



FFL NEWSLETTER



February 1999

VOLUME 1

**FEDERAL FIREARMS LICENSEE INFORMATION SERVICE
PROVIDED BY THE U.S. DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, DC**

FFL NEWSLETTER PREVIOUS EDITIONS

A number of copies of the last edition of the FFL Newsletter were mailed without being delivered. If for some reason you did not receive an edition, you may call ATF and request one. In addition, newsletters may be viewed and printed from www.atf.treas.gov/core/firearms/information/news.htm on the internet. You may also wish to assure the mailing and premises addresses on your current license are correct.

The last edition of the newsletter was August 1998, Volume 1. At one time the newsletter was done quarterly, and we will attempt to return to that delivery schedule. In addition, if there is something you would like to see addressed in the newsletter, please submit it to:

Bureau of Alcohol, Tobacco and Firearms
Firearms Programs Division - FFL Newsletter
650 Massachusetts Avenue N.W.; Room 7400
Washington DC 20226

ATF DISTRIBUTION CENTER

Please note the correct address and phone number of the ATF Distribution Center. Some licensees have been sending their requests to the wrong address, delaying the delivery of information. Requests for forms or publications need to be addressed to:

ATF Distribution Center
P. O. Box 5950
Springfield, Virginia 22150-5950
Phone: 703-455-7801

CANADIAN FIREARMS ISSUES

ATF often receives questions from persons traveling to Canada about Canadian firearms laws. This information is being updated in the new edition of the ATF Publication 5300.4, Federal Firearms Regulations Reference Guide that will be published in the future. In the interim, we will provide some limited information in this newsletter, so you may be responsive to the needs of your customers.

Implementation of the Firearms Act in Canada on December 1, 1998, brought about extensive changes to Canadian firearms regulations. However, most changes affecting visitors bringing firearms into Canada will not come into effect until January 1, 2001.

If you or any of your customers have questions pertaining to Canadian firearms laws we recommend you contact:

Canadian Firearms Centre
284 Wellington Street
Ottawa, Ontario, Canada K1A 0H8

Toll Free in the United States and
Canada:
1-800-731-4000

Web site: www.cfc-ccaf.gc.ca
Email: canadian.firearms@justice.x400.gc.ca

NICS AND RETURNED FIREARMS ISSUES

The Final Rule for the Implementation of Public Law 103-159, Relating to the Permanent Provisions of the Brady Handgun Violence Prevention Act (www.atf.treas.gov/press/brady_pr.htm) clarifies whether repaired firearms, pawned firearms, or consignment firearms would be subject to the National Instant Check System (NICS).

Repairs or Replacement Firearms

Transactions falling within the exemption found in section 178.124(a) are not subject to the requirement for an NICS check. This would include repaired firearms returned to the person who presented it for repair or a replacement firearm if the firearm was not repairable. If the repaired or replacement firearm is being disposed of to someone other than the person presenting the firearm for a repair, then the preparation of an ATF Form 4473 and NICS check would be required.

Consignment Firearms

Consignment firearms have always required the completion of an ATF Form 4473 upon return of the firearm to the person who placed it in consignment. These firearms are placed in the licensee's business inventory for sale and at that time they are entered in the licensee's business acquisition and disposition record book. If the licensee does not sell the firearm, it may be returned to the unlicensed individual. At that time an appropriate entry is made in the licensee's acquisition and disposition record book as a disposition from the business inventory and the ATF Form 4473 is completed. Therefore, if a consignment firearm is not sold and returned to the person who placed it into consignment, a NICS check is required.

Pawned Firearms

Under the temporary provisions of Brady, a pawnbroker was not required to conduct a background check when he or she returned a handgun to the person from whom it was received. How-

ever, under permanent Brady, NICS checks are required before a firearm can be redeemed from pawn.

The Omnibus Appropriations Act for 1999 provides that a pawnbroker may complete an optional NICS check when a firearm is offered as collateral for a loan. However, if the optional NICS check results in a denial, the dealer must notify law enforcement within 48 hours of receiving the denial notice. This optional check is in addition to the mandatory NICS check required at the time the firearm is redeemed.

In the near future, ATF will be publishing a temporary rule setting forth the procedures pawnbrokers must follow if they wish to complete the optional NICS check at the time a firearm is offered for pawn. ATF also will develop a new form on which to conduct the optional check.

In the interim, pawnbrokers who decide to conduct the optional NICS check may wish to follow the voluntary procedure set forth in the open letter that ATF sent to pawnbrokers on November 25, 1998. If you conduct pawn operations and did not receive this letter, please contact your local ATF office for a copy. We also recommend that you assure your licensed premises and mailing addresses on your current license are correct. You may also view this letter on the internet at www.atf.treas.gov/core/firearms/information/brady/pawn.htm.

In addition, pawnbrokers previously were allowed to attach a page to the back of a completed ATF Form 4473 where the same person repeatedly pawns and redeems the same firearm at frequent intervals. Pawnbrokers will no longer be able to do this since a new NICS check is required on each transaction, and a separate NICS number will apply to each transaction. ATF Forms 4473 that result in a denial must be filed separately from those that are approved. Therefore, an individual may be approved originally on a redeemed pawn, but later be denied due to some prohibition. This denied transaction would have to be filed separate from the original, therefore a complete form is necessary on each transaction. Any variances that pawnshops possessed allowing for this type of transaction will no longer be valid.

AGE RESTRICTIONS ON FIREARMS TRANSACTIONS

Youth Handgun Safety Act

Recently mailings went to the licensees providing for poster requirements and handbill delivery requirements of an explanation brochure to handgun transferees from Federal firearms licensees. These mailings led to some confusion within the industry. No change has been made to the age restrictions pertaining to Federal firearms licensees transferring firearms. If the firearm being transferred is other than a rifle or shotgun [27 CFR § 178.99(b) & 18 U.S.C. § 922(b)(1)], then the purchaser must be 21 years of age or older. If the firearm is a rifle or shotgun then the purchaser must be 18 years of age or older.

The Youth Handgun Safety Act of 1996 (YHSA) made it unlawful for "any person" to provide a handgun to a juvenile (under 18 years of age), with limited exceptions. Prior to the implementation of this law, a nonlicensed individual was not restricted under Federal law from providing a handgun to a person of any age. They were restricted as to State of residence and prohibited person categories, but no age restriction. The YHSA changed this.

Then by regulation, effective September 11, 1998, ATF implemented a requirement for Federal firearms licensees to place a poster in their premises, including gunshows, informing their purchasers of this new law. In addition, the licensee must provide a copy of the restrictions as provided on ATF I 5300.2. This poster and these handouts may be obtained from the ATF Distribution Center at 703-455-7801.

"Shotguns" with pistol grips attached

In the last ATF Newsletter (August 1998) an article stated shotguns with pistol grips and no shoulder stocks attached were restricted to persons 21 years of age or older if being sold by a Federal firearms licensee. This requirement is specified in 27 CFR § 178.99(b) and 18 U.S.C. 922(b)(1) (www.atf.treas.gov/core/regulations/27cfr178.html), which states that if the firearm to be transferred is "other than a rifle or shotgun"

then the purchaser must be 21 years of age. The definition of a shotgun under the GCA [18 U.S.C. § 921(a)(5)] is a weapon "intended to be fired from the shoulder." With the pistol grip in lieu of the shoulder stock, this weapon is not designed to be fired from the shoulder, and therefore is not a shotgun.

Questions have been raised about those firearms that are supplied with both a pistol grip and a shoulder stock. If the firearm is sold with the shoulder stock then the firearm is intended to be fired from the shoulder and would be considered a shotgun. The shoulder stock does not necessarily have to be attached at the time. Persons 18 years of age or older may purchase those firearms from licensees.

Other questions raised pertain to entries made in the licensee's required records as to firearm "type" if not shotgun. These entries may indicate the firearm type simply as Title I.

MODERN MUZZLELOADING ISSUES

The Omnibus Appropriations Act for 1999, effective October 21, 1998, amends the definition of antique firearm under the provisions of The Gun Control Act (GCA), 18 U.S.C. § 921(a)(16), to include certain muzzle loading firearms. This amendment will result in the exemption of the Knight Disc Rifle and other in line muzzle loading rifles that do not incorporate a firearm frame or receiver from regulation under the GCA.

Accordingly the Knight Disc Rifle and such would no longer need to be shown in your acquisition and disposition record, nor is an ATF Form 4473 or NICS check required at the time of sale. Records of sales of this firearm made prior to October 21, 1998 should be retained with your records since the GCA covered it until that date.

SECURE GUN STORAGE DEVICES AMENDMENT

The Omnibus Appropriations Act of 1999 amended 18 U.S.C. § 923(d)(1) of the Gun

Control Act (GCA). This provision requires, with exceptions, applicants for dealer's licenses to certify that secure gun storage or safety devices will be available at any place where firearms are sold to nonlicensees. It also amended 18 U.S.C. § 923(e) providing for license revocation for any licensee who fails to have gun safety devices available at any place where firearms are sold to nonlicensees, subject to certain exceptions. This amendment will take effect 180 days after the date of enactment of this act. The enactment date of this act was October 21, 1998 making the effective date of this requirement April 19, 1999. Once this amendment is in effect, current licensees will be required to complete the requisite certification prior to approval of a renewal application.

NONRESIDENT ALIEN PROHIBITED PERSON CATEGORY

The Omnibus Appropriations Act for 1999 amended 18 U.S.C. § 922. This provision amends the Gun Control Act (GCA) to prohibit, with exceptions, the transfer to and possession of firearms by aliens admitted to the United States under a nonimmigrant visa as defined in 8 U.S.C. § 1101(a)(26). This definition includes persons traveling temporarily in the United States for business or pleasure, persons studying in the United States who maintain a residence abroad, and foreign workers.

In the near future, we will amend the ATF Form 4473 to include this new prohibition. However, in the interim, we request your cooperation and assistance to insure that persons who fall within this category do not obtain a firearm. Recently an open letter was mailed to all licensees informing them of this change and providing guidance on implementing it. If for some reason you did not receive this letter we recommend you contact your local ATF office to obtain a copy. We also recommend that you assure your licensed premises and mailing addresses on your current license are correct. You may also view this letter on the ATF website at www.atf.treas.gov/core/firearms/information/brady/pawn.htm.

RELIEF OF DISABILITY INFORMATION

We know licensee's customers ask a variety of questions pertaining to the Gun Control Act (GCA). One of these questions involves receiving relief from Federal firearms disabilities. With the implementation of the NICS check on all firearms transfers, licensees will even more likely be asked these questions.

Under the provisions of the GCA, certain categories of persons are prohibited from receiving or possessing firearms and ammunition. The GCA provides the Secretary of the Treasury with the authority to grant relief from disability where the Secretary determines that the person is not likely to act in a manner dangerous to the public safety. If the Secretary denies the application, the applicant may file an appeal of the denial to the appropriate United States district court.

However, since October 1992, ATF's annual appropriations have specifically prohibited the expending of any funds to investigate or act upon applications for relief from Federal firearms disabilities. This restriction was retained in the Omnibus Appropriations Act for 1999. Therefore, ATF cannot act upon applications for restoration of Federal firearms privileges as submitted by individuals. This restriction does not apply to applications submitted by corporations.

Please inform your customers that all inquiries concerning this matter should be made in writing to the following address:

Bureau of Alcohol, Tobacco and Firearms
Attn: Restoration Section
P.O. Box 50220
Tech World Post Office
Washington DC 20091

GUNSHOWS AND EVENTS

ATF has been asked to comment on whether functions such as the Ducks Unlimited or Friends of the NRA dinner banquets would constitute an "event" under 18 U.S.C. § 923(j) and 27 CFR § 178.100.

As you are aware, the Gun Control Act of 1968 (GCA) generally requires Federal firearms licensees to engage in the business from the location specified on their license. However, the GCA allows Federal firearms licensees to conduct business temporarily at a location other than the location specified on the license if such temporary location is a gunshow or event.

The GCA defines a gunshow or event as a function "sponsored by any national, State, or local organization, or any affiliate of such organization devoted to the collection, competitive use, or other sporting use of firearms in the community." 18 U.S.C. § 923(j). Therefore, Federal firearms licensees may conduct business temporarily at such events provided they are sponsored by a qualifying organization as defined in 18 U.S.C. § 923(j) and 27 CFR § 178.100.

Licensees must remember that these gunshows or events must be located in the State where they currently have a licensed business premises, and they must record the locations of any firearms transactions occurring at these events in all their required records. Furthermore, NICS checks must be conducted on these transfers in the same manner as the licensees conduct such checks from their licensed premises.

SALES OF LARGE CAPACITY AMMUNITION FEEDING DEVICES TO CAMPUS POLICE DEPARTMENTS

ATF has been asked whether campus police departments may purchase large capacity ammunition feeding devices that are "law enforcement restricted." Section 922(w), Title 18 U.S.C. Chapter 44 makes it unlawful to transfer or possess a large capacity ammunition feeding device. The term "large capacity feeding device" is defined as a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accepted, more than 10 rounds of ammunition. However, section 922(w)(3) provides an exception for the manufacture for, transfer to, or possession by a governmental agency or a law enforcement officer employed by such an agency for official use. Therefore, if the university or college is a public

school, the officers are employees of the State college or university, and the officers have law enforcement authority under the State or local law, (e.g., they are "peace officers") they may purchase restricted large capacity ammunition feeding device. However, many private colleges and universities maintain campus police departments. While these agencies' officers may be defined as peace officers, possessing arrest powers, the agencies themselves are non-governmental. Therefore, these private colleges and universities and their officer may not lawfully purchase restricted large capacity ammunition feeding devices.

SALES OF SEMIAUTOMATIC ASSAULT WEAPONS TO LAW ENFORCEMENT OFFICERS

Section 922(v), Title 18, U.S.C., makes it unlawful to manufacture, transfer, or possess semiautomatic assault weapons. Exceptions from the restrictions of the law are provided for weapons lawfully possessed on September 13, 1994, and weapons manufactured for, transferred to, or possessed by government agencies and law enforcement officers employed by such agencies for official use. The term "semiautomatic assault weapon" is defined as 19 named models of firearms and semiautomatic rifles, semiautomatic pistols, and semiautomatic shotguns which have at least 2 of the features specified in the law. Licensees, who sell semiautomatic assault weapons under the law enforcement exception, are reminded that TWO letters must be executed before the sale is consummated. 27 CFR § 178.132.

When an FFL contemplates the transfer of a semiautomatic assault weapon or large capacity ammunition feeding device to a law enforcement officer, the licensee must receive: 1) a written statement from the purchasing officer, executed under penalty of perjury, stating that the weapon is being purchased for use in performing official duties and that the weapon is not being acquired for personal use or for the purposes of transfer or resale, and 2) a written statement from a supervisor of the purchasing officer, executed under penalty of perjury, stating that the purchasing

officer is acquiring the weapon for use in official duties, that the firearm is suitable for use in performing official duties, and that the weapon is not being acquired for personal use or for purposes of transfer or resale.

In addition, any sale of a firearm to a law enforcement officer must contain a certification on official agency letterhead signed by a person in authority within the agency that indicates that a records check does not disclose any conviction of the officer for a misdemeanor crime of domestic violence. This is as required by 27 CFR § 178.134 published in the temporary rule in the June 30, 1998 Federal Register. [63 Fed. Reg. 35,523 (June 30, 1998)].

LARGE CAPACITY AMMUNITION FEEDING DEVICE MARKINGS

Some firearms are capable of accepting a magazine extension that increases the capacity of the magazine from 9 to 11 rounds. When the extension is combined with the magazine, the magazine has a capacity of, or can be readily converted to accept, more than 10 rounds of ammunition. Therefore, the magazine possessed with the extension meets the definition of a "large capacity ammunition feeding device." 18 U.S.C. § 921(a)(31). It is generally unlawful to manufacture, transfer, or possess a large capacity ammunition feeding device. 18 U.S.C. § 922(v). Furthermore, large capacity ammunition feeding devices must be clearly marked "RESTRICTED LAW ENFORCEMENT/GOVERNMENT USE ONLY." 18 U.S.C. § 923(i) and 27 CFR § 178.92(c).

LICENSEES WHO DISCONTINUE BUSINESS

Licensees who wish to discontinue business prior to expiration of their licenses need to mail the request in writing, along with the original license attached, to the National Licensing Center, P.O. Box 2994, Atlanta, GA 30301. The Center will

then place the license out of business and maintain the written request on file. These controls are in place to assure someone does not place licenses out of business in error through a misunderstanding, by simple human error, or by a request by someone other than the licensee. If the license has expired, there is no need to contact the Licensing Center.

In addition, any licensee who discontinues business must submit all their required records under the Gun Control Act to ATF. The records should be sent to:

ATF Out of Business Records Center
Spring Mills Office Park
2029 Stonewall Jackson Drive
Falling Waters, WV 25419

If a new licensee is succeeding you, you have the option of delivering the records to ATF or have them maintained by the new licensee. However, please notify ATF that the new licensee will maintain the records. In addition, if you have discontinued business and have no records to submit, you must so notify the OOB Records Center that you have no records. Please include a copy of your license in all correspondences to readily identify the correct licensee involved.

Willfully failing to comply with 18 U.S.C. 923(g)(4) by not sending in your required records when discontinuing business is punishable by a fine not to exceed \$250,000 and/or imprisonment not to exceed 5 years.

In addition, do not send any of your GCA records, other than multiple sale forms, to ATF until you wish to or have discontinued business. The ATF Out of Business Records Repository is only authorized to accept out of business records from licensees. By submitting records prior to intending to discontinue business you run the risk of having your license placed out of business in error.

LICENSEE ADDRESS AND MAIL DELIVERY ISSUES

ATF has been mailing numerous letters, new forms, and in September an FFL Newsletter to licensees. Unfortunately, hundreds of these are returned as undeliverable. Most of these are due to changes of address by licensees that have not been reported to ATF as required.

Licensees are reminded that 27 CFR § 178.52 requires them to provide to the Chief, National Licensing Center (NLC) an ATF Form 5300.38, Application for an Amended Federal Firearms License in duplicate at least 30 days prior to the move. Your original license must accompany this form. The Chief, NLC upon a finding that an applicant is qualified at the new location, will amend the license and send a new one at no charge. Licensees who move, and fail to obtain an amended license before any business is conducted from that new location, are committing a willful violation of the Gun Control Act and may have their license revoked and/or face criminal

prosecution. The ATF Form 5300.38 may be obtained from the ATF Distribution Center at (703) 455-7801.

In addition, if you have a mailing address, such as a post office box, separate from your licensed premises, you must notify ATF if this mailing address has changed. All correspondence, including your renewal, will be sent to the mailing address you have provided. In this situation, a simple letter, email, fax, or any written correspondence with the National Licensing Center (NLC) would suffice.

Finally, if you change your phone number please notify the NLC as well. You may phone the NLC at 404-679-5040. If ATF needs to trace a crime gun through your records, or needs to contact you for some urgent need, the first attempt will be by phone.

Failure to notify ATF, via the NLC, of any change of your business address may result in your FFL privileges being revoked.

Left deliberately blank.

ATF RESTRUCTURING AND NEW APPOINTMENTS

Recently ATF restructured the operations conducted in the field. This realignment combines the regulatory field operations with the criminal field operations into 23 field divisions, each headed by a Division Director. We believe this change will make ATF more effective in its enforcement effort, as well as more responsive to the needs of the industry. In future editions of the newsletter we will provide phone numbers for the 23 ATF Field Divisions. In the interim, you may find most ATF office phone numbers on the internet at: <http://www.atf.treas.gov/about/phone/phone.htm>.

In addition, the firearms and explosives functions in ATF Bureau Headquarters have also been

realigned. Most licensees were accustomed to contacting the Firearms and Explosives Operations Branch. This branch no longer exists. Instead, all program activities involving firearms and explosives have been combined leaving all firearms programs issues the responsibility of the Firearms Programs Division and all explosives and arson issues being the responsibility of the Explosives and Arson Programs Division. Many industry issues such as licensing, importing, National Firearms Act registrations, and tracing of crime guns are now part of the Firearms and Explosives Services Division. The new structure of the Firearms, Explosives and Arson Directorate that involves firearm issues is as follows:

TITLE	NAME	ROOM	PHONE
Assistant Director	Jimmy Wooten	8100	(202) 927-7940
Deputy Assistant Director	Wally A. Nelson	8110	(202) 927-7940
Firearms Programs Division Acting Chief	Terry Austin	7400	(202) 927-7770
Firearms Trafficking Branch Chief	Pamela A. Potaczek	7400	(202) 927-7770
Violent Crimes Branch Chief	Ronnie A. Carter	7400	(202) 927-7770
International Programs and Policy Branch Chief (Acting)	Joe M. Gordon	7400	(202) 927-7770
Firearms Technology Branch Chief	Edward M Owen, Jr.	6450	(202) 927-7910
Crime Gun Analysis Branch Acting Chief	Scott Pickett		(304) 274-4100
Firearms and Explosives Services Division Chief	Philip R. Horbert	5100	(202) 927-8300
National Tracing Center Chief	Forest G. Webb, Sr.		(304) 274-4100
Assistant Chief	Scott A. Pickett		(304) 274-4100
National Licensing Center Chief	Charles R. Bartlett		(404) 679-5040
Assistant Chief	LaVonda Parker		(404) 679-5040
Firearms and Explosives Imports Branch Chief	Lawrence G. White	5300	(202) 927-8320
National Firearms Act Branch Chief	Kent M. Cousins	5303	(202) 927-8330