



October 17, 2024

VIA EMAIL

Ms. Brandi Lynn Gragg
1220 N Street, Suite 315
Sacramento, CA 95814
brandi.gragg@cdfa.ca.gov

**Re: Cdfa Guidance on Raffles of Firearms, Precursor Parts, and/or
Ammunition on State Property**

Dear Ms. Gragg,

I write on behalf of the California Rifle & Pistol Association, Incorporated (CRPA) and a coalition of non-profit organizations dedicated to promoting shooting sports and defending the civil and constitutional rights of individuals to responsibly own and use firearms for self-defense, hunting, competitive and recreational shooting, and other lawful purposes. These organizations also conduct legal sweepstakes, raffles, and auctions of firearms and related products to raise funds for their beneficial and charitable purposes or may wish to do so.

I acknowledge receipt of your email dated October 14, 2024, providing guidance on the implementation and enforcement of Penal Code § 27573, as well as its impact on raffles and auctions involving firearms, precursor parts, or ammunition on state-owned property.¹ In that email, you assert that effective September 25, 2024, “raffles or auctions involving these items are also not permitted on state property, including fairgrounds where many fundraising activities occur.” CRPA and other organizations that rely on gun raffles and auctions for fundraising are understandably concerned by this interpretation and believe that it is an overreach of the Department’s authority.

Added by Senate Bill 915, section 27573, subdivision (a) concerns state property and states:

A state officer or employee, or operator, lessee, or licensee of any state property, shall not contract for, authorize, or allow the *sale* of any firearm, firearm precursor part, or ammunition on state property or in the buildings that sit on state property or property otherwise owned, leased, occupied, or operated by the state.

Cal. Penal Code § 27573(a) (double emphasis added). The statute explicitly references a restriction on “sales” of firearms, precursor parts, or ammunition, but it does not mention raffles or opportunity drawings at all. I am aware of no legal authority treating “raffles” as “sales” of the items being distributed as prizes. And the Department of Justice has never considered non-profits’

¹ A copy of the October 14, 2024, email is attached hereto as **Attachment A**.



charitable gun raffles to be “sales.” This makes sense because CRPA and similar organizations are not licensed dealers authorized to conduct the business of selling firearms. They are, however, expressly authorized to conduct gun raffles to raise funds. Cal. Penal Code § 27900 (permitting firearm dealers to loan firearms to eligible non-profits to conduct gun “auctions” and “raffles,” referring separately to “sales” and other types of “transfers”).

In California, a “raffle” is generally not considered a “sale.”² Instead, it is a form of gambling, which is regulated by specific laws distinct from the laws governing the sale of property. *See, e.g., id.* §§ 319-329. The applicable state law defines a “raffle” as “a scheme for the distribution of prizes by chance among persons who have *paid money for paper tickets* that provide the *opportunity to win these prizes.*” *Id.* § 320.5(b) (emphasis added). While “raffles” often involve the transfer of property, such as money, firearms, or ammunition, this transfer is not a “sale” because it lacks the essential components of a sales contract (offer, acceptance, and exchange of consideration). In short, there is no agreed exchange of goods for a set price. The element of chance that is the hallmark of a “raffle” fundamentally differentiates it from a “sale.” If no “sale” occurs, Penal Code § 27573 does not apply.

Does the Department contend that “raffles” constitute “sales” for purposes of § 27573? If so, please provide the legal authority supporting that position.³

As for charitable gun “auctions,” they too are not “sales” that can be banned by § 27573(a). Again, these organizations are not licensed dealers authorized to sell firearms, but they *are* expressly authorized to conduct gun auctions for charitable purposes. Cal. Penal Code § 27900. What’s more, Penal Code § 27900, subsection (c) explains that after the auction or raffle, the firearm must be delivered back to the licensed dealer, who then conducts the “sale” or “other transfer” (contingent upon successful completion of the background check, ten-day waiting period, and all other requirements).

It is also common for non-profits to pay a licensed dealer consideration to reserve guns for auction in advance of their events. The dealer then holds those firearms, and the organization conducts an auction. The winning bidder donates the bid amount to the organization and, in return for that donation, may finalize the transfer of the gun with the licensed dealer. No “sale” takes place at the event. Rather, the non-profit pays consideration to reserve a gun before the event, money is donated to the non-profit at or after the event, and the transfer of the gun takes place at the dealer’s place of business at least ten days later.

² *See, e.g.,* Cal. Dep’t of Tax & Fee Admin., *Industry Topics for Nonprofit Organizations*, <https://www.cdtfa.ca.gov/industry/nonprofit-organizations/industry-topics.htm> (last visited Oct. 17, 2024) (listing “[s]ales of tickets for game booths and raffles when prizes are *not guaranteed to every ticket purchaser*” among activities that are “*not considered sales*”).

³ What are we to make of “raffles” or “opportunity drawings” that do not require participants to purchase a ticket to participate, but rather involve the general and indiscriminate distribution of free tickets for a chance to win? Some Second Amendment civil rights organizations regularly hold such raffles and sweepstakes as advertising, membership recruiting tools, and the like. These sorts of “raffles” look even *less* like sales, and it’s hard to see how they could be barred under § 27573.



Even if an “auction” by a charitable non-profit did constitute a “sale” under § 27573, if a silent auction is held at an event on state property but bidding does not close until days or weeks later, it would seem clear that no “sale” has taken place on state property. Indeed, no legally binding acceptance is tendered and no consideration exchanges hands until after the auction closes and the highest bidder is identified.

Does the Department contend that gun “auctions” conducted pursuant to § 27900 are “sales” for purposes of § 27573? And does the Department contend that auctions conducted as described above are “sales” on state property? If the answer to either question is “yes,” please provide the legal authority supporting that position.

Finally, your email implies that all raffles and auctions of firearms, firearm precursor parts, and/or ammunition held on state-owned property are restricted, effective September 25, 2024. Even if raffles and auctions could be considered “sales.” § 27573 provides a clear exception for sales at events contracted for before January 1, 2023. Cal. Penal Code § 27573(b)(3) (“This section does not apply to any of the following...[t]he sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2023.”). CRPA is aware that at least one District Agricultural Association entered into a contract in July 2022 for the hosting of gun show events over the next five years.

Does the Department contend that sales, raffles, and auctions cannot take place at events that were contracted for before January 1, 2023, regardless of the exception found at Penal Code § 27573, subdivision (b)(3)? If so, please provide the legal authority supporting that position.

We respectfully request a prompt response to these inquiries and appreciate your attention to this important matter. We’d also appreciate the opportunity to informally get your advice on how best to comply with § 27573’s sales restrictions while hosting gun shows and other events on state property. If this is something you’d be open to, please let us know.

Sincerely,

C.D. Michel, President & General Counsel
California Rifle & Pistol Association

Chriss Bowles, President
California Bowmen Hunters /
State Archery Association

Lori Jacobs, President
California Houndsmen for Conservation

Steve Jarvis, CEO
Bill Gaines, Director of Government Affairs
California Deer Association

Mark Hennelly, VP of Government Affairs
California Waterfowl Association





Mark Engstrum, Director of Public Policy
Ducks Unlimited

Glennon T. Gingo, President
Mzuri Safari Club

Cynthia Gomez, President
National Wild Turkey Federation,
California State Chapter

James Stone, President
Nor-Cal Guides & Sportsmen's Association

Bob Keagy, President
Safari Club International,
Golden Gate Chapter

Garry Brennan, President
San Diego County Wildlife Foundation

Lisa McNamee, Legislative Coordinator
SCI California Coalition

Dave Sampson, Head Coach
Sutter High School Trap Team

Steve Miller, President
Tulare Basin Wetlands Association

Ed Miller, President
The Black Brant Group

Loyal Taylor, President
Cal-Ore Wetlands and Waterfowl Council

Don Martin, President
Wild Sheep Foundation,
California Chapter

Attachment
cc: Ms. Nicole Kau, Department of Justice



Attachment A

From: Gragg, Brandi@CDFA <Brandi.Gragg@cdfa.ca.gov>
Sent: Monday, October 14, 2024 11:08 AM
To: Francesconi, Mike@CDFA <mike.francesconi@cdfa.ca.gov>; Elliott, Denise@CDFA <Denise.Elliott@cdfa.ca.gov>; Southwick, Charles@CDFA <Charles.Southwick@cdfa.ca.gov>; Goss, Sofia@CDFA <sofia.goss@cdfa.ca.gov>
Cc: Baghdassarian, Haig@CDFA <Haig.Baghdassarian@cdfa.ca.gov>; Weber, Peter@CDFA <Peter.Weber@cdfa.ca.gov>; Nakao, Megan@CDFA <Megan.Nakao@cdfa.ca.gov>
Subject: Raffles of Firearms, Firearm Precursor Parts, and/or Ammunition on State Property

Under Penal Code 27573(a), effective September 25, 2024, the sale of firearms, firearm precursor parts, and ammunition on state property is prohibited. As a result, the Department of Justice has clarified that raffles or auctions involving these items are also not permitted on state property, including fairgrounds where many fundraising activities occur.

To comply with this law, organizations looking to conduct raffles or auctions as part of their fundraising efforts may consider an alternative approach. Instead of offering firearms, firearm precursor parts, or ammunition as prizes, they can raffle or auction gift certificates equivalent to the cash value of these items. This allows organizations to continue their fundraising efforts while adhering to the new legal restrictions.

Organizations need to ensure that their raffles comply with all other applicable rules governing such events. Additionally, dealers of firearms, firearm precursor parts, and ammunition are still permitted to engage in advertising, provided they do not violate the new restrictions on sales and raffles on state property.

Please let me know if you have any other questions.

Brandi Lynn Gragg

Senior Counsel | Fairs and Expositions



Agriculture

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California Department of Food and