

## METROPOLITAN POLICE DEPARTMENT

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chief of the Metropolitan Police Department, pursuant to her duties to interpret, implement and enforce the Firearms Regulations Control Act of 1975 (Act), effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code § 7-2501 *et seq.*)(2001), and section 3(q) of the Firearms Registration Emergency Amendment Act of 2008 (FREAA), effective January 7, 2009 (D.C. Act 17-651; \_\_DCR \_\_), and any substantially similar temporary or permanent acts, hereby gives notice of the adoption on an emergency basis of an amendment to Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR). The rulemaking repeals sections 2303 and 2304, amends sections 2305, 2309, 2311 and subsection 2300.3, adds new sections 2320 and 2321 - Procedures and Requirements for Registration of a Pistol for the Purpose of Self-Defense Within Applicant's Home and Qualifications and Procedures to Obtain a Firearms Dealer's License - and adds definitions to section 2399.

Emergency rulemaking action is necessary to implement the provisions of the Act as amended by the FREAA, which amends the District's laws after a recent United States Supreme Court determination that the Act's prohibition on the registration of handguns violates an individual's constitutional right to keep and bear arms for self-defense in the home. Emergency rulemaking will immediately set the qualifications and procedures for registering such firearms and for obtaining a license to sell such firearms. Additionally, new registration qualifications and procedures were instituted by the FREAA. Immediate action is required to continue the District's compliance with the Supreme Court's decision and mandate as well as put in place new registration procedures and interpretations.

This emergency rulemaking was adopted on January 13, 2009, following the FREAA becoming effective, and became effective immediately. The emergency rulemaking will expire on May 11, 2009, or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

The Chief also gives notice of her intent to take final rulemaking action to adopt the proposed rulemaking in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

**Section 2300.3 of Chapter 23 of Title 24 DCMR is amended to read as follows:**

2300.3            This section shall not apply to the discharge of firearms or explosives in a performance conducted in or at a regular licensed theater or show, or to a discharge of a registered firearm while it is being used to protect against a reasonably perceived threat of immediate harm to a person in the registrant's home.

**Sections 2303 and 2304 of Chapter 23 of Title 24 DCMR are repealed.**

**Section 2305 of Chapter 23 of Title 24 DCMR is amended by inserting the following:**

**2305 REGISTRATION OF FIREARMS: GENERAL PROVISIONS**

- 2305.3 The Chief shall register no more than one pistol per registrant during any 30-day period.
- 2305.4 The Chief may permit a person first becoming a District resident to register more than one pistol if those pistols were lawfully owned in another jurisdiction for a period of 6 months prior to the date of application.

**Section 2309 of Chapter 23 of Title 24 DCMR is amended by inserting the following:**

**2309 OTHER DISQUALIFICATIONS FOR REGISTRATION**

- 2309.4 A court record showing the applicant is a respondent in an intrafamily proceeding in which a civil protection order was issued against the applicant, unless the applicant can demonstrate by a certified court record establishing that the order has expired or has been rescinded for a period of 5 years.
- 2309.5 A court record showing the applicant is a respondent in which a foreign protection order (as defined in D.C. Official Code § 16-1041) was issued against the applicant, unless the applicant can demonstrate by a certified court record establishing that the order has expired or has been rescinded for a period of 5 years.
- 2309.6 Arrest records within the 5 years immediately preceding the application, showing that the applicant has had a history of violent behavior. For purposes of this subsection, "history of violent behavior" includes but is not limited to arrests for violation of D.C. Official Code § 22-407, regarding threats to do bodily harm, or D.C. Official Code § 22-404, regarding assaults and threats, any crime of violence as defined in D.C. Official Code § 23-1331, or any similar provision of the law of any other jurisdiction so as to indicate a likelihood to make unlawful use of a firearm.

**Section 2311 of Chapter 23 of Title 24 DCMR is amended by inserting the following:**

**2311 KNOWLEDGE OF FIREARMS AND TRAINING REQUIREMENTS**

- 2311.9 Complete a firearms training or safety course or class conducted by a state-certified firearms instructor or a certified military firearms instructor that provides, at a minimum a total of at least one hour of firing training at a firing range and a total of at least 4 hours of classroom instruction.
- 2311.10 Submit an affidavit from the certified firearms instructor who conducted or taught the course, providing the name, address, and phone number of the instructor and

attesting to the successful completion of the course by the applicant shall constitute evidence of certified successful completion of the requirement imposed by section 2311.9.

**Chapter 23 of Title 24 DCMR is amended to add sections 2320, 2321, and 2322 to read as follows:**

**2320 PROCEDURES AND REQUIREMENTS FOR REGISTRATION OF A PISTOL FOR THE PURPOSE OF SELF-DEFENSE WITHIN APPLICANT'S HOME**

2320.1 In addition to satisfying all other firearms registration requirements in Chapter 23 of this Title, an applicant for a registration certificate for a pistol to be used for the purpose of self-defense within that person's home shall comply with all the procedures and requirements of this section. In the event of any irreconcilable conflict between this section and any other regulations regarding the registration of a pistol, this section controls.

2320.2 The Director may register a pistol so long as the pistol is not an assault weapon, or a machine gun as those terms are defined in section 101(3A) & (10) of the Firearms Control Act of 1975 (D.C. Law 1-85; D.C. Official Code § 7-2501.01(3A), (10)), or an unsafe firearm prohibited under § 504 of the Firearms Registration Emergency Amendment Act of 2008.

2320.3 An applicant seeking to register a pistol he or she will purchase from a firearms dealer pursuant to this section shall:

- (a) Acquire the Firearm Registration application (PD 219) either from any licensed firearms dealer in the District of Columbia, or in person at the Firearms Registration Section at Metropolitan Police Department (MPD) headquarters or by mailing a request with a self-addressed, stamped envelope to Firearms Registration Section, Metropolitan Police Department, 300 Indiana Avenue, NW, Washington, DC 20001;
- (b) Present the Firearm Registration application to a licensed firearm dealer, whose assistance is necessary to complete the application;
- (c) Appear in person at MPD headquarters to take these steps:
  - (1) Report to the Firearms Registration Section with the completed Firearm Registration application, acquire two fingerprint cards, and provide the following:
    - (A) Two passport-sized facial photos;

- (B) A valid driver's license or a letter from a physician attesting that the applicant has vision as least as good as that required for a driver's license; and
  - (C) Residency verification, such as a District of Columbia driver's license or identification card, a current rental agreement, or a deed to property that includes a home;
- (2) Complete a Firearm Registration test with at least a 75% proficiency;
  - (3) If successful on the test, pay all applicable and reasonable fees required by the Chief at the MPD cashier, including thirty five dollars (\$35) for fingerprinting and thirteen dollars (\$13) for a firearm registration;
  - (4) Present a fee receipt and the two fingerprint cards to the MPD fingerprint examiner, and submit to fingerprinting; and
  - (5) Return to the Firearms Registration Section with one fingerprint card for the office file and the other for submission to the Federal Bureau of Investigation (FBI) for fingerprint analysis for the purpose of a criminal record check;
- (d) Await notification by mail to the address on the Firearm Registration application of whether all statutory and regulatory requirements for registration have been satisfied;
  - (e) Upon notification that all statutory and regulatory requirements for registration have been satisfied, return to the Firearms Registration Section to complete the registration process and obtain an MPD seal on the completed Firearms Registration certificate;
  - (f) Present the sealed Firearm Registration application to the licensed firearms dealer and take delivery of the applicant's pistol pending completion of a ballistic identification procedure, or, in the case of a purchase from a firearms dealer located in another jurisdiction, have that firearms dealer transport the applicant's pistol to a licensed firearms dealer in the District, where the applicant will take delivery of the pistol pending completion of a ballistic identification procedure;
  - (g) Transport the pistol to the Firearms Registration Section for completion of a ballistic identification procedure between the hours of 9:00 AM through 5:00 PM, Monday through Friday, pay a ballistic identification fee of twelve dollars (\$12); and

- (h) Retrieve the registered pistol from the Firearms Registration Section and transport it to the applicant's home.
- 2320.4 Up until March 22, 2009, an applicant seeking to register an unregistered pistol already in his or her possession pursuant to this section shall follow the procedure laid out in paragraphs (g), (a), (c), (d), (e), and (h) of section 2320.3, in that order.
- 2320.5 An applicant seeking to register a pistol legally possessed in another jurisdiction pursuant to this section shall follow the procedure laid out in paragraphs (g), (a), (c), (d), (e), and (h) of section 2320.3, in that order. If the applicant does not transport the pistol immediately to the Firearms Registration Section upon bringing it into the District, the applicant shall contact the Firearms Registration Section by calling 202-727-4275, providing notification that a pistol from another jurisdiction has been brought into the District, and then begin the application process within 48 hours of such notification.
- 2320.6 Failure to comply with the requirement to bring the pistol for a ballistics identification procedure will result in the denial of the registration application or revocation of the registration for that pistol and may subject the owner of the pistol to possible criminal charges.
- 2320.7 In the event of the loss, theft, or destruction of the registration certificate or of a registered pistol, a registrant shall immediately file a police report and shall also:
- (a) Immediately notify the Firearms Registration Section in writing of the loss, theft, or destruction of the registration certificate or of the registered pistol (including the circumstances, if known) upon discovery of such loss, theft, or destruction; and
- (b) Immediately return to the Firearms Registration Section the registration certificate for any firearm which is lost, stolen, or destroyed.
- 2320.8 When permitted under this section to transport a pistol between two places, a registrant must go directly between those places without deviation.
- 2320.9 When permitted under this section to transport a pistol, the firearm shall be unloaded, and neither the firearm nor any ammunition being transported shall be readily accessible or directly accessible from the passenger compartment of the transporting vehicle.
- 2320.10 If the transporting vehicle does not have a compartment separate from the driver's compartment, the firearm or ammunition shall be contained in a locked container other than the glove compartment or console, and the firearm shall be unloaded.

- 2320.11 If the transportation is in a manner other than in a vehicle, the firearm shall be:
- (a) Unloaded;
  - (b) Inside a locked container; and
  - (c) Separate from any ammunition.

**2321 QUALIFICATIONS AND PROCEDURES TO OBTAIN A FIREARMS DEALER'S LICENSE**

- 2321.1 A person is eligible to become a licensed dealer of firearms if that person:
- (a) Is eligible to register a firearm under this Chapter;
  - (b) Is eligible under federal law to engage in such business; and
  - (c) Has not previously violated any statutory duty of a licensed dealer if that person earlier was a licensed dealer.
- 2321.2 The license issued to a firearms dealer shall be valid for a period of not more than one year from the date of issuance.
- 2321.3 To deal firearms lawfully, the holder of a firearms dealer's license must also comply with any other license or zoning procedures required by law, including having a certificate of occupancy and a basic business license in accordance with applicable provisions in the District of Columbia Municipal Regulations.
- 2321.4 Prior to applying to the Firearms Registration Section for a firearm dealer's license, an applicant must first obtain a Federal Firearms Dealer's License issued by the Bureau of Alcohol, Tobacco, and Firearms.
- 2321.5 Each application for a dealer's license and renewal shall be made on a form prescribed by the Chief, shall be sworn to or affirmed by the applicant, and shall contain:
- (a) All information required by section 203 of the Firearms Control Act of 1975 (D.C. Law 1-85; D.C. Official Code § 7-2502.03);
  - (b) The address where the applicant conducts or intends to conduct his/her business;
  - (c) Whether the applicant, prior to September 24, 1976, held a license to deal in deadly weapons in the District; and
  - (d) Such other information as the Chief may require including, but not limited to, fingerprints and photographs of the applicant.

**Section 2399 of Chapter 23 of Title 24 DCMR is amended to read as follows:**

**2399 DEFINITIONS**

2399.1 When used in this chapter, and in forms prescribed under this chapter, where not otherwise distinctly expressed or manifestly incompatible with the intent of the Act or this chapter, the following terms shall have the meanings ascribed:

**Ballistics identification procedure** – a process, approved by the Chief, undertaken to identify markings unique to a particular firearm or the ammunition used by the firearm.

**Business premises** - the property on which a licensed, deadly weapons dealer's business is or will be conducted.

**Certified firearms instructor** – any person certified as a firearms instructor by the military or a state authority.

**Chief** - the Chief of the Metropolitan Police Department.

**Dealer** - any person engaged in the business of buying, selling, or otherwise dealing in firearms, ammunition, or destructive devices at wholesale or retail; any person engaged in the business of repairing, testing, or analyzing firearms; any person engaged in the business of making or fitting special barrels, stocks, or trigger mechanisms for firearms or destructive devices; or any person repairing, testing, analyzing, or making any destructive device or ammunition.

**Director** - the commanding officer or acting commanding officer of the Police Business Services Division of the Metropolitan Police Department or their delegates.

**Explosive or explosives** - any chemical compound or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportion, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator, or any part of the compound or mixture, may cause a sudden generation of highly heated gasses that results in gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb. (Art. 9, § 3 of the Police Regulations)

**Firearms Registration Section** - a part of the Police Business Services Division of the Metropolitan Police Department, located in 300 Indiana Avenue, N.W., Washington, D.C. 20001

**Home** - the principal place of residence of an individual in the District and limited to the interior of a house, condominium unit, cooperative unit, apartment, houseboat, or a mobile home, so long as that structure is not capable of unassisted movement. The term home does not include any common areas of any condominium unit, cooperative unit, or apartment.

**Intrafamily offense** - shall have the same meaning as provided in D.C. Official Code § 16-1001(8).

**Law enforcement officer** - any person authorized by a unit of government to carry a firearm on public space and who is responsible for, and under a duty to, detect crimes and apprehend

offenders. A law enforcement officer is not a commissioned special police officer or the equivalent.

**Licensed dealer** - a deadly weapons dealer licensed under the Act and this chapter.

**Machine gun** - means any firearm which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term "machine gun" shall also include the frame or receiver of any such firearm, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a firearm into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

**Pistol** – any firearm originally designed to be fired by use of a single hand or with a barrel less than 12 inches in length.

**Place of business** - means a business that is located in an immovable structure at a fixed location and that is operated and owned entirely, or in substantial part, by the firearm registrant.

**Supervisor** - the person in charge of the Firearms Registration Section.

All persons interested in commenting on the subject matter of this proposed rulemaking action may file comments, in writing, with: Terrence D. Ryan, General Counsel, Metropolitan Police Department, Suite 4125, 300 Indiana Avenue, N.W., Washington, D.C. 20001. Comments must be received no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Copies of this proposal may be obtained, at cost, by writing to the above address.