



November 7, 2024

Colorado Department of Revenue
Specialized Business Groups—Firearms Dealer Division
Via online submission

Re: Colorado Firearms Permit Rulemaking; Proposed Revisions for Session #3

Dear Sir or Madam,

Attached with this correspondence is proposed revisions to the latest draft of proposed rules submitted by EZCORP, Inc. on behalf of its subsidiary EZPAWN Colorado, Inc. d/b/a EZPAWN (“EZPAWN”). EZPAWN appreciates the continued partnership on rulemaking with the Department of Revenue-Firearms Dealer Division (the “Division”) and provides the below explanation to support the proposed revisions submitted.

Definition of Responsible Person

We respectfully recommend adding a definition for Responsible Persons. The application process requires the applicant to indicate gender and race, as well as submit to fingerprinting and background checks. The approach for a single, owner-operated business is quite straightforward under the proposed rules. The process is less clear for a multi-unit, corporate structure. For instance, an entity does not have a gender or race to disclose.

Therefore, EZPAWN respectfully suggests the proposed rules adopt a similar definition of Responsible Person as the ATF outlines as part of its federal firearm license (“FFL”) application, which reads as follows:

In the case of a legal entity, including any trust, partnership, association, company (to include any Limited Liability Company (LLC)), corporation, or Licensed Entity that does not pay the Special (Occupational) Tax, any individual who possesses, directly or indirectly, the power or authority to direct the management and policies of the trust or entity to receive, possess, ship, transport, deliver, transfer or otherwise dispose of a firearm for, or on behalf of, the trust or legal entity.

Defining who is a Responsible Person in the draft rules to be either the individual operator or the person responsible for management of the location, places the same obligations on all dealers, regardless of structure. It also maintains accountability of the individual responsible for firearm operations at the location and clearly identifies who must complete the attestations required in the application and submit to a background check. EZPAWN’s recommendation is to designate store or district management as the Responsible Persons for corporate structures.

Enforcement

EZPAWN welcomes the addition of the mitigating and aggravating factors outlined by the Division. EZPAWN

respectfully raises concerns with Sections D and E. For Section D, EZPAWN understands the need for the Division to move for suspension with an investigation and penalty warrant it. EZPAWN respectfully requests Section D further incorporate reference to the length of suspension and the Dealer's administrative rights to challenge any suspension. EZPAWN requests the Emergency Rules include the administrative appeals process discussed in prior meetings in the event a permit is denied, suspended or revoked, since the Emergency Rules will be in place through initial permitting by the Division.

In regard to Section E, EZPAWN is concerned with how broadly this may be interpreted. There are situations where a Responsible Person, employee, contractor or agent may act outside of their scope of employment, authority, or the direction of the Dealer. Such misconduct would be terminable acts by the Dealer. EZPAWN requests the same mitigating factors be considered for Section E. Doing so will recognize and encourage Dealers take appropriate actions for such misconduct and promote correction of any unauthorized actions and misdeeds by individuals discovered by the Dealer.

Notices

As mentioned in prior discussions, EZPAWN strongly encourages electronic delivery of any notices of violations, suspensions or revocations. Solely transmitting these important (and sometimes deadline driven) notices by U.S. mail alone may result in a Dealer never receiving the notice or delay in receiving the notice.

EZPAWN appreciates the opportunity to provide comments on the draft rules and partner with the Division. If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,



Denise Landin
VP/Deputy General Counsel



DEPARTMENT OF REVENUE

Firearms Dealer Division

COLORADO FIREARMS DEALER DIVISION

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SECTION 2: STATE PERMIT APPLICATION AND STATE PERMIT REQUIREMENTS

Rule 2-100. Application and Renewal Process and Requirements.

Basis and Purpose. The statutory authority for this rule includes, but is not limited to, subsections 18-12-401 and 18-12-401.5, C.R.S. The purpose of this rule is to explain how a state permit can be obtained by a Dealer and how a state permit can be renewed.

- A. State Permit Application Eligibility Requirements. To be issued a state permit, a dealer on behalf of the location for which a permit is sought:
1. Must hold a valid federal firearm license;
 2. Must not have had a license or permit to sell, lease, transfer, purchase, or possess a firearm or ammunition from the federal government, any state, or a subdivision of any state, revoked, suspended, or denied for good cause within three (3) years before submitting an application; or
 3. Must not, in the three (3) years before submitting an application for a state permit, have been convicted for a violation of:
 - a. any provision of Article 12 of Title 18 of the Colorado Revised Statutes;
 - b. any Colorado or any other state's law concerning the possession, purchase, or sale of firearms; or
 - c. any federal law concerning the possession or sale of firearms.
- B. Application Process
1. An applicant for a state permit must submit a completed application on forms provided by the Division and must be completed by a Responsible Person. The application must include:
 - a. The name of the applicant;
 - b. The gender of the applicant;
 - c. The race of the applicant;
 - d. The address where the applicant will conduct business;
 - e. The mailing address for the applicant;

- f. The email address for the applicant;
 - g. Identification of all responsible persons of the applicant;
 - h. The type(s) of federal firearms license held by the applicant;
 - i. The federal firearms license number(s);
 - j. The federal firearms license issue date(s);
 - i. If the federal firearms license is pending, the applicant must notify the Division when the federal firearms license issues.
 - k. The federal firearms license expiration date(s);
 - l. A copy of the federal firearms license(s);
 - m. An affirmation that each Responsible Person meets the requirements of paragraphs (A)(2) and (3) of this rule; and
 - n. Each Responsible Person shall be fingerprinted by an approved state vendor for purposes of a fingerprint-based criminal history record check, with the results to be provided to the Division.
 - i. The Division shall post on its website the approved state vendors for fingerprinting on its website.
 - o. Hours of business operation, or whether business is operable by appointment only;
 - i. If business is available for firearms sales by appointment only, contact information for making an appointment.
 - p. Any additional information required on the form; and
 - q. Payment of the fee set forth in Rule 2-200.
2. The applicant for a state permit must notify the Division of any changes to B(1)(a) through B(1)(m). The Division will act pursuant to subparagraph (4)(a) of this Rule upon the completed application once all information is received.
 3. An applicant for a state permit that submits a sufficient application on or before May 2, 2025, may continue to engage in the business of dealing firearms until the Department has acted on the application.
 - a. A sufficient application means that the application, on its face, includes information necessary to show that the applicant is eligible for a state permit.
 4. Subparagraphs (3) and (4) will repeal June 30, 2026.

C. Renewals

1. A state permit holder may apply to renew its state permit no more than ninety (90) days prior to the expiration of the state permit but at a minimum by the expiration date of the state permit.

2. A renewal application shall not be accepted after the expiration of a state permit.
3. The state permit holder must submit a timely and sufficient application that includes:
 - a. The name of the state permit holder, the race of the application holder, and the gender of the application holder;
 - b. An affirmation that the following information has not changed:
 - i. The address where the state permit holder applicant will conduct business;
 - ii. The mailing address for the state permit holder applicant;
 - iii. An email address for the state permit holder applicant;
 - iv. The responsible persons, and that each Responsible Person meets the requirements of paragraphs (1)(b), and (c) of this rule; and
 - v. The type(s) of federal firearms license held by the Dealer at the permit location.

If any information in subparagraph (3)(b) of this rule has changed, the changed information must be provided.

- c. The federal firearms license number(s);
 - i. If a federal renewal application is pending, a copy of the letter of authorization from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives must be provided to continue operating.
- d. The federal firearms license issue date(s);
- e. The federal firearms license expiration date(s);
- f. A copy of the federal firearms license(s);
- g. Each Responsible Person shall be fingerprinted by an approved state vendor for purposes of a fingerprint-based criminal history record check, with the results to be provided to the Division.
 - i. The Division shall post on its website the approved state vendors for fingerprinting.
- h. Hours of business operation, or whether the business is operable by appointment only;
 - i. If the business is available for firearms sales by appointment only, contact information for making an appointment must be provided.
- i. Any additional information required on the form; and
- j. Payment of the fee set forth in Rule 2-200.

4. A Dealer that timely submits a sufficient renewal application may continue to engage in the business as a Dealer at the location referenced in the application until the Division has acted on the renewal application.
 - a. A sufficient application for renewal means that the application, on its face, includes information necessary to show that the applicant is eligible to renew its state permit.
 5. If a renewal application is not timely submitted, the state permit will expire. A Dealer shall not operate without a valid permit.
- D. Division time to act on an application
1. The Division shall act on an initial application or renewal application no later than sixty (60) days after the application is received. The Division will electronically notify the Dealer of receipt of any initial application or renewal application of the date and time the applicant received.
 - a. The Division will not act upon an incomplete application.
 - b. The Division may extend the deadline to act on a completed application for an additional sixty (60) days for good cause.
 - c. The Division may not extend the deadline to act on a renewal application.
 - d. If an applicant for a state permit applies for a state permit while the federal firearms license application is pending but has not yet been issued, the Division may extend the time to act on the application by an additional fourteen (14) days from the date that the applicant notifies the Division that the federal firearms license has issued.
 - i. An applicant must notify the Department by email at dor_FDDLicensing@state.co.us, with the subject line "Notification of Federal Firearms License Issuance." In the body of the email, the applicant must list the applicant's name and provide a copy of the federal firearms license(s), or may be provided on the online application system of the Division.
- E. A state permit is valid for three (3) years from the date of initial issuance or renewal.
- F. A state permit must be separately issued for each Dealer, and for each place of business.
- G. A state permit is not transferable.
- H. A responsible party shall notify the Division when they want to voluntarily surrender their firearms dealer permit on forms provided by the department.

SECTION 3: ENFORCEMENT

Rule 3-300. Penalties.

Basis and Purpose. The statutory authority for this rule includes, but is not limited to, subsections 18-12-111, 18-12-401, 18-12-401.5, 18-12-406, 18-12-407, and 24-4-104, C.R.S. The purpose of this rule is to provide clarity regarding penalties for offenses, and the factors the Department will consider to determine penalties for a second or subsequent offenses when the Department has discretion to choose from a range of penalties.

- A. Mandatory Revocation Pursuant to Subsection 18-12-401.5(8), C.R.S. The Department shall revoke a state permit if the Dealer:
1. No longer holds a federal firearms license;
 2. Refuses to allow the Division to conduct an on-site inspection;
 3. Refuses to permit an officer to inspect a record as required in section 18-12-402, C.R.S.;
or
 4. Is convicted of any of the offenses described in subsection 18-12-401.5(8)(IV).
- B. Penalties if a Dealer Knowingly Employs a Person in Violation of Section 18-12-407, C.R.S.
1. For a first offense, the Division Department shall issue a written warning to the Dealer that includes a description of the offense and the penalty for subsequent offenses.
 2. For a second or subsequent offenses, the Department shall revoke a Dealer's state permit.
 - a. A Dealer who has had its state permit revoked pursuant to paragraph (B)(2) of this rule may apply for a new permit no sooner than three (3) years after the revocation.
- C. Penalties for the Offenses Identified in Subsections 18-12-401.5(7), 18-12-111, and 18-12-406, C.R.S.
1. For a first offense, the Department shall issue a warning letter, in writing, to the Dealer that includes a description of the offense and the possible penalties for subsequent offenses.
 2. For a second or subsequent offenses, the Department shall impose one of the following penalties, to be determined in accordance with the factors set forth in subparagraph (C)(3) of this rule:
 - a. Issue a written warning to the Dealer that includes a description of the offense and the possible penalties for subsequent offenses;
 - i. Multiple warnings may be issued, when appropriate, at the discretion of the Department.
 - b. Suspend the Dealer's state permit for a period to be determined by the Department; or
 - c. Revoke the Dealer's state permit.

- i. A Dealer who has had a state permit revoked pursuant to subparagraph (C)(2)(c) of this rule may apply for a new state permit no sooner than three (3) years after the revocation.

3. Factors to Be Considered in Determining the Penalty for a Second or Subsequent Offense. The Department shall consider the severity of an offense, the surrounding circumstances, and any aggravating and mitigating factors when exercising its discretion concerning which penalty to impose on a Dealer for a second or subsequent offense subject to subparagraph (C) of this rule. The consideration of such factors may result in a more or less severe penalty within the range of permissible penalties set forth in subparagraph (C)(2) of this regulation on a case-by-case basis, but the Department retains discretion to assess penalties within the bounds of the law. These factors may include, but are not limited to:

a. Mitigating Factors:

- i. The Dealer has a substantial history of compliance with the Firearms Dealer Code and Firearms Dealer Rules;
- ii. The offense was self-reported by an employee at the direction of a Responsible Person or by the Responsible person on behalf of the Dealer;
- iii. The Dealer, at the direction of a Responsible Person, took prompt and effective self-initiated action to correct the offense and to prevent future offenses of the same or similar type from occurring;
- iv. The offense did not demonstrably result in harm but resulted only in the potential for harm;
- v. The offense was negligent, not willful;
- vi. The offense is not part of a pattern or practice of violations by the Dealer;
- vii. The Dealer, through a Responsible Person, did not encourage others to participate in the same or similar violations;
- viii. The violation did not result in serious bodily injury or death;
- ix. The Dealer or Responsible Person was not involved in the violation and did not direct its employees to commit the violation;
- x. The Dealer has a substantive and applicable written policy describing the persons employed by the Dealer who, in the course of their duties, may not handle firearms, process the sale, loan, or transfer of firearms, or otherwise have access to firearms, has documented that it has informed those persons on the written policy, and has established and imposed disciplinary sanctions for noncompliance with the written policy; or
- xi. The Dealer did not substantially benefit, monetarily or otherwise, from committing the violation.

b. Aggravating Factors:

- i. The Dealer has a substantial history of non-compliance with the Firearms Dealer Code and Firearms Dealer Rules;

- ii. The offense was discovered, and later substantiated, through investigation by the Department or as a result of a complaint, or multiple complaints;
- iii. The Dealer, at the direction of a Responsible Person, failed to take prompt and effective self-initiated action to correct the offense and to prevent future offenses of the same or similar type from occurring;
- iv. The offense demonstrably resulted in harm, not just the potential for harm;
- v. The offense was willful, not negligent;
- vi. The offense is part of a pattern or practice of violations;
- vii. The Dealer, through a Responsible Person, encouraged others to participate in the same, or similar offenses;
- viii. The offense resulted in serious bodily injury or death;
- ix. The Dealer or Responsible Person was involved in the offense, or directed its employee(s) to engage in the offense; or
- x. The Dealer substantially benefited, monetarily or otherwise, from committing the offense.

D. Summary Suspension. Nothing in this rule shall prohibit or prevent the Department from summarily suspending a Dealer's state permit if the potential penalty for the offense includes suspension or revocation and the Department makes the findings required by section 24-4-104(4)(a), C.R.S.

DI. Responsibility for Acts of Others. A Dealer may be held responsible for actions and omissions of its Responsible Persons and any other Person the Dealer employs, contracts with, hires, or otherwise retains, including but not limited to an employee, agent, or independent contractor, to perform any act or conduct on the Dealer's behalf or for the Dealer's benefit. Section 3(C) above may be considered when considering the Dealer's responsibility for acts of others.