



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Enforcement Programs and Services

Washington, DC 20226

July 26, 2021

OPEN LETTER TO ALL MISSOURI FEDERAL FIREARMS LICENSEES

This letter provides guidance on your obligations as a federal firearms licensee. The guidance is intended to assist you in meeting these obligations. This letter does not impose any new obligations. It merely confirms the continuing applicability of existing federal obligations.

Missouri House Bill Number 85, Second Amendment Preservation Act (“the Act” or “SAPA”), signed into law by Governor Parson on June 12, 2021, has generated questions from industry members and firearm owners as to how this Missouri state law may affect them while engaged in a firearms business activity or seeking to acquire a firearm. Section 1.420 of the Act states that “federal acts, laws, executive orders, administrative orders, rules, and regulations” falling into five categories of regulations relating to firearms “shall be considered infringements on the people’s right to keep and bear arms, as guaranteed by Amendment II of the Constitution of the United States and Article I, Section 23 of the Constitution of Missouri.” SAPA § 1.420. The Act further provides, among other things, that any such purported infringements “shall be invalid to this state, shall not be recognized by this state, shall be specifically rejected by this state, and shall not be enforced by this state.” *Id.* at § 1.430. The categories of federal laws and regulations that the Act defines as “infringements” are:

- (1) “[a]ny tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services and that might reasonably be expected to create a chilling effect on the purchase or ownership of those items by law-abiding citizens,”
- (2) “[a]ny registration or tracking of firearms, firearm accessories, and ammunition,”
- (3) “[a]ny registration or tracking of ownership of firearms, firearm accessories, and ammunition,”
- (4) “[a]ny act forbidding the possession, ownership, use, or transfer of a firearm, firearm accessory, or ammunition by law-abiding citizens” (with “law-abiding citizens” defined as those who may possess firearms under Missouri law), and
- (5) “[a]ny act ordering the confiscation of firearms, firearm accessories, or ammunition from law-abiding citizens.”

Id. at § 1.420.

As the Justice Department advised Missouri's Governor and Attorney General in a June 16, 2021 letter, because the Act "conflicts with federal firearms laws and regulations, federal law supersedes" the Act. Accordingly, all provisions of federal laws—including the Gun Control Act (18 U.S.C. § 921-931), the National Firearms Act (26 U.S.C. § 5801-5872), and their corresponding regulations—continue to apply and remain in full effect in Missouri.

In particular, federal law requires a license to engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, even if the firearms or ammunition remains within the same state. All firearms manufactured by a licensee must be properly marked so they can be traced by law enforcement officers if later used in a crime. Additionally, each licensee must record the type, model, caliber or gauge, and serial number of each firearm manufactured, imported, or otherwise acquired, and the date such manufacture, importation, or other acquisition was made; subsequent transfers of these firearms must be recorded. In most instances, a Firearms Transaction Record (ATF Form 4473) and a National Instant Criminal Background Check System background check must be completed prior to transferring firearms to an unlicensed person. *See* 27 CFR §§ 478.41, 478.92, 478.102, 478.124, 478.125. All federal restrictions on the receipt and possession of firearms also continue to apply, regardless of whether an individual is a "law-abiding citizen" as defined by the Missouri law. These requirements, as well as all provisions of federal laws regarding the possession, acquisition, and transfer of firearms or ammunition (including the Gun Control Act (18 U.S.C. §§ 921-931), the National Firearms Act (26 U.S.C. §§ 5801-5872), and their corresponding regulations) remain in full force and effect.

If you have any questions regarding the federal firearms laws and regulations, please contact your local ATF office. ATF works closely with the firearms industry and appreciates the important role the industry plays in combating violent crime. A list of ATF office phone numbers is available at <https://www.atf.gov/contact/atf-field-divisions>.



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