenship or permanent legal alien status is that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, the United States Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(c) An expired firearms qualification card may not be renewed. A person with an expired registration is required to apply for a new firearms qualification in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until he or she has been issued a new firearms qualification card by the bureau.

(d) Paragraph (2) of subdivision (b) shall not apply to a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who is authorized to carry a firearm in the course of his or her duties and who has successfully completed requalification training or to a federal qualified law enforcement officer, as defined in Section 926B of Title 18 of the United States Code, who is authorized to carry a firearm in the course of his or her duties and who has successfully completed requalification training.

SEC. 11. Section 7542.12 is added to the Business and Professions Code, to read:

7542.12. The director may assess fines as enumerated in Article 6 (commencing with Section 7561). Assessment of administrative fines shall be independent of any other action by the bureau or any local, state, or federal governmental agency that may result from a violation of this article. In addition to other prohibited acts under this chapter, no licensee or qualified manager shall, during the course and scope of licensed activity, do any of the following:

(a) Carry any inoperable, replica, or other simulated firearm.

(b) Use a firearm in violation of the law, or in knowing violation of the standards for the carrying and usage of firearms as taught in the course of training in the carrying and use of firearms. Unlawful or prohibited uses of firearms shall include, but not be limited to, the following:

(1) Illegally using, carrying, or possessing a dangerous weapon.

(2) Brandishing a weapon.

(3) Drawing a weapon without proper cause.

(4) Provoking a shooting incident without cause.

(5) Carrying or using a firearm while on duty while under the influence of alcohol or dangerous drugs.

(6) Carrying or using a firearm of a caliber for which a firearms permit has not been issued by the bureau.

(7) Carrying or using a firearm while performing duties not related to the qualifying license or registration to which the bureau associated the firearms permit.

(c) Carry or use a baton in the performance of his or her duties.

(d) Carry or use tear gas or any other nonlethal chemical agent in the performance of his or her duties unless he or she has in his or her possession proof of completion of a course in the carrying and use of tear gas or any other nonlethal chemical agent.

(e) Carry a concealed pistol, revolver, or other firearm capable of being concealed upon the person unless one of the following circumstances applies:

(1) The person has been issued a permit to carry a pistol, revolver, or other firearm capable of being concealed upon the person in a concealed manner by a local law enforcement agency pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code.

(2) The person is a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who is authorized to carry a concealed firearm in the course and scope of his or her employment pursuant to Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 of the Penal Code.

SEC. 12. Section 7564 of the Business and Professions Code is amended to read:

7564. If, upon investigation, the director determines a licensee, including a corporation, or registrant is in violation of Section 7542.12 or 7566, the director may issue a citation to the licensee or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain an assessment of an administrative fine. The amount of the fine shall in no event exceed one thousand dollars (\$1,000) or as otherwise provided in this chapter, whichever is less.

A citation or fine assessment shall inform the licensee or registrant that if he or she contests the finding of a violation, they may request a hearing in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if he or she wishes to contest the findings of a violation and if a hearing is not requested, payment of any fines shall not constitute an admission of the violation charged.

If the licensee or registrant neither requests a hearing, nor pays the assessed fine within 30 days of the assessment, the license or registration of the person shall not be renewed pursuant to the provisions of this chapter until the assessed fine is paid.

Administrative fines collected pursuant to this article shall be deposited in the Private Investigator Fund.

SEC. 13. Section 7570 of the Business and Professions Code, as amended by Section 36 of Chapter 569 of the Statutes of 2017, is amended to read:

7570. The fees prescribed by this chapter are as follows:

(a) The application and examination fee for an original license shall not exceed fifty dollars (\$50).

(b) The application fee for an original branch office certificate shall not exceed thirty dollars (\$30).

(c) The fee for an original license for a private investigator shall not exceed one hundred seventy-five dollars (\$175).

(d) The renewal fee is as follows:

(1) For a license as a private investigator, the fee shall not exceed one hundred twenty-five dollars (\$125).

(2) For a branch office certificate for a private investigator, the fee shall not exceed thirty dollars (\$30).

(e) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration.

(f) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(g) The fee for reexamination of an applicant or his or her qualified manager shall not exceed fifteen dollars (\$15).

(h) The processing fee for the assignment of a license pursuant to Section 7530 shall not exceed one hundred twenty-five dollars (\$125).

(i) The firearms permit fee shall be at least one hundred dollars (\$100), but shall not exceed one hundred ten dollars (\$110).

(j) The firearms permit renewal fee shall be at least eighty dollars (\$80), but shall not exceed eighty-eight dollars (\$88).

(k) The replacement fee for a lost or destroyed registration card, license, certificate, or permit authorized by this chapter shall be twenty-five dollars (\$25). A request to replace a lost or destroyed registration card, license, certificate, or permit shall be made in the manner prescribed by the board.

(l) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 14. Section 7570 of the Business and Professions Code, as amended by Section 37 of Chapter 569 of the Statutes of 2017, is amended to read:

7570. The fees prescribed by this chapter are as follows:

(a) The application and examination fee for an original license shall not exceed fifty dollars (\$50).

(b) The application fee for an original branch office certificate shall not exceed thirty dollars (\$30).

(c) The fee for an original license for a private investigator shall not exceed one hundred seventy-five dollars (\$175).

(d) The renewal fee is as follows:

(1) For a license as a private investigator, the fee shall not exceed one hundred twenty-five dollars (\$125).

(2) For a branch office certificate for a private investigator, the fee shall not exceed thirty dollars (\$30).

(e) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration.

(f) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(g) The fee for reexamination of an applicant or his or her qualified manager shall not exceed fifteen dollars (\$15).

(h) The firearms permit fee shall be at least one hundred dollars (\$100), but shall not exceed one hundred ten dollars (\$110).

(i) The firearms permit renewal fee shall be at least eighty dollars (\$80), but shall not exceed eighty-eight dollars (\$88).

(j) The replacement fee for a lost or destroyed registration card, license, certificate, or permit authorized by this chapter shall be twenty-five dollars (\$25). A request to replace a lost or destroyed registration card, license, certificate, or permit shall be made in the manner prescribed by the bureau.

(k) This section shall become operative on January 1, 2021.