

TITLE 13: DEPARTMENT OF MOTOR VEHICLES
Division 1, Chapter 1
Article 2.0 – Driver’s Licenses and Identification Cards

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (department) proposes to amend Section 20.05 in Article 2.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, related to gender categories for driver’s licenses and identification cards.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than **January 22, 2024**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to amend these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret, or make specific Vehicle Code sections 12800, 12801.5, 12801.9, and 13000.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code section 12800 identifies a list of information each application for a driver’s license must include, and includes, among other things, the applicant’s gender category.

In 2018, the department promulgated rules to ensure compliance with the provisions of Senate Bill (SB) 179 (Atkins, Chapter 853, Statutes of 2017). SB 179 requires a driver’s license or identification card applicant to choose their gender category of female, male, or nonbinary.

Current rules require a cardholder to visit a departmental field office to submit a Gender Category Request, form DL 329S, if requesting a gender category which differs from the gender category on the cardholder’s documents used to establish proof of identity or on their driver’s license or identification card. In previous rulemaking, the department determined an in-person field office visit ensures, through photograph verification, the applicant is the actual cardholder requesting the change to their driver’s license or identification card. At the time the current rules were adopted, the department determined the in-person field office visit reduced the opportunity for fraud.

The department is proposing to amend Section 20.05 to allow holders of non-federal compliant driver’s licenses or identification cards to submit their gender category change request online through the department’s internet portal. Section 20.05 is also being amended to make clear that applicants who have a REAL ID-compliant driver’s license or identification card are still

required under federal rules to facilitate their gender change transaction in person. These applicants can complete their gender change information through the department's portal but they will be required to appear in person to complete the transaction.

The department has made significant upgrades to its website to reduce or eliminate the need for the public to visit a field office for certain transactions. Through the department's modernization efforts, an applicant's identity is verified through the department's internet portal. Online submission also allows for the applicant to receive the non-compliant driver's license or identification card sooner, as the form is submitted directly to the departmental unit responsible for the processing.

BENEFITS OF THE PROPOSED REGULATION

The proposed regulation benefits applicants holding a federal non-compliant driver's license or identification card by allowing them to submit a gender category request form online. This action will eliminate the requirement that those applicants visit a field office.

CONSISTENCY AND COMPATIBILITY WITH STATE REGULATIONS

The department conducted a review of other California regulations and has determined the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

COMPARABLE FEDERAL STATUTES OR STATE REGULATIONS

The department has determined that there are no comparable federal statutes or state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The proposed action will not incorporate by reference any documents.

ECONOMIC AND FISCAL IMPACT DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Effects on Housing Costs: None.
- Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500 et seq.: None.
- Cost Impact on Representative Private Persons or Businesses: This action does not impose any costs on representative private persons or businesses. This proposed action allows the gender category request to be submitted online as an alternative to being submitted in person at a field office.

- **Small Business Impact:** This proposed action does not impact small businesses; the proposed action only impacts driver's license and identification card holders.
- **Local Agency/School District Mandate:** The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- **Significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:** This regulation will not have an adverse economic impact on businesses. This proposed action offers an alternative method by which an individual can submit a gender category request form to the department for certain driver's license or identification card transactions.

RESULTS OF THE ECONOMIC IMPACT STATEMENT

The department has made the following determinations when assessing the economic impact associated with this proposed regulation:

The department has determined that this action will not impact: 1) the creation or elimination of jobs within the State of California, 2) the creation or elimination of existing businesses within the State of California, 3) the expansion of businesses currently doing business within the State of California, or 4) worker safety or the state's environment.

This action is intended to benefit the public by providing an alternative service method for applicants applying to the department to change the gender category designation on their non-REAL ID-compliant driver's license or identification card.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins, Regulations Specialist
Department of Motor Vehicles
Legal Affairs Division
PO Box 932382, MS C-244

Sacramento, CA 94232-3820

Any inquiries or comments concerning the proposed rulemaking action requiring more immediate response may use:

Telephone: (916) 282-7294
Facsimile: (916) 657-6243
E-Mail: LADRegulations@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Peggy Gibson, Attorney IV
Department of Motor Vehicles
Telephone: (916) 657-6469

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the Express Terms of the proposed regulatory action using underline or italics to indicate additions to, and strikeout to indicate deletions from the California Code of Regulations.

The contact person identified in this notice shall also make available to the public, upon request, the Final Statement of Reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and Express Terms) may be accessed at <https://www.dmv.ca.gov/portal/about-the-california-department-of-motor-vehicles/california-dmv-rulemaking-actions/>.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.