

# ATF FFL Newsletter

Federal Firearms Licensees Information Service provided by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms Washington, D.C.

## GUN SHOWS REVISTED

### ATF Takes A New Look

The issue of allowing FFLs to sell firearms at gun shows occurs with great regularity at the firearms seminars being held across the country. Reports from our field offices indicate this issue has captured the attention of dealers and they are making their views known at almost all the seminars.

The Bureau of Alcohol, Tobacco and Firearms (ATF) anticipates publishing new regulations on FFLs selling firearms at gun shows. Comments stemming from an earlier advance notice have been studied and evaluated, and the proposed rules will reflect some of the suggestions.

#### Current Position

Since the enactment of the Gun Control Act of 1968, ATF has taken the position that firearm licenses are not issued to engage in business at gun shows. The current ruling holds that the license covers only the permanent premises specified on the license where the applicant regularly conducts business and not any temporary location.

#### Advance Notice of Proposed Rulemaking

In 1980, ATF published an advance notice of proposed rulemaking asking for public input on allowing sales of firearms by licensees at organized gun shows. A total of 1,537 letters and 4 petitions with 211 signatures were received. Approximately 80 percent of the comments came from licensees or former licensees. Comments in favor numbered 1,317; 145 were opposed.

The advance notice specifically requested comments on these five questions:

- *Is there sufficient interest by FFLs in making sales at gun shows to warrant issuing proposed regulations?*

Nearly all commenters answered this question.

Those in favor were emphatic in their support.

Many of those opposed the change still recognized

the interest of the dealers in making gun show sales.

- *If the regulations allowed the sales, what would be the impact of firearms commerce, organizations that sponsor gun shows, State and local laws and ordinances, and local law enforcement?* Generally, the commenters indicated there would be an increase in firearms commerce. Most of the comments addressing the impact on the State and local laws indicated there would be no effect because the more restrictive State and local laws would prevail.

- *Would allowing licensees to sell firearms at gun shows reduce or increase opportunities for criminals to obtain firearms?*

Nearly all of the commenters said there would be no impact, since criminals obtain their guns illegally and not through commercial channels.

- *If licensees would be allowed to sell firearms at gun shows, what licensing procedures would be recommended—separate license, an extension of the FFL's license, or some other method?*

A majority of the comments wanted an extension of the current licensing privilege. A few commenters said they would not object to an additional license and fee.

- *Are there other considerations to take into account before proposing regulations allowing licensees to sell firearms at gun shows?*

Many of those commenting believed it would be far better to have the FFLs making sales at gun shows because Form 4473's would be prepared and proper records maintained.

## NEWS YOU CAN USE

### Armed Forces Dual Residency Clarified

A misunderstanding and/or misinterpretation of the firearms regulations has created some confusion on the question of residency of members of the Armed Forces.

For the purposes of the Gun Control Act, a member of the Armed Forces on active duty is considered to be a resident of the State in which his permanent duty station is located. If a member of the Armed Forces commutes daily from his residence in one State to his duty station in another State, he is considered a resident of both States under the firearms regulations. He/she is allowed to purchase firearms in either State, subject to local and State laws.

A member of the Armed Forces who is on temporary duty in another location, regardless of the length of the temporary duty, does not qualify as a resident of that State.

#### ATF Form 7590.3 Optional

Until recently, an FFL manufacturing, importing, or dealing in National Firearms Act (NFA) firearms sent IRS Form 11 with the required tax payment to the IRS Service Center. The FFL then completed form 7590.3 and submitted it with a copy of his/her license to ATF to obtain an ATF Identification Number.

ATF Form 7590.3 has been revised and its use is now optional. Instead, if the licensee wishes, he/she can send a copy of his/her special tax stamp, or a copy of a completed IRS Form 11, together with a copy of the FFL license to ATF for the required ID number.

This number must appear on all transaction forms where the licensee's registered firearms are to be exported or transferred. It must also appear on all applications to transfer firearms to the licensee.

Before July 1 of each year, Form 7590.3 will be mailed to each licensee who has a current ATF ID number. This form can then be used in certifying to tax payment for the coming fiscal year.

For further information, contact:

ATF  
National Firearms Act Branch  
1200 Pennsylvania Avenue NW  
Washington, DC 20226

### YAC STEN MK II Carbine Classified as Machinegun

This carbine is a 9mm-caliber firearm that has identical design characteristics to the original selective fire STEN submachinegun designed by Reginald Vernon Shepard and Harold John Turpin.

A simple modification to the trip lever, together with STEN submachinegun design features and components in the

YAC STEN MK II carbine is not usually found in the typical sporting firearm.

The National Firearms Act defines a machinegun to include any weapon that shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot, without manual reloading, by a single function of the trigger.

ATF has ruled that the YAC STEN MK II carbine is a machinegun as defined by the National Firearms Act.

#### Preventing Problems

ATF offers early assistance to those individuals who wish to make new semi-automatic or fully automatic weapons. Send either detailed drawings or a prototype to:

Firearms Technology Branch  
1200 Pennsylvania Avenue, NW  
Washington, DC 20226  
Telephone: (202) 566-7591

Early contact may save time, trouble, and money.

### Remember—It's a Three-Year License Now

August 1, 1983, is the effective date for the new Federal Firearms License. ATF has a revised form that shows the three-year license fee. The new form is available and must be used.

All copies of the old ATF Form 7 are obsolete and must be destroyed. Submission of the old form will only result in costly delays.

Please use the new form that is available from any ATF office.

### Licensee Q and A's

The following questions are among those most frequently asked by licensees. The answers given refer to Federal laws and regulations.

*I have just recently obtained an FFL. I have approximately 20 guns in my private collection, purchased before I obtained my license. May I sell any, or all, of these firearms as a private citizen, without a record being made in my books as a licensee?*

No. A licensee who sells a firearm must record the entry in his bound book and have a Form 4473 executed. It does not matter that the firearm came into his possession before he became a licensee.

ATF's position that a licensee must record sales of personal firearms was upheld in *United States v. Scherer*, 523 F.2d 371 (7<sup>th</sup> Cir 1975), Cert. denied 96 s.Ct.1108 (1976). The court stated that "it is immaterial whether the weapons sold were originally acquired for personal use or for business purposes. They become a part of his business inventory the moment they were placed on the market for resale."

The pamphlet "**Federal Firearms Licensee Information**" first published in 1978 and distributed to all licensees since that date gives an example of the way in which an entry is made of a personally owned firearm in a dealer's acquisition and disposition record.

Bureau of ATF  
ATF Distribution Center  
3800 S. Four Mile Run Drive  
Arlington, VA 22206

### When must the Form 4473 be signed?

Part 1, used for intrastate over-the-counter transfers or sales, must be signed and dated by the buyer before delivery of the firearm to the buyer. The information required to be furnished on the form by the buyer may be given at any time before the transfer, but the buyer must sign immediately before the transfer Form 4473, Part II, used for contiguous-state or non over-the-counter transfers or sales is to be signed as required by 27 CFR 178.124(f).

*I am writing to you on behalf of a client who wishes to manufacture a prototype firearm. Does he need a license?*

Your client may manufacture a firearm without being licensed under the Gun Control Act of 1968, provided the firearm is not for sale. The making of a "firearm" defined by the National Firearms Act is subject to the tax and registration requirements of the Act.

*A company wishes to ship ammunition to a non-licensee in my State through me. I have an FFL, is this allowed?*

Yes. A licensee may ship ammunition interstate to another licensee who may lawfully sell or deliver the ammunition intrastate to a non-licensee. A licensee may not sell or deliver ammunition to a "prohibited person" under the Gun Control Act of 1968. Acquisition and disposition records must be maintained in accordance with the regulations. It is unlawful for any licensee to ship or transport ammunition interstate to any person other than another licensee.

### What shall I do with my records when I go out of business?

If you are selling your firearms or ammunition business to another person who intends to continue the operation of the business, your records should go to that person (who must apply for his own license).

If you go out of business, and the business is not succeeded by a new owner, please send your properly packaged firearms records including a copy of your license to:

### More on Q and A's

ATF publishes a list of 102 commonly asked questions and answers on firearms laws and regulations. A copy is sent to each dealer when he/she receives a firearms license. If you did not receive a copy, and wish to have one, contact the ATF Firearms and Explosives Coordinator for your area. See the back page for their addresses and telephone numbers.

### Second ATF Agent Killed in Miami

Eddie Benitez, a 27 year old ATF special agent died July 12 after being critically wounded for days earlier during a shootout in a Miami parking lot. Agent Benitez is the third ATF agent shot in Miami in the past seven months. Last December, two ATF agents were shot during an undercover purchase of narcotics. Special Agent Ariel Rios died and Special Agent Alexander D'Atri recently returned to work after recovering from his wounds.

Benitez, acting as an undercover agent, and backup agents were attempting to arrest an individual who had previously sold silencers and a destructive device in violation of the Gun Control and the National Firearms Acts.

The suspect was arrested at the scene of the shooting and has been charged with Federal firearms and assault charges.

### Court Decisions

#### **R.P.B. Industries Inc. v. Secretary of the Treasury**

On July 21, 1982, the United State District Court for the Northern District of Georgia upheld ATF's ruling classifying the SM-10, SM-11A1, and the SAC carbine as machineguns.

#### **Jersey Arms Works, Inc. v. Secretary of the Treasury**

On July 25, 1983, the United States District Court for the District of New Jersey upheld ATF's classification of the S-7 Avenger as a machinegun, under the National Firearms Act.

## REGIONAL REGULATORY OFFICES

### MIDWEST REGION

(Illinois, Minnesota, Missouri, Wisconsin, Kansas, Nebraska, North Dakota, South Dakota, Iowa)

Firearms and Explosives Coordinator  
Bureau of Alcohol, Tobacco and Firearms  
230 S. Dearborn St. 15<sup>th</sup> Floor  
Chicago, Illinois 60604  
(312) 353-3884

(Indiana, Ohio, Kentucky, West Virginia, Michigan)

Firearms and Explosives Coordinator  
Bureau of Alcohol, Tobacco and Firearms  
550 Main St. Room 6510 A  
Federal Office Building  
Cincinnati, Ohio 45202  
(513) 684-3715

### SOUTHEAST REGION

(Georgia, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Florida)

Firearms and Explosives Coordinator  
Bureau of Alcohol, Tobacco and Firearms  
3935 Northeast Expressway  
Atlanta, Georgia 30340  
(404) 455-2875

### SOUTHWEST REGION

(Texas, Louisiana, Arkansas, Oklahoma, Colorado, New Mexico, Wyoming)

Firearms and Explosives Coordinator  
Bureau of Alcohol, Tobacco and Firearms  
1114 Commerce Street, Room 701  
Dallas, Texas 75242  
(214) 767-2277

### NORTH ATLANTIC REGION

(New York, Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, Puerto Rico)

Firearms and Explosives Coordinator  
Bureau of Alcohol, Tobacco and Firearms  
6 World Trade Center, 6<sup>th</sup> Floor  
New York, New York 10048  
(212) 264-3993

(Pennsylvania, Maryland, New Jersey, Delaware, Virginia)

Firearms and Explosives Coordinator  
Bureau of Alcohol, Tobacco and Firearms  
Federal Building, U.S. Post Office, 6<sup>th</sup> Floor  
Ninth and Market Streets  
Philadelphia, Pennsylvania 19107  
(215) 597-2220

### WESTERN REGION

(California, Montana, Washington, Oregon, Nevada, Utah, Arizona, Alaska, Hawaii)

Firearms and Explosives Coordinator  
Bureau of Alcohol, Tobacco and Firearms  
525 Market Street, 34<sup>th</sup> Floor  
San Francisco, California 94105  
(415) 974-9623