

Director Dettelbach Delivers Remarks on the “Engaged in the Business” Final Rule

On April 10, 2024, Director Dettelbach delivered remarks during a press briefing [announcing the new rule](#) to update the definition of “Engaged in the Business” as a firearms dealer. His prepared remarks are below:

Thank you, Vice President Harris and Attorney General Garland.

Too many lives are being lost to gun violence in our country. More than 40,000 people died last year alone. These are not just numbers. They are family members, friends, neighbors, and most tragically, as our Vice President said, our children.

ATF is the only federal law enforcement agency whose sole focus is to work with police and other partners to protect Americans from violent crime. Two pillars of our strategy to do that are: (1) identifying and taking off the street the trigger pullers driving violent crime; and (2) stopping the easy flow of firearms to those same people – the shooters.

And we must use every legal tool available to do both.

In 2023, we saw our efforts pay-off, with violent crime rates – including gun violence rates – dropping by double digits in many cities. Given the scope of suffering caused by this long-term threat, though, more must be done. That starts with continuing to do everything we can to enforce whatever laws Congress has passed to address this issue.

In that vein, as the Vice President and Attorney General have announced, the Department has submitted to the federal register a final rule implementing BSCA provisions to clarify the conduct that qualifies as being “engaged in the business” of dealing in firearms under the BSCA’s revised definition. The final rule will go into effect 30 days after its publication.

Long ago, in the 1960’s, Congress decided that anyone engaged in the business of dealing firearms for profit was required to get a federal license. In the 1990’s Congress added a crucial requirement that those licensees run background checks when they sell guns, a system that has since prevented over a million felons and other prohibited people from buying a gun. Then, about two years ago, President Biden signed the Bipartisan Safer Communities Act, expanding the definition of those who were required to get a license and run those background checks.

Not just as Director, but as a career prosecutor, it always bothered me when some people follow the law, and others ignore it with no consequences. That is not good for the rule of law, and it’s not fair to law-abiding people. Moreover, when it involves repeatedly selling guns for profit without running criminal background checks, it’s not safe for innocent, law-abiding Americans, either. In fact, it’s doggone dangerous.

Unfortunately, the data, our common sense, and our very eyes all tell us that this is exactly what’s going on with the licensing requirements for firearms dealers. There is a large and growing black market of guns that are being sold by people who are in the business of dealing firearms but are doing it without a license. Therefore, they are not running background checks as the law requires. And this non-compliance with the law is fueling violence. That was one of the reasons Congress passed the BSCA.

To be clear, the law does not say — and it has never said — that you are allowed to engage in the business of dealing firearms without a license so long as you do it at a gun show or on the internet, or through some other new or non-traditional media. If you legally need a license, then you need a license. Period. There is not now, nor has there ever been, some “loophole” for where you are sitting or what type of social media you might use when you break the law.

Yet, significant non-compliance persists. [In 2023, federal prosecutions for engaging in the business of dealing in firearms without a license increased 52% over from 2021.](#) And, just last week, ATF released Volume 3 of the National Firearms Commerce and Trafficking Assessment, or NFCTA, as directed by Attorney General Garland. The data there confirm that even before the expanded BSCA definition, individuals illegally “engaged in the business” of unlicensed firearms dealing were contributing more and more to the flow of firearms into the black market. And the data also confirmed what we already knew from our common sense about where those guns go. The majority of the recipients of trafficked firearms — 60% — were previously convicted felons, and hundreds and hundreds of trafficked guns were directly linked to murders and shootings.

I want to be crystal clear — illegal, unlicensed dealing and firearms trafficking of all types are not victimless crimes. If you illegally help to arm violent people, then you too are responsible for the violence that follows.

This final rule does not infringe on anyone’s second amendment rights, and it will not negatively impact the many law-abiding, licensed firearms dealers in our nation. They are already playing by the rules. They run legally required background checks. They keep transaction records. They sell firearms with required serial numbers to help the police trace crime guns to catch shooters. They work with ATF to identify and report suspicious activity including straw purchasing and firearms trafficking.

Nor, by the plain black and white terms of the Final Rule does every person who transfers or sells a gun need a license. Only Congress can require universal background checks, as the President has repeatedly asked them to do.

This Final Rule, rather, takes a practical approach aimed at identifying under current law, specific, identifiable actions, like taking credit cards, that are likely to indicate that someone is in the business of selling guns to profit.

It also plainly identifies other circumstances, like occasional family transfers, that do not so indicate. And it also provides common sense clarity to make sure that true hobbyists and collectors can enhance or liquidate their personal collections without fear of violating the law.

In sum, today’s final Rule is about ensuring compliance with an important area of the existing law where we all know, the data show, and we can clearly see that a whole group of folks are openly flouting that law. And that has led to not just unfair, but dangerous consequences.

You’re about to hear from DOJ officials who will walk through the specifics of the Final Rule, but before I close, I would like to recognize all the ATF personnel who have worked tirelessly on this new rule, from the NPRM through the finalization of the rule.

From those who helped draft the rule to those who helped review and consider the more than 387,000 public comments received, I am humbled by their dedication to enhancing public safety.

And I would also like to thank the brave people of ATF and our law enforcement partners, who put their lives on the line every single day, running toward the gun fire, to protect the people of this Nation.

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