

## **Bureau of Security and Investigative Services**

### **Initial Statement of Reasons Firearm Qualifications and Training**

**Hearing Date:** May 27, 2016

**Subject Matter of Proposed Regulations:** Firearm Qualifications and Training

**Sections Affected:** Amend Sections 631, 631.1, 633 and 635 of Division 7 of Title 16 of the California Code of Regulations (CCR) and adopt Section 635.1 to Division 7 of Title 16 of the California Code of Regulations.

#### **Introduction:**

The Bureau of Security and Investigative Services (BSIS or Bureau) is responsible for issuing BSIS Firearms Permits (also referred to as Firearm Qualification Cards) to individuals statutorily authorized and eligible to receive them. These individuals include private patrol operator (PPO) licensees, qualified managers currently employed by a PPO licensee, security guards, private investigator (PI) licensees, qualified managers currently employed by a PI licensee, alarm company operator (ACO) licensees, qualified managers currently employed by an ACO, and alarm company employee registrants. BSIS also certifies firearms training facilities and instructors who provide the firearms training required for a BSIS Firearms Permit. The Private Security Services Act, Private Investigator Act, and Alarm Company Act mandate the Bureau to prescribe a course of training and to require that training as a condition for the issuance of a BSIS Firearms Permits. Article 7 of Division 7 of Title 16 of the California Code of Regulations (CCR) specifies the requirements for the issuance of a BSIS Firearms Permits. There are over 45,000 Bureau licensees and registrants who possess firearms permits and carry a firearm while in close contact with the public in numerous settings throughout the state.

#### **Specific Purpose for each adoption, amendment, or repeal:**

1. **Problem being addressed:**

The Bureau is concerned about applicants seeking a BSIS Firearms Permit using firearm simulators to complete their range qualifications in order to qualify for a BSIS Firearms Permit. Firearm simulators have become a widely used training tool for citizens and law enforcement agencies across the country. These simulators vary in design and functionality and there are currently no specific standards governing the use of firearm simulators for BSIS Firearms Permit applicants. The Bureau recognizes that firearm simulators can be a valuable tool for training; however, simulators cannot replace the experience and skills acquired by firing live ammunition with an actual firearm.

Additionally, there has been a rise in the demand for online education. The Bureau needs to ensure that BSIS-approved Firearm Training Facilities are only

offering the initial BSIS firearms training course and the review training in a traditional classroom setting. The Bureau recognizes that online training can be both beneficial and convenient for both students and training facilities; however, online training is not appropriate for the initial firearms training as the content of the firearms training needs to be taught using hands-on instruction techniques in order to maximize student safety and proficiency. Additionally, the review training in deadly force, the avoidance of deadly force and de-escalation of force needs to be taught using practical classroom instruction that includes class discussion.

This regulatory proposal seeks to ensure that the initial firearms training provided to individuals seeking a BSIS Firearms Permit includes hands-on instruction, class discussion and live ammunition range qualifications. The adoption of regulatory language will provide definitions for various firearm training terms as well as specify the proper method of training required in order to satisfactorily meet the requirements outlined in the BSIS Firearms Training Manual. The Bureau's highest priority is the protection of the public, and these proposed amendments will strengthen the Bureau's firearms training requirements in a manner that will provide the greatest protection for the people of California. Further, the Bureau is mandated to require training which is likely to protect the public from unnecessary and improper use of force.

2. Anticipated Benefits from this regulatory action:

The clarification of firearms training terminology and methods will strengthen training practices for BSIS Firearms Permit holders, thus resulting in increased personal and public safety.

**Factual Basis/Rationale:**

Amend Section 631 of Division 7 of Title 16 of the California Code of Regulations

This proposal will rename Section 631 from "Requirements for Carrying or Use of Firearms or Simulated Firearms" to "Definitions," delete subdivisions (a) and (b) and add new subdivisions (a) through (g) providing definitions of firearms training terms.

*Factual Basis/Rationale:*

Currently, the provisions specified in subdivisions (a) and (b) of Section 631 (Requirements for Carrying or Use of Firearms or Simulated Firearms) are duplicative of Business and Professions Code (BPC) Sections 7583.2 and 7583.3 and are not needed in regulation. This proposal will delete subdivisions (a) and (b) and rename Section 631 to "Definitions" in order to provide much needed definitions for training terms.

Currently, Article 7 of Division 7 of Title 16 of the California Code of Regulations covers Firearms and Other Deadly Weapons, comprising of Sections 631 through 637.1. The Bureau does not have definitions in regulation for some of the terms used to prescribe the minimum training requirements. The proposed regulations are intended to facilitate consistent enforcement of Bureau programs

related to firearms. This proposal will add new subdivisions (a) through (g) to Section 631 providing the following definitions:

Section 631(a) – Defines “Firearm Simulator,” because there is no statutory definition at this time.

Factual Basis/Rationale:

Firearm simulators vary in design and sophistication ranging from videogame-like simulators to highly advanced training simulations. If BSIS Firearms Permit holders are using simulators to train and complete range qualifications for renewal of their permit, it is imperative that they use simulators that can adequately replicate an actual firearm. This proposed addition will provide a definition for a firearm simulator as it pertains to the completion of a renewal range qualification for BSIS Firearms Permit holders. This proposed addition will allow the Bureau to specify in regulation that any firearm simulator used to complete a range qualification for the purposes of renewal of a BSIS Firearms Permit must meet specific standards such as weight, recoil, action, flash, and sound, as well as have the ability to replicate the proper caliber being qualified on and the actual loading and reloading of a firearm. Further, this regulation is intended to inform licensing applicants and approved training providers of the minimum standards applicable for license qualification.

Sections 631(b) - (c) – Defines “Traditional Classroom Instruction,” and “Non-Traditional Instruction” to allow the Bureau to specify the required method of training to be utilized for the Course of Firearms Training specified in Section 635.

Factual Basis/Rationale:

Currently, the Bureau does not have a prescribed method of training specified in regulation. While the Bureau recognizes the convenience of online instruction, the Bureau maintains that online instruction alone is not adequate enough to properly train proficiency in the use of firearms and firearm laws. The Bureau intends to specify the prescribed method of training so that BSIS Firearms Permit applicants are being adequately trained on the firearms they will use when on duty in order to protect themselves and the public.

This proposed addition will provide a definition for Traditional Classroom Instruction in which the instructor is physically present performing the required training, properly identifying students, answering questions, and providing demonstrations and hands-on instructions in order to establish that the student is proficient in the course content. This proposed addition will also provide a definition for Non-Traditional Instruction as being the use of internet courses, virtual classroom and/or training media such as videos.

Section 631(d) – Defines “Firing Range,” and “Firearm Range” because there is no statutory definition of these phrases.

Factual Basis/Rationale:

Currently, there is no definition for what constitutes a firearm range or a firing range for the purposes of administering the Course of Firearms Training as prescribed in Section 635. Both “firearm range” and “firing range” are routinely used interchangeably in the industry. At times, these terms are also mistakenly used interchangeably with “firearm simulator.” This proposed addition provides the definition of “firearm range” and “firing range” and clearly distinguishes them from the term “firearm simulator,” which is defined above in subdivision (a). This is intended to prevent the terms “firearm range,” “firing range” and “firearm simulator” from being confused or misconstrued.

Section 631 (e) – Defines “Live Ammunition” in order to clarify the type of ammunition required for the purposes of completing a range qualification.

Factual Basis/Rationale:

Live Ammunition will be defined as a cartridge containing both a primer and bullet capable of being fired by a firearm. This definition will clarify that the ammunition used for the purposes of completing the range qualification required for obtaining and maintaining a BSIS Firearms Permit must contain both a primer and a bullet in order for the student/permit holder to demonstrate their ability to fire live ammunition and to exclude the use of “blanks” or “dummy rounds” from the range qualification requirements.

Section 631 (f) – Defines “Range Qualification” in order to provide clarity when referring to the firearms training and qualification requirements.

Factual Basis/Rationale:

Range Qualification will be defined as the completion of the prescribed course of fire with a passing score as prescribed in Section 633 and 635 for the purposes of qualifying for a Firearms Permit. This will provide clarity for applicants and permit holders who must complete an initial range qualification in order to qualify for a BSIS Firearms Permit and then complete additional range qualifications in order to renew the permit.

Section 631 (g) – Defines “Initial Range Qualification” as the first range qualification completed during the firearms training course for the purposes of obtaining a Firearms Permit for the first time by any applicant.

Factual Basis/Rationale:

This definition will provide clarity by specifying that the “initial range qualification” means the first range qualification that is completed as part of the firearms training course required for new applicants who are applying for a firearms permit.

Amend Section 631.1 of Division 7 of Title 16 of the California Code of Regulations

This proposal will rename Section 631.1 from “Allowing the Carrying or Use of a Firearm” to “Possession of a Firearms Permit,” delete subdivisions (a) and (b) and add language requiring permit holders to carry their Bureau-issued Firearm Permit on their person and show it to law enforcement or a Bureau representative when demanded.

*Factual Basis/Rationale:*

Subdivisions (a) and (b) of this section are duplicative of current statutes pertaining to Private Patrol Operators allowing employees to carry a firearm, primarily BPC Sections 7583.2(f), 7583.22(b), 7583.37(a), 7597.1, 7597.2 and 7599.40 and are not needed in regulation.

This proposal will rename the Section 631.1 to “Possession of a Firearms Permit” in order to provide clarification that all firearms permit holders must not only carry his or her Bureau-issued Firearms Permit on his or her person while carrying a firearm in the course of his or her duty as required by BPC Section 7583.3 and 7597.1, but also that a permit holder must show the firearms permit to a peace officer or Bureau representative upon demand in order to show compliance with BPC Sections 7583.3 and 7597.1. This proposed change clarifies that these provisions apply to all firearm permit holders in order to facilitate consistent enforcement of statutes and regulations.

This proposed change also updates the Authority Cited by replacing 7591.2 with 7591.6, as 7591.6 authorizes the Bureau to promulgate regulations. This proposed change also updates the Reference section to replace 7583.12 with 7583.3, as 7583.3 prohibits a registered security guard from failing to carry his or her Bureau-issued Firearms Permit on his or her person anytime he or she is carrying a firearm while on duty. This proposed change will also replace the reference made to 7596.3 with 7597.1, as 7597.1 prohibits an alarm agent from failing to carry his or her Bureau-issued Firearms Permit on his or her person anytime he or she is carrying a firearm while on duty. This proposal will also delete the references made to Section 7599.40 and Penal Code Section 26030 as neither reference is needed for the purposes of the regulation.

Amend Section 633 of Division 7 of Title 16 of the California Code of Regulations

This section is amended to change the title of the section from “Bi-Annual Renewal of Firearms Qualification Card” to “Biennial Renewal of Firearms Permit,” deletes duplicative language, reorganizes the section for better clarity, specifies that the review training course be taught through traditional classroom instruction, adds additional language to require the use of live ammunition, adds the Course of Fire schedule to the

range qualification requirements for renewal and requires the firearms training instructor to indicate the method of qualification and provide signed documentation of the completion to the permit holder.

*Factual Basis/Rationale:*

This proposed change will change the title of the section from “Bi-Annual Renewal of Firearms Qualification Card” to “Biennial Renewal of Firearms Permit” as the permit must be renewed every two-years and is most frequently referred to as a Firearms Permit in most statutes.

This proposed change deletes subdivision (a) as the language is duplicative of BPC Sections 7583.32 and 7596.7 and is not needed.

The existing language in subdivision (b) is stricken and will be included in the adoption of a new subdivision (b) that will come after the Review Training Outline.

Subdivision (c) - is renumbered to (a) and adds clarifying language to specify that the review training includes the de-escalation of force as outlined in the section. This proposed change will also specify that the renewal training be administered by a Bureau-approved Firearms Training Facility. This section currently authorizes a Private Patrol Operator or a person designated by the licensee to administer the renewal training. This regulation has often made it difficult for training facilities to certify the completion of review training for students before completing a range requalification if the review training was administered by the employer and not administered by the training facility at the time of requalification. Presently, BPC Sections 7583.32 and 7596.7 specify that the renewal training and range qualifications be completed by a Bureau-approved training facility. This change will assist training facilities in carrying out their statutory mandate to verify completion of the renewal training prior to completing a range qualification. Additionally, this proposed change will require the review training be administered through traditional classroom instruction so that students have the ability to ask questions and benefit from classroom discussion. The proposed changes also include various non-substantive grammatical corrections.

Subdivision (b) - is adopted and provides clarifying language to explain what is required for completion of each range qualification. This proposed change specifies that the permit holder complete each range qualification by firing fifty (50) rounds for score. This proposal will create subdivision (1) to specify that the fifty (50) rounds for score be completed on two separate occasions at least 4 months apart, within each twelve-month period before the permit expires (current standards). Additionally, subdivision (2) will specify that at least one of the range qualifications be completed with live ammunition within each twelve-month period so that permit holders are

completing at least half of their renewal range qualifications with actual firearms by firing live ammunition. Subdivision (3) requires the permit holder to complete a range qualification for each caliber to be listed on the permit and subdivision (4) specifies how the range qualification is to be scored. The scoring standards proposed in subdivision (4) are the same as the scoring standards mandated in the initial firearms range qualification. While the Bureau recognizes the benefits of using firearm simulators as a training tool, firearms proficiency is a perishable skill and it is essential that individuals who carry a firearm in the course of their duties are not only proficient in the use of their firearm, but also proficient in firing live ammunition with each caliber of firearm they will be carrying.

Subdivision (d) – is renumbered to (c) and replaces “firearms qualification card” with “Firearms Permit” in order to make the section consistent with the terms used in BPC Sections 7583.23, 7583.24, 7583.25, 7596.3 and 7596.4 related to firearms.

Subdivision (c)(1) – is amended to specify that each certification or documentation be from Bureau-approved Firearm Training Facility and Bureau-approved Firearm Training Instructor as required by BPC Sections 7583.32 and 7596.7. Additionally, this proposed change deletes duplicative language and further clarifies that each Bureau-approved Firearms Training Instructor must certify under penalty of perjury the method in which the range qualification was completed and provide a signed copy of the requalification documentation to the applicant. This will allow the Bureau to enforce the provisions requiring live ammunition for two of the four range qualifications required for renewal.

Subdivision (c)(2) – is amended to clarify that the review training course be completed before each range qualification and to further specify that the certification or documentation of completion of the review training course be from a Bureau-approved Firearm Training Facility and a Bureau-approved Firearms Training Instructor as required by BPC Sections 7583.32 and 7596.7 prior to the completion of each range qualification required for renewal.

This proposed change also renumbers subdivision (e) to (d) and updates the Authority Cited by providing a proper citation for SB 1713, Hart (Chapter 1091, Statutes of 1994) as SB 1713 mandated the Bureau to develop the current firearms training course. This amendment also replaces 7591.2 with 7591.6 as 7591.6 authorizes the Bureau to promulgate regulations.

## Amend Section 635 of Division 7 of Title 16 of the California Code of Regulations

This section is amended to change the title from “Course of Firearm Training” to “Firearms Training Course,” numbers the first paragraph of Section 635 as subdivision (a), amends the Firearms Training Outline, adds subdivision (b) to specify that applicants complete range training, adds subdivision (c) to specify that the initial range qualification be completed by firing live ammunition and must complete a range qualification for each caliber of weapon to be listed on the firearms permit, and adds subdivision (d) to specify that the instructor certify the method of qualification and provide a signed copy of the qualification documentation to the applicant.

*Factual Basis/Rationale:*

The first paragraph of Section 635 is numbered as subdivision (a) and amended to require the applicant to complete classroom training and pass the examination. This proposed change will also require that the training be taught through traditional classroom instruction. The Bureau is legislatively mandated to only issue firearms permits to those licensees who are competent with regard to firearms. Online instruction alone is not adequate enough to ensure competency including proper understanding and proficiency in the use of a firearm.

These proposed changes will also remove the language referring to the Department of Consumer Affairs and the reference made to Business and Professions Code Section 7585 as they are not required for the regulation. These are non-substantive changes that clarify the language.

Firearms Training Outline – is amended to make changes to the required course content.

Section I. Registration, (A) Administration – is amended to replace the word “guard” with “Bureau” as the firearms training is not exclusive to guards. Additionally, this proposed change will remove items 3 and 4 from the list of Objectives as filling out forms should be done upon completion of the class and not during the beginning stages. This proposed change will also renumber Objective 5 to 3.

Section I. Registration, (B) Laws and regulations for issuing a firearms qualification card - is amended to replace “qualification card” with “permit” in order to be consistent with previous changes and remove the word “annual” as renewals are not completed annually.

Section II. Moral and Legal Aspects, (A) Laws regarding possession and carrying of firearms – is amended to remove the word “California” as the laws relating to the possession and carrying of firearms are not just limited to State laws.

Section II. Moral and Legal Aspects, (C) Avoidance of deadly force- The de-escalation of force – is amended to replace “armed security



guard” with “firearms permit holder” as the Firearms Training Course is not limited to security guards.

Section II. Moral and Legal Aspects, (D) Shooting incidents – is amended to replace “armed security guard” with “firearms permit holder” as the Firearms Training Course is not limited to security guards.

Subdivision (b) - is being adopted to specify that once the applicant has completed the examination, he or she must complete range training. Additionally, this section will require that the range training be conducted at a Bureau-approved Firearms Training Facility by a Bureau-approved Firearms Training Instructor. This will ensure that applicants are completing the training in compliance with BPC section 7585.6.

Section VI. Range Preparation – is amended to remove the prescribed targets (NRA B 27A or NRA B 21) in subsection D. These prescribed targets are outdated and not required for the facilitation of the Firearms Training. The standards for target will be addressed in proposed Section 635.1.

Subdivision (c) – is being added to specify that the initial range qualification only be completed by firing live ammunition and shall not be completed with a firearm simulator. The firearms training course is designed to promote proficiency in the use of a firearm. In order for an applicant to be proficient in the use of a firearm, he or she must demonstrate that he or she has completed a range qualification by firing live ammunition with an actual firearm. A range qualification completed via firearm simulator is not appropriate for an individual’s initial qualification. An applicant should not be eligible for a permit to carry a live firearm in the course of his or her duties without having shown proficiency in using and firing an actual firearm.

Additionally, this proposed change will specify that applicants must complete the range qualification with the same caliber of weapon that will be listed on the firearms permit. Current statute requires that the firearm permit list the specific caliber of weapon that the permit holder is qualified to carry. This added section will clarify that applicants may have more than one caliber of weapon listed on the firearms permit as long as the applicant has completed a range qualification for each caliber.

Section VII. Range Qualification - is being amended to correct an error in the numbering of the section. The section should be numbered as Section VIII. as Section VII already exists. This proposed amendment also adds clarifying language to the

Objective of Section VIII by adding “the” after the word “pass” and adding the word “range” before qualification in order to clarify that an individual must complete “the firearms range qualification.” Applicants must complete the initial range qualification in order to qualify for a BSIS Firearms Permit.

Subdivision (B)(1) of Section VII. Range Qualification - is amended to specify that target scoring is based on rounds discharged inside of the seven (ring) (center mass) as specified in proposed Section 635.1. Proposed Section 635.1 will specify the minimum standard target to be used for completion of the required range qualification.

Subdivision (d) – is being added to specify that the training instructor must certify under penalty of perjury that the applicant completed the range qualification by firing live ammunition. This section will further specify that the instructor provide a copy of the qualification documentation to the applicant so that the applicant maintains proof of completion of the range qualification.

Adopt Section 635.1 of Division 7 of Title 16 of the California Code of Regulations. This section is titled “Acceptable Targets for use During Range Qualifications” and is adopted to prescribe the standards that are required for targets used for completion of the required range qualifications.

*Factual Basis/Rationale:*

Currently, the Firearms Training Outline provided in Section 635 prescribes the use of two specific targets. These targets are antiquated and hard to acquire today which has created problems for applicants and permit holders seeking to complete their range qualifications. This section will specify the minimum standards required for the type of target that must be used for the purposes of completing the required range qualifications.

*Anticipated Benefits:*

By specifying the minimum standards required for a target to be used for the completion of the required range qualifications, this proposed change will provide applicants and permit holders with a variety of targets that can be used for the purposes of completing their range qualifications. This will provide a cost savings to applicants and permit holders because they will have the ability to use inexpensive targets that still meet the minimum standards.

**Underlying Data:**

- February 5, 2015 BSIS Advisory Committee Meeting DRAFT Minutes

### **Business Impact:**

This regulatory proposal should not have a significant adverse economic impact on businesses. This initial determination is based on the following:

The Bureau currently has 367 licensed Firearm Training Facilities and 45,387 firearm permit holders statewide. These proposed regulations will mostly impact facilities that exclusively use a firearms simulator for the purposes of completing the required range qualifications for BSIS Firearm Permit applicants and permit holders. A recent sampling of 150 Bureau-approved Firearm Training Facilities showed that only 13 out of the 150 facilities sampled (approximately 9% of facilities) are qualifying applicants and permit holders exclusively through the use of firearm simulators. The remaining 137 facilities (approximately 91%) are completing qualifications with live ammunition. For the 9% of firearm training facilities that are exclusively using firearm simulators to qualify students, these regulations will reduce the facilities business by 50% due to the required use of live ammunition for the initial range qualification and 2 of the 4 required renewal range qualifications.

The Bureau currently has 9,795 Private Investigator Licensees, 2,065 Private Patrol Operator Licensees and 2,052 Alarm Company Operator Licensees. Some of these companies cover the cost of their employee's firearms training and qualifications. Additionally, some of these company licenses are held by individuals who absorb their own cost for the firearms training and qualifications. The Bureau has no way of knowing what percentages of companies cover the costs for employees.

### **Economic Impact Assessment:**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it only clarifies the training standards for BSIS Firearms Permit applicants and permit holders.
- It will not create new businesses or eliminate existing businesses within the State of California because it does not prohibit permit holders from using firearm simulators; it only ensures that the initial range qualification and two of the four range qualifications required for renewal of a BSIS Firearms Permit be completed with live ammunition. Even with a 50% reduction in the use of firearm simulators for BSIS Firearm Permit applicants and permit holders, this regulatory proposal only affects an estimated 9% of Bureau approved Firearm Training Facilities.
- It will not affect the expansion of businesses currently doing business within the State of California because BSIS Firearm Permit holders will still be able to utilize both live ammunition and firearm simulators. Further, it does not prevent the use of simulators for non-qualification practice.

- This regulatory proposal benefits the health and welfare of California residents because it increases public safety by prescribing training methods that support firearm proficiency for BSIS Firearm Permit holders.
- This regulatory proposal enhances worker safety because the training includes de-escalation techniques as well as increased firearm handling proficiency which may lead to a reduced possibility of accidental discharges and accidental injury of self and others, including co-workers.
- This regulatory proposal should have a minimal effect on the state's environment. While this regulatory proposal requires the use of live ammunition, the increase is minimal because only 9% of Bureau-approved training facilities are currently using only simulators. Only 50% of business of the 9% of Bureau-approved training facilities will have to shift to using live ammunition. Currently, 91% of Bureau-approved training facilities are already using live ammunition.

### **Specific Technologies or Equipment:**

This regulatory proposal requires the use of specific technologies or equipment, in particular, firearms and live ammunition. This proposal will modify an existing prescriptive standard for firearms qualification in order to ensure that applicants seeking a firearms permit from the Bureau have undergone adequate hands-on training, demonstrated proficiency in the proper handling of a firearm and have demonstrated proficiency by completing the range qualification with live ammunition. When completing the range qualifications required for renewal of the permit, permit holders can utilize a combination of live ammunition and firearm simulators. This will require permit holders to continue to demonstrate proficiency by firing live ammunition at least once annually. Permit holders will also have the option to complete a range qualification with a firearm simulator once per year if they choose.

### **Consideration of Alternatives:**

No reasonable alternative to this regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

- Not promulgate regulations and continue with current training standards. This alternative was rejected because it is the duty of the Department of Consumer Affairs and the Bureau of Security and Investigative Services to protect the residents of the State of California. As the only Bureau with the responsibility for regulating firearms used by specified private security personnel, it is essential that BSIS maintain high standards for public safety. The Bureau currently has

over 46,000 licensees carrying exposed firearms across the state. It is within the best interest of the public that the Bureau seeks to ensure the highest standards in training for all licensees.